

**1986**  
**SESSION LAWS**  
OF THE  
**STATE OF WASHINGTON**

1st EXTRAORDINARY SESSION  
FORTY-NINTH LEGISLATURE  
Convened August 1, 1986. Adjourned August 1, 1986.



Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

DENNIS W. COOPER  
Code Reviser

# *Part I*

## **LAWS, 1ST EXTRAORDINARY SESSION, 1986**

	<i>Page</i>
<b>TEXT Chapter 1 .....</b>	<b>1</b>

## CHAPTER 1

[House Bill No. 2130]

## HIGH-LEVEL NUCLEAR WASTE REPOSITORIES—SITE SELECTION PROCESS—REFERENDUM 40

AN ACT Relating to the site selection process for a high-level nuclear waste repository; adding a new chapter to Title 29 RCW; adding a new chapter to Title 43 RCW; creating a new section; and providing for submission of this act to a vote of the people.

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

NEW SECTION. Sec. 1. The Legislature and the People of the State of Washington find that:

(1) In order to solve the problem of high-level radioactive waste disposal, Congress established a process for selecting two sites for the safe, permanent, and regionally equitable disposal of such waste.

(2) The process of selecting three sites as final candidates, including the Hanford reservation, for a first high-level nuclear waste repository by the United States Department of Energy violated the intent and the mandate of Congress.

(3) The United States Department of Energy has prematurely deferred consideration of numerous potential sites and disposal media that its own research indicates are more appropriate, safer, and less expensive.

(4) Placement of a repository at Hanford without methodical and independently verified scientific evaluation will pose a threat to the health and safety of the people and the environment of this state.

(5) The selection process is flawed and not credible because it did not include independent experts in the selection of the sites and in the review of that selection, as recommended by the National Academy of Sciences.

(6) By postponing indefinitely all site specific work for a second repository, the United States Department of Energy has not complied with the intent of Congress expressed in the Nuclear Waste Policy Act, Public Law 97-425, and the fundamental compromise which enabled its enactment.

NEW SECTION. Sec. 2. In order to achieve complete compliance with federal law and protect the health, safety, and welfare of the People of the State of Washington, the Governor, the Legislature, other state-wide elected officials, and the Nuclear Waste Board shall use all legal means necessary to:

(1) Suspend the preliminary site selection process for a high-level nuclear waste repository, including the process of site characterization, until there is compliance with the intent of the Nuclear Waste Policy Act;

(2) Reverse the Secretary of Energy's decision to postpone indefinitely all site specific work on locating and developing a second repository for high-level nuclear waste;

(3) Insist that the United States Department of Energy's site selection process, when resumed, considers all acceptable geologic media and results in safe, scientifically justified, and regionally and geographically equitable high-level nuclear waste disposal;

(4) Demand that federal budget actions fully and completely follow the intent of the Nuclear Waste Policy Act; and

(5) Continue to pursue alliances with other states and interested parties, particularly with Pacific Northwest governors, legislatures, and other parties, affected by the site selection and transportation of high-level nuclear waste.

NEW SECTION. Sec. 3. (1) The Legislature and the People find that the federal Nuclear Waste Policy Act provides that within sixty days of the President's recommendation of a site for a high-level nuclear waste repository, a state may disapprove the selection of such site in that state.

(2) The Legislature and the People desire, if the Governor and Legislature do not issue a notice of disapproval within twenty-one days of the President's recommendation, that the people of this state have the opportunity to vote upon disapproval.

NEW SECTION. Sec. 4. (1) Within seven days after any recommendation by the President of the United States of a site in the State of Washington to be a high-level nuclear waste repository under 42 U.S.C. Sec. 10136, the Governor shall set the date for a special state-wide election to vote on disapproval of the selection of such site. The special election shall be no more than fifty days after the date of the recommendation of the President of the United States.

(2) If either the Governor or the Legislature submits a notice of disapproval to the United States Congress within twenty-one days of the date of the recommendation by the President of the United States, then the Governor is authorized to cancel the special election pursuant to subsection (1) of this section.

NEW SECTION. Sec. 5. The State of Washington shall assume the costs of any special election called under section 4 of this act in the same manner as provided in RCW 29.13.047 and 29.13.048.

NEW SECTION. Sec. 6. The Secretary of State shall promptly notify the county auditors of the date of the special election and certify to them the text of the ballot title for this special election. The general election laws shall apply to the election required by section 4 of this act to the extent that they are not inconsistent with sections 3 through 8 of this act. Statutory deadlines relating to certification, canvassing, and the voters' pamphlet may be modified for the election held pursuant to section 4 of this act by the Secretary of State through emergency rules adopted under RCW 29.04.080.

NEW SECTION. Sec. 7. The ballot title for the special election called under section 4 of this act shall be "Shall the Governor be required to notify

Congress of Washington's disapproval of the President's recommendation of [name of site] as a national high-level nuclear waste repository?"

NEW SECTION. Sec. 8. If the Governor or the Legislature fails to prepare and submit a notice of disapproval to the United States Congress within fifty-five days of the President's recommendation and a majority of the voters in the special election held pursuant to section 4 of this act favored such notice of disapproval, then the vote of the people shall be binding on the Governor. The Governor shall prepare and submit the notice of disapproval to the United States Congress pursuant to 42 U.S.C. Sec. 10136.

NEW SECTION. Sec. 9. Sections 1 and 2 of this act shall constitute a new chapter in Title 43 RCW. Sections 3 through 8 of this act shall constitute a new chapter in Title 29 RCW.

NEW SECTION. Sec. 10. Within ten days of the effective date of this act, the Secretary of State shall transmit copies of this act, including the voter referendum results, to the President of the United States, the United States Department of Energy, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress, and the Governors and Legislatures of the other forty-nine states.

NEW SECTION. Sec. 11. This act shall be submitted to the People of the State of Washington for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. The ballot title for this act shall be: "Shall state officials continue challenges to the federal selection process for high-level nuclear waste repositories and shall a means be provided for voter disapproval of any Washington site?"

Passed the House August 1, 1986.

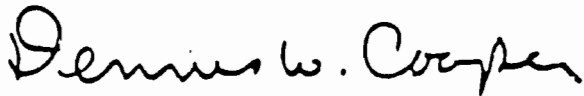
Passed the Senate August 1, 1986.

Filed in Office of Secretary of State August 1, 1986.

## AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, do hereby certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by the provisions of RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 1986 first extraordinary session (49th Legislature) as certified and transmitted to the Statute Law Committee by the Secretary of State pursuant to RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this twenty-second day of June, 1987.

A handwritten signature in black ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D" and a long, sweeping underline.

DENNIS W. COOPER  
Code Reviser

# *Part II*

## **LAWS, REGULAR & FIRST EXTRAORDINARY SESSION, 1987**

*Page*

### **TEXT**

<b>1987 Regular Sess. Chapters 1-528 (starts) .....</b>	<b>1</b>
<b>1987 1st Ex. Sess. Chapters 1-10 (starts) .....</b>	<b>2480</b>
<b>Proposed Constitutional Amendments .....</b>	<b>2811</b>

### **TABLES**

<b>Cross reference—Bill no. to chapter no. ....</b>	<b>2819</b>
<b>RCW sections affected .....</b>	<b>2824</b>
<b>Uncodified session law sections affected .....</b>	<b>2858</b>
<b>Subject Index .....</b>	<b>2859</b>

**PART II. 1987 REGULAR SESS.**



**1987**  
**SESSION LAWS**  
OF THE  
**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTIETH LEGISLATURE  
Convened January 12, 1987. Adjourned April 26, 1987.

1st EXTRAORDINARY SESSION  
FIFTIETH LEGISLATURE  
Convened April 27, 1987. Adjourned May 21, 1987.



Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

DENNIS W. COOPER  
Code Reviser

**WASHINGTON SESSION LAWS  
GENERAL INFORMATION**

**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 permanent bound 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 payment.

(c) *Permanent bound edition — when and how obtained — price.* The permanent bound edition of the 1987 session laws may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 at \$21.56 per volume (\$20.00 plus \$1.56 for state and local sales tax of 7.8%). All orders must be accompanied by payment.

**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) Vetoed 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 in the session laws pursuant to the authority of RCW 44.20.060 are enclosed in brackets [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 1987 regular session to be July 26, 1987 (midnight July 25). The pertinent date for the Laws of 1987 1st Extraordinary Session is August 20, 1987 (midnight August 19).

(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 cumulative index and tables of all 1987 laws may be found at the back of the final pamphlet edition and the permanent bound edition.

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
1	HB 315	Citizens' commission on salaries for elected officials— Appropriation . . . . .	1
2	ESHB 445	Unemployment compensation—Lockouts . . . . .	1
3	SB 5015	Municipal courts—Terminology revisions . . . . .	4
4	EHB 6	Gambling statutes recodified . . . . .	14
5	SSB 5022	Public works board projects—Appropriations . . . . .	38
6	SB 5685	Apple advertising commission—Bond authorization . . . . .	42
7	ESSB 5351	Supplemental budget . . . . .	44
8	2SHB 339	Distinguished professorship trust fund program for higher education . . . . .	90
9	SSB 5330	Disability accommodation revolving fund . . . . .	93
10	SB 5331	Persons of disability—Employment security department to develop proposals for routine collection of employment data for persons of disability . . . . .	94
11	SB 5060	Intoxicated pedestrians—Law enforcement officer response . . . . .	95
12	SB 5197	Community college international student exchange program . . . . .	96
13	SB 5010	Legislative terms of office—Commencement date . . . . .	96
14	SSB 5849	Insurance cancellation or nonrenewal—Agent or broker to receive notice . . . . .	97
15	SHB 492	Higher education fees—Periodic payment plan revised . . . . .	97
16	ESHB 296	Local governance study commission extended . . . . .	99
17	SHB 11	Emergency service communication districts . . . . .	100
18	SHB 9	Public utility districts—Combined utility functions— Accounting . . . . .	102
19	SHB 263	Local governments—Loan agreements with the state or federal government . . . . .	103
20	SSB 5193	Mining—Permits, leases, contracts—Revisions . . . . .	104
21	SSB 5318	Burning permits—Fire protection district revocation authority . . . . .	111
22	HB 295	Drivers' license revocation—Implied consent—Revisions . . . . .	112
23	HB 1	Plantation christmas trees—Business and occupation tax exemption . . . . .	114
24	EHB 678	Right-to-know advisory council—Revisions . . . . .	118
25	HB 358	Office of the state actuary—Qualifications, appointment, and duties revised—Joint committee on pension policy created . . . . .	120
26	SHB 98	Militia—Civil immunity . . . . .	122
27	HB 204	Use taxation of tangible personal property used both inside and outside of Washington . . . . .	123
28	HB 282	Purchases made with food coupons—Tax exemption . . . . .	124
29	SSB 5174	Washington land bank—State investment board authorized to invest in land bank—Land bank approval required for land bank loan deferrals . . . . .	125
30	SB 5034	Model traffic ordinance updated . . . . .	126
31	SB 5009	Outpatient dialysis facilities—Tax exemption for real and personal property . . . . .	127
32	RESB 5955	Sports franchises—Public ownership . . . . .	128
33	SB 5019	Sewer and water district formation or reorganization— Petitions to specify proposed property tax levy assessment . . . . .	129
34	ESB 5105	Poisons regulated . . . . .	133
35	ESSB 5170	Nursery dealer licenses and fees—Rootstock annual assessment—Funds . . . . .	135
36	SSB 5014	Weatherization of residences of low-income persons . . . . .	138
37	SSB 5046	Insurance riders . . . . .	141
38	SB 5069	Public service company budgets—Commission objection period . . . . .	143
39	SB 5247	State board of education—Authority to disapprove teacher, administrator, and personnel certification programs—Review	

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		program approval standards every five years . . . . .	143
40	SB 5433	Higher education coordinating board—On-going discussions with western states concerning interstate recognition of teachers, administrators, and staff certification . . . . .	145
41	SB 6038	Kidney dialysis centers—Legend drugs . . . . .	146
42	SSB 5565	Gasoline inventory at retail service stations . . . . .	147
43	ESB 5149	Court of appeals—Sessions may be held in any city so designated by rule . . . . .	147
44	SSB 5136	Pearl Harbor survivors—Special license plates . . . . .	148
45	SSB 5144	Fertilizers and pesticides . . . . .	149
46	SSB 5581	Beer—Retailers may offer samples . . . . .	162
47	SB 5523	Credit card use by state government—Contracts to administer . . . . .	163
48	SSB 5763	Surplus salmon eggs and carcasses . . . . .	164
49	SB 5138	Tax deferral and credit programs—Applications, reports, and other information are not confidential . . . . .	164
50	SB 5146	Port district commissioners—Life insurance coverage . . . . .	165
51	SSB 5196	Insurance—Immunity to persons filing required information . . . . .	166
52	SB 5277	ReflectORIZED license plates . . . . .	167
53	SHB 313	Park and recreation district commissioner elections . . . . .	167
54	SSB 5045	Elections—Absentee ballots—Vote canvassing—Recounts . . . . .	168
55	SHB 393	Limited partnerships . . . . .	173
56	SSB 5371	Restrictive covenants . . . . .	197
57	SB 5536	Scenic river system—Committee of participating agencies modified—Funding modified . . . . .	200
58	SB 5204	Public hospital district superintendents . . . . .	201
59	SB 5403	Veterans affairs advisory committee . . . . .	203
60	SB 5148	Department of services for the blind continued . . . . .	204
61	SB 5410	Employment security department appeals . . . . .	204
62	SB 5348	Hulk haulers or scrap processors—Prerequisites to vehicle hulk transport modified . . . . .	207
63	SB 5418	Washington state patrol—Deductions from retirements allowance for the Washington state patrol memorial foundation . . . . .	208
64	SB 5080	Pensions—Exemption from execution, attachment, or seizure . . . . .	209
65	SSB 5106	Organized crime advisory board—Membership revised . . . . .	210
66	SB 5062	Traffic infractions—Probable cause modified . . . . .	211
67	SB 5051	Environmental excellence awards program . . . . .	214
68	SB 5415	Rights of way for city streets which are part of the state highway system—Vesting of title—Nontransportation use . . . . .	215
69	SSB 5417	Ferry system joint development agreements—Lease requirements modified . . . . .	218
70	ESB 5161	State purchasing—Duties of the state purchasing and material control director regarding state hospitals and certain state health care programs . . . . .	219
71	SB 5067	Domestic violence prevention orders—Court jurisdiction revised . . . . .	222
72	SSB 5179	Public printing—Private printing dollar threshold to be adjusted each biennium—Institutions of higher education authorized to contract with private printers when using nonstate appropriated funding sources . . . . .	223
73	SB 5205	Superior court judges—Retired judges with certain pending cases may sit as judges pro tempore . . . . .	225
74	SB 5541	Liquor control board—Conditions of annual audit revised . . . . .	226
75	SB 5227	Department of social and health services—Revenue recovery statutes consolidated . . . . .	226

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
76	SB 5327	Persons of disability—Notaries public—Acknowledgements from persons physically unable to sign name—Employment security department to report to legislature on the department's special services . . . . .	252
77	SB 5381	Custom slaughtering establishments or custom meat facilities—License revisions—Inspections . . . . .	254
78	ESB 5740	Ferry system employees—Employer contributions to insurance and health care plans . . . . .	259
79	SSB 5761	Electrical apparatus . . . . .	260
80	SB 5139	Cigarette tax statutes consolidated . . . . .	267
81	ESSB 5180	State purchases—Competitive bid revisions—Dollar threshold adjusted each biennium . . . . .	270
82	SSB 5199	Taxing districts' official boundaries . . . . .	272
83	SSB 5466	Health maintenance organization assessments . . . . .	273
84	SSB 5830	Organ, tissue, and bone transplants—Exempting from implied warranty coverage of the uniform commercial code . . . . .	274
85	SB 6065	Collection agencies—Record retention period revised . . . . .	275
86	SHB 385	Radioactive wastes—Additional ports of entry for highway transportation . . . . .	275
87	SSB 5495	Food fish and shellfish personal use licenses—Punchcards—Stamps—Revisions . . . . .	276
88	SB 5402	Public employees' retirement system—Restoration of withdrawn contributions . . . . .	279
89	SSB 5858	Mobile homes—Retail sales tax collection . . . . .	282
90	ESB 5164	Pacific states agreement on radioactive materials transportation management . . . . .	283
91	SSB 5329	Persons of disability—Study of state policies and public benefit programs that act as disincentives to work . . . . .	286
92	ESB 5822	Short plats . . . . .	287
93	SSB 5594	Water rights claims—Amendments . . . . .	288
94	ESSB 5301	Dangerous dogs . . . . .	289
95	2SSB 5845	Forest practices . . . . .	292
96	SB 5712	Higher education tuition and fees—Nonresident student redefined . . . . .	301
97	SSB 5688	Higher education institutions—Commercial activities regulated . . . . .	303
98	SSB 5047	Free license plates—Eligibility of spouses of deceased prisoners of war—Proof of disability revised . . . . .	305
99	SSB 5779	Motor vehicle mechanical breakdown insurance . . . . .	306
100	SSB 5155	School districts—Transfer of territory and the adjustment of excess tax levies . . . . .	308
101	SSB 5254	Liquor violations—Purchases by minors—Misuse of identification cards . . . . .	312
102	SSB 5288	Assault on veterans affairs department employees . . . . .	313
103	SSB 5389	Noise control . . . . .	315
104	SSB 5519	Building permit applications—Proposed divisions of land—Vesting of rights . . . . .	317
105	SSB 5598	Community mental health services—Grant distribution formula . . . . .	318
106	SB 5668	Public service companies—Issuance of securities . . . . .	321
107	SSB 5679	Utilities and transportation commission—Certain information filed with the commission is exempt from public disclosure . . . . .	322
108	SSB 5892	Land subdivision—Binding site plan approval modified . . . . .	325
109	SB 5427	Ecology procedures simplification act of 1987 . . . . .	326
110	SHB 124	Ballot order of candidates . . . . .	403
111	HB 148	Business reporting and taxation system—Unification	

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		feasibility study to be undertaken—Unemployment compensation and workers' compensation enforcement provisions revised—Contractors may use unified business identifier account numbers on registration applications . . . . .	404
112	SHB 805	School plant construction prerequisites—School district facility lease requirements . . . . .	410
113	SHB 522	Exchange of state land—Natural resources department authority modified . . . . .	411
114	HB 136	Game commission meetings . . . . .	412
115	HB 49	Hazardous waste or solid waste management—Governor's award of excellence . . . . .	413
116	SHB 942	Medical examiners board membership to include a physician's assistant . . . . .	414
117	EHB 520	Nonprofit corporations—Reinstatement procedures modified—Secretary of state fees revised . . . . .	415
118	HB 865	Public employees' retirement system—Service credit allowance for certain members who become disabled in the line of duty . . . . .	420
119	HB 410	State clearinghouse for educational information revolving fund created . . . . .	421
120	ESHB 186	Municipal public works . . . . .	421
121	HB 377	Deferred compensation accounts modified . . . . .	427
122	HB 378	State employees' insurance funds and accounts modified . . . . .	429
123	HB 68	Irrigation district election polling places . . . . .	432
124	HB 75	Irrigation districts—Designation of a state-wide promotional association—Dues or assessment provisions revised . . . . .	433
125	SHB 232	Water rights—Nonrelinquishment of water rights under the federal conservation reserve program . . . . .	434
126	HB 1027	Timber on state lands—Sale of damaged timber . . . . .	435
127	HB 255	Motor vehicle ownership—Late transfer penalty assessments . . . . .	436
128	HB 51	Washington essential property insurance inspection and placement program—Continuation authorized . . . . .	438
129	HB 699	Physician limited license provisions revised . . . . .	439
130	SHB 147	Credit insurance . . . . .	441
131	HB 1204	Sentencing—Exceptional sentences—Ongoing pattern of sexual abuse . . . . .	442
132	HB 31	Insurers—Annual filing and fee to the national association of insurance commissioners . . . . .	444
133	HB 658	Precinct candidates—Filing procedures . . . . .	445
134	HB 671	New construction—Time period for placement on the assessment rolls revised . . . . .	448
135	SSB 5312	State patrol—Collective bargaining . . . . .	449
136	SHB 424	School district employees'—Public employees' retirement system credit requirements revised . . . . .	452
137	HB 1180	Higher education residency requirements—Residency granted for certain out-of-state students who attended an in-state high school . . . . .	452
138	ESHB 298	Local government junior taxing districts—Withdrawal and reannexation of areas—Temporary voter-approved increase in regular property tax authorized—County assessors to report to revenue department on standardized forms . . . . .	454
139	HB 66	Pearl barley processing—Business and occupation tax rate reduced . . . . .	461
140	SHB 508	Access device crimes—Credit card redefined as access device . . . . .	464
141	HB 827	School district pupil transportation contracts . . . . .	468
142	SHB 585	Residency modified for vehicle license registration	

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		purposes—License plate requirements revised . . . . .	470
143	HB 1067	Public retirement allowances—Actuarially equivalent options revised . . . . .	473
144	EHB 235	Prescriptions written by out-of-state physicians may be filled in this state unless the prescription is over six months old . . .	478
145	HB 545	Municipal utility expansions—Voter approval revisions . . . . .	483
146	HB 406	Committee, board, or commission members who belong to public employees' retirement system Plan 1—Service credit revised . . . . .	484
147	2SHB 257	Graduate fellowship trust fund program . . . . .	485
148	SHB 60	Commercial fishermen processor liens . . . . .	487
149	2SSB 5515	Vessel dealer registration revised . . . . .	489
150	SHB 563	Professional licensing—Uniform disciplinary act revisions— State health coordinating council to make recommendations concerning proposals for a mandated health insurance coverage . . . . .	494
151	HB 187	Industrial insurance appeals board—Evidence presentation for allegations of fraud revised . . . . .	523
152	HB 142	Consumer protection act violations—Attorney general granted investigative powers for violations of federal statutes	524
153	HB 205	Motor vehicle transportation companies—Assessment authority transferred from revenue department to county assessors . . . . .	527
154	SHB 42	Arrest without a warrant—Possession or consumption of alcohol by underage persons . . . . .	532
155	HB 44	Mobile homes—Collection of personal property taxes clarified . . . . .	534
156	HB 96	Computation of levy rates and extending the tax on the tax rolls of highly valued property whose assessment value is in dispute . . . . .	536
157	SHB 489	Probate—Successor notice no longer required to the revenue department inheritance tax division regarding a claim . . . . .	537
158	SHB 697	Long-term care ombudsman program—Study to be conducted by the legislative budget committee—Volunteer long-term care ombudsman role clarified . . . . .	539
159	SHB 55	Sustainable harvest of timber modified . . . . .	540
160	SHB 1004	Chiropractic disciplinary board reauthorized . . . . .	542
161	SHB 188	Initiatives or referendums—Filing period . . . . .	543
162	SHB 763	Informed consent for health care . . . . .	544
163	HB 374	Veterinary biologics . . . . .	545
164	SHB 783	Milk pooling . . . . .	547
165	SHB 732	Audit services revolving fund—Revisions . . . . .	548
166	HB 199	Timber excise tax—Tax liability threshold revised—Small harvester redefined . . . . .	549
167	SHB 706	Youth employment—Washington service corps . . . . .	551
168	HB 197	State property tax levy—Adjustments clarified . . . . .	557
169	HB 643	Sewer districts and water districts—Prepaid special assessments may be placed in an improvement fund . . . . .	559
170	2SHB 480	Indian child welfare . . . . .	561
171	SHB 656	Job service program for the unemployed . . . . .	574
172	ESHB 465	Wage claims—Labor and industries department authority revised . . . . .	579
173	EHB 248	State patrol retirement allowances revised . . . . .	581
174	SHB 347	Motor vehicles and special fuel taxes—Payment provisions modified—Electronic funds transfer—Penalties . . . . .	583
175	EHB 559	Ride-sharing vehicles . . . . .	589
176	HB 431	Emergency vehicles—Motor vehicle equipment requirements	

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		revised . . . . .	591
177	ESHB 665	Pilot supplemental security income referral program . . . . .	592
178	HB 261	Centennial license plates . . . . .	594
179	HB 352	Highway priority programming—Category H . . . . .	596
180	SHB 329	Conservation commission membership modified . . . . .	601
181	SHB 415	Driving abstracts and records—Alcohol/drug assessment or treatment agencies . . . . .	602
182	SHB 669	Unclaimed bicycles held by police or sheriff may be donated to nonprofit charitable organizations . . . . .	606
183	SHB 746	Passenger-only ferries . . . . .	607
184	HB 843	Uranium or thorium mills—State's authority to collect money for decommissioning and surveillance modified . . . . .	610
185	SHB 1069	Worker's compensation—Obsolete references corrected . . . . .	613
186	SB 5002	Commission on judicial conduct—Membership enlarged—Duties revised . . . . .	646
187	SSB 5089	Homicide by abuse . . . . .	650
188	SSB 5824	Custodial assault—Assault at state correctional facilities . . . . .	657
189	SB 5194	Uniform commercial code—Fees modified . . . . .	657
190	SSB 5717	Not-for-profit corporations and charities—Reporting requirements to be studied . . . . .	664
191	ESB 5032	Antique slot machines . . . . .	664
192	ESSB 5150	Portability of public employment retirement benefits . . . . .	665
193	SB 5642	Superintendent of public instruction—Federal food services revolving fund established . . . . .	670
194	SB 5861	Small passenger vessels—Exemption from state pilotage act . . . . .	671
195	SB 5469	Obsolete statutory references corrected regarding the department of trade and economic development . . . . .	672
196	SSB 5130	Liquor licenses—Club class H revised . . . . .	682
197	SB 5248	Common school model curriculum programs or guidelines to include vocational or applied courses . . . . .	683
198	SB 5412	Osteopathic registered nurses—Privileged communications . . . . .	684
199	SB 5413	State highway route designations revised . . . . .	684
200	SB 5416	Limited access facilities . . . . .	691
201	SB 5936	Lobbyists—Registration requirements revised—Duties modified . . . . .	693
202	SB 5017	District courts—Terminology revised . . . . .	695
203	HB 194	Metropolitan park districts—Treasurer . . . . .	759
204	HB 110	Alcohol sales to minors—Language in domestic relations code deleted to eliminate inconsistency with liquor code . . . . .	760
205	ESB 5265	Beer retailer licensees—Purchase restrictions modified . . . . .	761
206	SHB 153	Abuse or neglect of developmentally disabled persons—Reporting requirements . . . . .	761
207	HB 200	Public utility tax on sewerage collection businesses clarified . . . . .	768
208	HB 203	Taxes—General provisions regarding notice and order to withhold and deliver property due or owed revised . . . . .	769
209	HB 250	Utilities and transportation commission—Authority regarding action on permits after hearings modified . . . . .	771
210	HB 399	Industrial insurance—Building industry premiums base rate computation revised . . . . .	771
211	SB 5008	Property tax payments—Check payee information revised . . . . .	772
212	SSB 6048	Civil actions and procedures—Revisions . . . . .	774
213	HB 654	Unemployment insurance—Experience rating revisions . . . . .	801
214	SHB 237	Emergency medical services—Revisions . . . . .	804
215	SB 5513	State patrol retirement contributions—Revisions regarding withdrawal, restoration, and interest . . . . .	814
216	SHB 750	Farm labor contractors' security bonds—Wage claims . . . . .	817
217	SSB 5212	Liquor licenses—Temporary retail and wholesale licenses . . . . .	822



## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page	
218	SB	5522	Public works—Small works roster limit raised . . . . .	826
219	SB	5408	Asbestos removal projects—Procedures revised to conform with the industrial safety and health act . . . . .	827
220	EHB	403	Aircraft registration and excise tax collection responsibility transferred from the licensing department to the transportation department—Administrative revisions . . . . .	828
221	SSB	5584	Labor and industries reports—Fraudulent filing by employers or employees—Criminal penalties . . . . .	833
222	SHB	259	Water recreation facilities regulated . . . . .	834
223	ESHB	258	Public health fees revised . . . . .	838
224	HB	753	Criminal mistreatment sentencing revised . . . . .	842
225	SSB	5104	Parks and recreation commission—Publication and sale of interpretive materials—Use of park property by private nonprofit groups . . . . .	845
226	SB	5215	Reflectorized warnings on broken down vehicles . . . . .	848
227	SB	5735	Approach roads on state highway rights of way—Rule- making authority granted concerning permits . . . . .	850
228	SB	5013	Street vacations . . . . .	851
229	ESB	5097	Lifeline telephone assistance program established—Double amendments corrected . . . . .	853
230	SSB	5253	Displaced homemaker act reauthorized—Marriage license surcharge—Displaced homemaker program advisory committee created . . . . .	859
231	SHB	138	Washington award for vocational excellence program revised	861
232	HB	770	School science curriculum to place an emphasis on the environment . . . . .	863
233	SB	5976	Livestock liens—Veterinarian shall have lien for unpaid amounts—Cruelty to animals, temporary caretaker has a lien—Expiration period of sixty days created . . . . .	864
234	HB	825	Motor vehicle funds may be used by cities and towns for chip-sealing, seal-coating, or for the maintenance of arterial highways . . . . .	865
235	SSB	5107	Motor vehicle registration—Registration method which insures that the tax is levied only for the registration period .	866
236	SB	5160	Poisons and hazardous substances—Regulatory authority . . .	866
237	SSB	5423	Honorary consul license plates . . . . .	866
238	SHB	154	Hazardous material incidents—Procedures—Liability . . . . .	867
239	SHB	238	Garbage and refuse collection companies—Compliance with local solid waste management plans is a condition of operation—County duties concerning review of companies . .	872
240	HB	310	Motor vehicle insurance—Collision and comprehensive coverage shall offer debt and refinancing coverage . . . . .	874
241	HB	815	Storm water control facilities—Delinquent charges—Interest, liens, or foreclosure . . . . .	874
242	HB	1014	Public corporations may use local improvement district financing . . . . .	875
243	ESB	5178	Commodity contracts and options regulated . . . . .	878
244	SB	5605	Proportional registration of motor vehicles . . . . .	886
245	SHB	198	Retail sales tax funds held in trust—Tax liability . . . . .	919
246	SB	5444	Federal reserve system challenged—Referendum Bill 41 . . . .	920
247	HB	663	Ignition interlock breath alcohol devices . . . . .	921
248	ESB	5217	Wellness program for state employees . . . . .	925
249	SSB	5191	Mexican-American affairs commission redesignated as the commission on Hispanic affairs . . . . .	927
250	SHB	289	Public dances and other recreational or entertainment activities—Regulation revised . . . . .	931
251	HB	816	Civil service for deputy sheriffs and other sheriff employees	

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		revised . . . . .	932
252	SB 5774	Dental prosthesis identification . . . . .	933
253	ESB 5863	Mobile home parks—Landlords shall not exclude or expel based on age of the mobile home . . . . .	934
254	SHB 130	Airport operators—Power to regulate airport use— Designation of treasurer . . . . .	935
255	HB 1185	Junior taxing districts—Status of districts and levies revised .	942
256	SSB 5392	Unemployment compensation—Benefit year qualifications revised . . . . .	943
257	EHB 1123	Railroad grade crossing protective fund—Certain moneys transferred to the motor vehicle fund . . . . .	945
258	SHB 56	Surface mining . . . . .	946
259	E2SSB 5501	Aquatic land dredged material disposal site account— Management and monitoring of sites . . . . .	949
260	HB 947	Motor vehicle excise tax—Collection of unpaid taxes from Washington residents . . . . .	950
261	HB 395	Highway improvement projects—Transportation department authorized to participate in financing with real estate owners . . . . .	951
262	ESHB 283	Foreign commercial fishing vessels—Gear stowage requirements . . . . .	952
263	EHB 590	Immunity from civil liability for county coroners or county medical examiners . . . . .	953
264	ESSB 5650	Pilot qualifications—Pilotage commissioners board duties . .	953
265	ESHB 1128	Part-time teachers retirement benefits calculation . . . . .	957
266	ESSB 5464	Courts of limited jurisdiction—Collection agencies may be used to collect unpaid fines and forfeitures—Credit card use authorized . . . . .	963
267	SB 5732	Donation of rights of way to accommodate transportation improvements authorized . . . . .	964
268	SB 5780	Campaign funds—Investment categories modified . . . . .	967
269	ESB 5972	Health care peer review bodies—Civil actions—Exclusive remedy provided . . . . .	968
270	SSB 5456	Supplemental transportation budget . . . . .	973
271	ESSB 5604	Navy homeport in Everett—Port Gardner Bay bedlands lease authorized—Lease conditions established—Tideland exchange authorized . . . . .	975
272	ESHB 611	Navy homeport in Everett—Harbor area to remain unobstructed—Funds appropriated to offset the impact of the homeport on state responsibilities and activities . . . . .	977
273	EHB 701	Aircrafts—Downed aircraft transmitters and survival kits required on certain aircraft . . . . .	979
274	SHB 1098	Keystone spit and Olympic peninsula land exchange— Conveyance provisions established . . . . .	980
275	SB 5564	Housing authorities—Deactivation of local housing authorities . . . . .	981
276	HB 856	Bed and breakfast industry study . . . . .	982
277	ESB 6012	Indecent exposure . . . . .	982
278	SSB 5232	Unemployment compensation—Base year and benefit year computation modified . . . . .	984
279	SSB 5977	State educational telecommunications network—Model plan for implementing the network to be developed . . . . .	987
280	SSB 5142	Harassment—Unlawful harassment defined—Protection orders provided for . . . . .	988
281	SB 5172	Victims and witnesses of crimes—Continuation of assistance programs—Vehicular homicide proof requirements modified—Benefits modified . . . . .	994

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
282	HB 1137	Low-income housing owned or operated by public corporations—Exemption granted for excise taxes in-lieu of property taxes . . . . .	1004
283	SHB 274	Revenue recovery procedures revised for the department of social and health services . . . . .	1006
284	SSB 5393	Unemployment—Older unemployed and long-term unemployed are made a priority for certain employment security department services—Annual report on re-employment of the unemployed . . . . .	1016
285	SSB 5094	Sales tax—Construction work—Retail sale and sale at retail redefined . . . . .	1019
286	ESB 5549	Death penalty execution dates—Resetting of the execution date does not require defendant's presence . . . . .	1022
287	2SSB 5871	Child day care—Study of facilities available for children of college and university students, faculty, and staff . . . . .	1023
288	SHB 291	Voter challenges . . . . .	1024
289	SSB 6023	Port districts—Use of industrial development facilities as security—Port property and facilities includes certain agricultural product facilities . . . . .	1027
290	SHB 937	Industrial insurance—Self-insured employers—Injury claim reporting requirements . . . . .	1028
291	HB 795	Marriage solemnization . . . . .	1029
292	SHB 1012	Public utility district territory annexation—Boundary changes—Procedures for annexation of another district's territory . . . . .	1029
293	ESHB 373	Rural development—Study on office-intensive industry feasibility and telecommunications infrastructure . . . . .	1033
294	EHB 24	Special fuel used in logging operations on federal land—Excise tax exemption . . . . .	1035
295	HB 954	Election statutes—Genderless designations and corrections . . . . .	1036
296	SB 5693	Voting—Employers to provide workers with an opportunity to vote . . . . .	1046
297	SHB 739	Private activity bond allocation . . . . .	1047
298	EHB 39	Special districts—Transfer of territory—Filling of vacancies—Special assessment bonds or notes—Legislative budget committee to review special districts . . . . .	1054
299	SHB 244	Disclosure of motor vehicle owner—Notice shall be sent to the owner . . . . .	1060
300	HB 549	Centennial commission—Civil service exemption for one deputy executive secretary . . . . .	1060
301	SHB 695	Real property tax exemption for senior citizens and disabled persons—Income limits and exemption amounts increased . . . . .	1061
302	ESB 5120	Vehicle and vessel titling and registration—County auditor and agent fees increased—Bad check remedy—Certain immunities granted . . . . .	1063
303	ESB 5882	Contractors—Insurance and financial responsibility requirements . . . . .	1065
304	E2SHB 221	Telecommunications devices for the hearing impaired . . . . .	1066
305	EHB 1021	Education for low-income working persons and single heads of households—Washington state and employers' higher educational opportunities program . . . . .	1070
306	HB 379	Risk retention groups regulated . . . . .	1074
307	2SHB 163	School board director compensation . . . . .	1082
308	ESSB 5285	Public broadcasting grants . . . . .	1083
309	SSB 5514	Sewer and water districts—Small works roster requirements waived for single source purchases—Districts shall not require specified engineer for private party designs and	

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		plans . . . . .	1085
310	SSB 5113	Motor vehicle insurance rates based on seat belts, child restraints, and other life-saving devices . . . . .	1089
311	SSB 5124	Impoundment of unauthorized, abandoned, junk, and other vehicles—Revisions . . . . .	1090
312	SHB 755	Community corrections boards and plans—Local and state offender management partnerships . . . . .	1107
313	SSB 5814	Mobile homes are subject to contractor registration statute—Mobile home siting requirements established . . . . .	1109
314	ESSB 5225	Community college collective bargaining modified . . . . .	1111
315	HB 86	Local improvement districts, utility local improvement districts, and local utility districts—Financing of sanitary sewers or potable water facilities . . . . .	1120
316	SHB 677	Industrial insurance—Delegation of subpoena power—Agricultural labor exemption removed—Delinquent assessments—Fees and medical charges . . . . .	1122
317	ESSB 5838	Health studios . . . . .	1125
318	SB 5948	Motor vehicle retail installment contract service charges . . . . .	1130
319	EHB 772	Tax revisions—Tax refunds interest rate—Firemen pension funding tax levy modified—County revaluation plans—Destroyed property assessment—Irrigation components . . . . .	1132
320	SHB 920	Motor vehicle insurance rates based on anti-theft devices and lighting . . . . .	1136
321	ESHB 95	Prevailing wage provisions required in certain state facility construction contracts . . . . .	1138
322	ESSB 5001	Judicial council—Membership and duties revised . . . . .	1138
323	SSB 5206	Superior courts—Additional judges in King, Chelan, and Douglas counties . . . . .	1141
324	ESB 5546	Substantial bodily harm redefined—Substantial pain defined—Second degree assault includes harm to an unborn quick child . . . . .	1144
325	ESHB 168	Fire protection district service charges . . . . .	1148
326	SSB 5511	Retirement benefits—Mandatory assignment of divided benefits . . . . .	1152
327	EHB 396	Transportation benefit districts . . . . .	1169
328	ESB 5529	Minority and women-owned and controlled businesses . . . . .	1176
329	ESSB 6013	Child care resource coordinator within social and health services department . . . . .	1187
330	ESHB 454	Boards and commissions—Certain abolished, reorganized, or revised . . . . .	1188
331	SHB 450	Cemetery board—Major revisions . . . . .	1227
332	SSB 5510	Real estate licensure . . . . .	1259
333	SHB 458	Measured telecommunications services . . . . .	1270
334	SSB 5978	Tributyltin regulated . . . . .	1271
335	ESSB 5608	Cruelty to and neglect of domestic animals . . . . .	1272
336	SSB 5561	Auctioneers—Bonding and security requirements . . . . .	1275
337	SHB 324	Public disclosure exemption granted for certain information filed regarding grants, loans, and services . . . . .	1278
338	HB 146	Credit unions—Authority and duties modified . . . . .	1280
339	SHB 902	Civil service exemptions—Certain fire department and police department chiefs . . . . .	1286
340	SSB 5520	Local improvement districts—Financing limitations—Reserve funds . . . . .	1289
341	SB 5747	Nonprofit historic preservation corporations—Real property conveyances for conservation and preservation . . . . .	1290
342	ESB 5764	Sunrise act—Sunrise notes for proposed boards and special purpose districts . . . . .	1293

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
343	2SSB 5993	Drought of 1987—Water right emergency procedures . . . . .	1294
344	ESSB 5502	Motor vehicle warranties . . . . .	1304
345	SSB 5061	Traffic infractions—Failure to comply with traffic laws— Nonresidents may be required to post bonds . . . . .	1316
346	SHB 614	Absentee voting . . . . .	1318
347	SHB 984	Horse racing—Satellite locations—Parimutuel wagering . . . . .	1329
348	SSB 5530	Business assistance center—Services to businesses revised . . . . .	1333
349	ESB 5463	International education in the common schools . . . . .	1337
350	HB 551	Aquatic lands—Distribution of proceeds from sale or lease modified—Capitol purchase and development account created . . . . .	1339
351	SHB 506	Children's trust fund—Child abuse prevention—Revisions . . . . .	1340
352	SHB 391	Deeds of trust—Revisions . . . . .	1344
353	SHB 601	Conversion of goods, merchandise, or services—Liability and remedies revised . . . . .	1356
354	SHB 116	Land use planning—Binding site plans—Vacations or alterations of subdivisions—Surveys—Hearings . . . . .	1357
355	HB 698	Collection of special assessments—Local governments may contract with county treasurer . . . . .	1363
356	HB 992	Termination of residential heating services . . . . .	1363
357	SHB 388	Wastewater treatment plants—Operator certification . . . . .	1365
358	ESHB 578	Taxing district boundaries . . . . .	1369
359	SHB 773	Voter registration validity inquiries—Corrections and cancellations . . . . .	1370
360	HB 748	Urban arterial board—Regional apportionment percentage calculations—Certain county projects to have value engineering studies . . . . .	1372
361	HB 1199	Service of process—Local governments and corporations . . . . .	1375
362	ESSB 5024	Contractors—Registration conditions and requirements— Advertising . . . . .	1376
363	ESHB 217	Superior courts—Convicted defendant costs—Probate accounts and reports filing requirements—Clerk duties re daily records, child support, and maintenance—Weighted caseload analysis . . . . .	1381
364	EHB 338	Transportation commission's authority expanded concerning planners, consultants and technical personnel . . . . .	1385
365	SSB 5405	Hazardous substance information—Consumer products exclusion . . . . .	1386
366	EHB 432	Fraternal benefit societies . . . . .	1387
367	HB 707	Youth employment—Washington conservation corps— Program goals prioritized—Contract revisions . . . . .	1411
368	SB 5159	Puget Island—Westport ferry . . . . .	1413
369	SSB 5326	Persons of disability—Employment and training information clearinghouse—Task force on disability training and placement . . . . .	1414
370	SHB 790	Timeshare regulation . . . . .	1416
371	HB 277	Motor vehicles—Financial responsibility proof period enlarged . . . . .	1428
372	SHB 542	Trapping on private property . . . . .	1429
373	HB 1049	Driving while intoxicated—Blood alcohol content . . . . .	1431
374	SHB 928	Clams—Subtidal harvesting leases near residential zones . . . . .	1436
375	ESHB 776	Schools—Hearing officers . . . . .	1437
376	HB 541	Joint operating agencies—Contracting and purchasing requirements—Conservation authority—Least-cost approach for energy investments . . . . .	1440
377	HB 985	Motor vehicles—Older driver insurance reduction conditions revised . . . . .	1448

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
378	HB 279	Motor vehicles—Financial responsibility security deposit period enlarged . . . . .	1448
379	SHB 440	Retirement—City and town elected officials—Provisions revised . . . . .	1449
380	SHB 170	Natural resources—Certain violations decriminalized . . . . .	1453
381	HB 1016	Aquifer protection areas—Low-income persons may have reduced fees—Liens for delinquent fees authorized . . . . .	1461
382	SSB 5249	Court filing fees . . . . .	1462
383	SSB 5825	Condominiums—Apartment includes motor vehicle storage places—Plan elements revised—Review of uniform act . . . . .	1465
384	SSB 5512	Retirement—Return to service . . . . .	1469
385	SSB 5181	Donation receptacles of charitable organizations—Unlawful to dispose of trash in receptacle . . . . .	1473
386	SHB 1158	Duty free exporters—Class S liquor licenses—Sale of nonliquor products by licensees—Fortified wine sales restricted . . . . .	1474
387	HB 91	Productivity board—Membership, duties, and scope revised—Teamwork incentive pay program . . . . .	1480
388	E2SHB 196	Driving without a valid license . . . . .	1486
389	HB 135	Western library network—Civil service exemptions—Open public meeting exceptions—Funds revised . . . . .	1494
390	SB 5678	Deaf students in community colleges—Tuition and fee waiver program instituted . . . . .	1500
391	ESHB 80	Mortgage broker practices act . . . . .	1501
392	HB 629	Vessel pilots—Discipline modified . . . . .	1506
393	SHB 353	Agriculture department—Revisions . . . . .	1508
394	SHB 231	Ground water management—Water well construction . . . . .	1524
395	ESB 5085	Warehouseman liens . . . . .	1525
396	SHB 734	Erotic materials—Access of minors . . . . .	1526
397	ESSB 5850	Speed limit increase—Motor vehicle insurance rate increases based on abstract information limited . . . . .	1527
398	SHB 325	Learning disabilities programs—Curriculum-based assessment procedures . . . . .	1532
399	ESHB 571	Municipal water treatment plants—Discharge restrictions revised . . . . .	1533
400	SB 5428	Ordinance publication requirements for certain cities and towns—Summary of ordinance authorized . . . . .	1535
401	SHB 786	Schools—Educational outcomes . . . . .	1536
402	SB 5550	Sexual offenders—Sentencing and treatment revised . . . . .	1540
403	ESHB 4	Public disclosure—Right to privacy—Law enforcement requests for public utility records . . . . .	1546
404	ESSB 5143	Public disclosure—Job applications, employee and volunteer residential information, and public utility customer residential information . . . . .	1550
405	E2SHB 16	Wood stoves . . . . .	1554
406	SHB 646	Alcoholism and drug addiction treatment and support act . . . . .	1561
407	HB 171	Community college—Fees for contracted services are to reflect legislated salary increases . . . . .	1570
408	ESSB 5533	Ocean resources assessment . . . . .	1574
409	2SSB 5453	Respite care . . . . .	1576
410	SHB 876	Methadone treatment . . . . .	1579
411	ESHB 931	Drug samples . . . . .	1583
412	ESHB 134	Radiologic and nuclear medicine technologists—Certification . . . . .	1590
413	ESHB 1197	Common school capital projects—Construction cost index—Additional state property tax for school construction . . . . .	1598
414	ESHB 88	Personal service contracts . . . . .	1605

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
415	SHB 767	Respiratory care practitioners—Certification . . . . .	1612
416	ESSB 5857	Impaired physician program . . . . .	1622
417	HB 10	State-wide city employees' retirement system—Transfer of credit . . . . .	1625
418	ESHB 47	Public safety directors—Law enforcement officers' and fire fighters' retirement system eligibility . . . . .	1626
419	SHB 364	Contractors—Disclosure statement prior to starting work— Job site inspections—Restraining orders . . . . .	1634
420	SHB 476	Banks—Meetings once each quarter—Capital stock—Land bank oversight procedures . . . . .	1637
421	EHB 713	Debenture companies . . . . .	1647
422	ESHB 743	Economic development—Public works improvements . . . . .	1655
423	SHB 782	Lobbyist reporting . . . . .	1663
424	SHB 1160	Roadway and maintenance projects—Certain day labor and bid requirements suspended for pilot project on cost-effective spending . . . . .	1666
425	ESB 5035	Interagency committee for outdoor recreation—Expiration date extended—Study possible designation as an executive agency . . . . .	1667
426	ESB 5201	State employee conflicts of interest . . . . .	1668
427	SSB 5846	Boating safety . . . . .	1670
428	EHB 1034	Rail development account—Special motor vehicle excise tax . . . . .	1673
429	ESHB 1035	Rail development commission . . . . .	1677
430	SHB 413	Child support order modification . . . . .	1680
431	ESHB 99	Health insurance coverage access act . . . . .	1682
432	SHB 63	Lake management districts—Rates and charges—Revenue bonds—District formation . . . . .	1694
433	HB 1090	Student loans—Nonprofit organizations involved with student loans—Tax exemptions . . . . .	1701
434	E2SHB 448	Family independence program . . . . .	1703
435	SHB 420	Child support obligations—Central registry . . . . .	1722
436	SHB 523	Pollution control facilities—Financing—Service provider agreements . . . . .	1745
437	SHB 857	Future teachers conditional scholarship program . . . . .	1755
438	ESHB 648	Noxious weed control . . . . .	1758
439	2SSB 5074	Involuntary commitment procedures revised—Pilot program established . . . . .	1782
440	SHB 418	Child support schedule commission . . . . .	1797
441	SHB 419	Paternity establishment services . . . . .	1799
442	ESHB 927	Enforcement of judgments . . . . .	1800
443	ESSB 5299	Massage therapy . . . . .	1899
444	HB 94	Uniform fraudulent transfer act . . . . .	1907
445	SB 5597	Cosmetology, barbering, and manicuring schools—Bonds . . . . .	1914
446	SHB 1097	Colleges and universities—Reciprocal tuition and fee programs . . . . .	1915
447	SSB 5219	Naturopathic physicians—Licensing requirements . . . . .	1916
448	SB 5483	Colleges and universities—Authorized leave without pay— Retirement calculations . . . . .	1928
449	SHB 2	Sewer districts and water districts—Revision of authority . . . . .	1929
450	SHB 1065	Automatic fingerprint identification system . . . . .	1939
451	SSB 5058	Rules review committee—Procedures and authority . . . . .	1947
452	2SHB 569	Wine commission—Additional tax . . . . .	1950
453	EHB 831	Horse racing—Commission's retention percentage increased—Ex officio nonvoting commission members . . . . .	1960
454	EHB 161	Motorcycle helmets required for persons under eighteen— Persons under five prohibited from being passengers—Fees increased—Safety program . . . . .	1962

## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
455	SB 5380	Retirement cost-of-living adjustments . . . . .	1964
456	2SHB 684	Sentencing revisions—Task force on civil infractions . . . . .	1968
457	SHB 430	Employee cooperative corporations act . . . . .	1991
458	HB 1228	Alcohol and substance abuse—Penalties—Treatment . . . . .	1997
459	SSB 5880	Tuition recovery fund—Private vocational schools . . . . .	2010
460	SHB 48	Parenting—Child custody and child support . . . . .	2015
461	SHB 1156	Community revitalization program—Washington state development loan fund committee—Distressed areas—Loan eligibility—Performance standards . . . . .	2042
462	SHB 738	Corrections standards board—Transfer of powers, duties, and functions . . . . .	2047
463	ESHB 83	Motor vehicle accidents—Financial security deposits— Reports—Driver's licenses of persons under twenty-one . . . . .	2057
464	SHB 982	Teacher preparation programs—Inclusion of teacher's aide constituent—Performance assessment . . . . .	2060
465	ESB 5110	Washington state scholars program—Tuition and fee waiver revised . . . . .	2062
466	ESSB 5439	Trust land sale to the parks and recreation commission— Periodic joint review of potential public recreation lands— Natural resources department maps and survey duties altered . . . . .	2064
467	SSB 5163	Midwifery—Licensure—Scope . . . . .	2070
468	HB 1087	Property tax exemption for the production or performance of musical, dance, artistic, dramatic, or literary works . . . . .	2075
469	SSB 5123	Highway advertising control . . . . .	2077
470	HB 462	Workers' compensation—Payment of inpatient hospital services—Criminal sanctions for false claim statements do not extend to injured worker or beneficiary . . . . .	2082
471	SB 5739	Escrow agents—Errors and omissions policy requirements . . . . .	2085
472	SSB 5911	Natural resources conservation areas—Real estate excise tax—Repeal of conveyance tax . . . . .	2091
473	2SHB 813	Governor's commission on children . . . . .	2098
474	SSB 6061	Community docks—Shoreline management substantial development exemption . . . . .	2100
475	ESHB 844	Dependent care program—State employees' salary reduction plan . . . . .	2104
476	E2SHB 1006	Nursing homes—Quality of care . . . . .	2109
477	SB 5335	Boundary review boards—Open public meetings—Notice— Jurisdiction—Review—Fees . . . . .	2137
478	SSB 5632	Learning assistance program . . . . .	2143
479	2SSB 5986	Oil spills . . . . .	2146
480	SHB 833	Efficiency and accountability in government—Temporary commission . . . . .	2149
481	ESHB 644	Environmental laboratory certification . . . . .	2151
482	ESHB 995	Mobile home parks purchase fund . . . . .	2152
483	ESSB 6064	Hotel and motel special excise tax—Revisions . . . . .	2159
484	HB 220	Collective bargaining—Printing craft employees in the University of Washington printing department . . . . .	2162
485	SHB 630	Pilotage—Board modifications—Grays Harbor district to include Willapa Harbor—Attorney general prosecution authority—Companies may bar individual pilots from their vessels . . . . .	2163
486	2SSB 5063	Child and adult abuse information—Businesses and organizations providing services to children or developmentally disabled persons . . . . .	2167
487	HB 452	School-based day care—District's use of funds . . . . .	2178
488	ESSB 5071	Dangerous wastes and hazardous wastes redefined—Ecology	



## TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		department authority granted over all hazardous wastes—	
489	E2SSB 5252	Hazardous waste disposal methods . . . . .	2179
		Child abuse and neglect prevention curriculum—Primary	
		prevention program . . . . .	2182
490	HB 3	Retirement overpayments . . . . .	2184
491	ESB 6003	Columbia Basin Project—Nonrelinquishment of water rights	2186
492	ESB 5996	Washington institute of applied technology . . . . .	2187
493	HB 67	Seed conditioning—Tax exemption . . . . .	2190
494	HB 628	Diesel fuel used in certain fishing operations—Tax	
		exemption . . . . .	2190
495	SSB 6033	Hops—Tax exemption . . . . .	2191
496	HB 209	Cigarette tax enforcement . . . . .	2192
497	E2SHB 321	Aluminum production or casting—Excise tax deferrals . . . . .	2197
498	ESHB 341	Banks—Power and authority—Revisions . . . . .	2201
499	2SHB 426	Columbia river gorge commission . . . . .	2202
500	ESHB 499	Wastewater permits—Review and modification . . . . .	2209
501	SHB 1132	Tri-cities—Economic diversification . . . . .	2209
502	SSB 5606	Budget and accounting—Revisions . . . . .	2211
503	E2SHB 586	Child abuse and neglect—Services pilot project—	
		Caseworker standards—Foster parent training—Therapeutic	
		day care and treatment—Counseling—Reporting of abuse . . . . .	2221
504	2SSB 5555	State information technology—Management and planning . . . . .	2230
505	ESHB 25	State government reports and publications . . . . .	2247
506	E2SHB 758	Wildlife department . . . . .	2307
507	SSB 5622	Teacher assistance program . . . . .	2347
508	SB 6053	Educational service districts—Powers and duties . . . . .	2348
509	ESB 5571	Grain indemnity fund program . . . . .	2352
510	SB 5129	First avenue south bridge . . . . .	2361
511	ESHB 26	Lottery—Commission and director powers and duties	
		modified—Expiration date of statute extended . . . . .	2362
512	SHB 129	Omnibus credentialing act for counselors . . . . .	2371
513	E2SHB 164	Housing trust fund . . . . .	2386
514	EHB 435	Real estate licensure—Business professions regulation	
		request process . . . . .	2393
515	ESSB 5801	Fire fighters—Occupational diseases . . . . .	2401
516	HB 1205	Water pollution facilities—Extended grant payments . . . . .	2403
517	SHB 978	Yakima Enhancement project . . . . .	2404
518	E2SHB 456	Education—Readiness to learn—Project even start—	
		Substance abuse awareness program—Dropout prevention—	
		Highly capable high school students—School involvement	
		programs—Mental sports . . . . .	2407
519	SSB 5274	Teachers—Salary—Schedules—In-service training and	
		continuing education . . . . .	2424
520	SB 5666	Enchanted parkway . . . . .	2425
521	ESHB 498	Fire fighters—Collective bargaining . . . . .	2425
522	SHB 425	District heating systems . . . . .	2428
523	ESB 5556	Flood control . . . . .	2431
524	E2SSB 5659	Child protective services . . . . .	2437
525	ESSB 5479	Education—Schools for the twenty-first century—Teaching	
		as a profession—Masters degree requirement—Staff	
		development . . . . .	2452
526	ESSB 5081	Winter recreation commission—"Roll On Columbia, Roll	
		On" declared official state folk song . . . . .	2470
527	EHB 326	Conservation commission funding—Research activities . . . . .	2472
528	ESSB 5570	Solid waste incinerator ash residue disposal—Preferred solid	
		waste management joint select committee . . . . .	2473

## TABLE OF CONTENTS

---

Chapter No.	Bill No.	Subject	Page
<b>FIRST EXTRAORDINARY SESSION</b>			
1	....	Salaries for elected officials .....	2480
2	RESHB 455	School finance—Staff to student ratios—Salaries .....	2482
3	RESHB 621	State general obligation bonds .....	2496
4	ESSB 5293	Adult family homes—Business and occupation tax exemption .....	2501
5	E2SHB 477	Health care access .....	2501
6	RESHB 327	Capital budget .....	2516
7	ESHB 1221	Operating budget .....	2670
8	ESSB 5901	Convention and trade center—Professional sports franchises ..	2768
9	ESSB 6016	Transportation revenue and taxation .....	2778
10	ESSB 6076	Transportation budget .....	2789
<b>STATE MEASURES</b>			
<b>PROPOSED CONSTITUTIONAL AMENDMENTS</b>			
		HOUSE JOINT RESOLUTION NO. 4212 .....	2811
		HOUSE JOINT RESOLUTION NO. 4220 .....	2812
		SENATE JOINT RESOLUTION NO. 8207 .....	2815
		SENATE JOINT RESOLUTION NO. 8212 .....	2816
<b>INDEX AND TABLES</b>			
<b>TABLES</b>			
		BILL NO. TO CHAPTER NO. ....	2819
		RCW SECTIONS AFFECTED BY 1987 STATUTES .....	2824
		UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 1987 STATUTES ..	2858
		SUBJECT INDEX .....	2859
		HISTORY OF STATE MEASURES .....	2929

## CHAPTER 1

[House Bill No. 315]

CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS—  
APPROPRIATION

AN ACT Relating to the citizens' commission on salaries for elected officials; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. There is appropriated from the general fund to the citizens' commission on salaries for elected officials for the biennium ending June 30, 1987, the sum of one hundred twenty-seven thousand dollars, or so much thereof as may be necessary, to carry out the purposes of the commission.

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 11, 1987.

Passed the Senate February 18, 1987.

Approved by the Governor February 20, 1987.

Filed in Office of Secretary of State February 20, 1987.

## CHAPTER 2

[Engrossed Substitute House Bill No. 445]

## UNEMPLOYMENT COMPENSATION—LOCKOUTS

AN ACT Relating to unemployment compensation during labor disputes; amending RCW 50.20.090; reenacting and 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 77, chapter 35, Laws of 1945 as amended by section 12, chapter 8, Laws of 1953 ex. sess. and RCW 50.20.090 are each amended to read as follows:

An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that ~~((his))~~ the individual's unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which ~~((he))~~ the individual is or was last employed: PROVIDED, That this section shall not apply if it is shown to the satisfaction of the commissioner that:

(1) (a) The individual is unemployed due to a lockout by his or her employer, except for lockouts by employers who are members of a multi-

employer bargaining unit after one member of the multi-employer bargaining unit has been struck by its employees as a result of the multi-employer bargaining process. The recognized or certified collective bargaining agent must have notified the employer that the employees are willing to return to work, pending the ratification of a new collective bargaining agreement, under the terms and conditions contained in the employer's last contract offer made prior to the start of the lockout unless the employer's last offer amounts to a substantial deterioration of the terms and conditions of employment which existed prior to the termination of the last collective bargaining agreement between the employer and the individual's recognized or certified collective bargaining agent; and

(b) The individual has been locked out for four or more weeks.

Benefits shall be payable to an otherwise eligible individual beginning with the fourth week in which the individual is unemployed due to a lockout. This subsection (1) shall have no effect on and after December 27, 1987; or

~~((1) - he))~~ (2) (a) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

~~((2) - he))~~ (b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: PROVIDED, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subdivision, be deemed to be a separate factory, establishment, or other premises.

Sec. 2. Section 11, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 42, Laws of 1985 and by section 2, chapter 270, Laws of 1985 and by section 1, chapter 299, Laws of 1985 and RCW 50.29.020 are each reenacted and amended to read as follows:

(1) An experience rating account shall be established and maintained for each employer, except 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))~~ such individual's employers during ~~((his))~~ the individual's 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 otherwise provided in this section and in RCW 50.29.022.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers 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 or her 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) 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)(i) 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.

(ii) Benefits paid to an individual under RCW 50.20.090(1) for weeks of unemployment ending before the effective date of this 1987 section shall not be charged to the experience rating account of any base year 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.

(i) Benefits paid to an individual who does not successfully complete an approved on-the-job training program under RCW 50.12.240 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. 3. The employment security department shall report to the commerce and labor committees of the senate and the house of representatives by January 1, 1989, on the number of claimants receiving benefits and the total amount of benefits paid to date under this act.

NEW SECTION. Sec. 4. (1) This act shall apply retrospectively to all applicable employers and employees as of November 16, 1986.

(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.

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.

Passed the House February 20, 1987.

Passed the Senate February 12, 1987.

Approved by the Governor February 20, 1987.

Filed in Office of Secretary of State February 20, 1987.

---

CHAPTER 3

[Senate Bill No. 5015]

MUNICIPAL COURTS—TERMINOLOGY REVISIONS

AN ACT Relating to modifications in terminology regarding municipal courts; and amending RCW 3.46.020, 3.70.010, 7.16.160, 9.92.070, 35.18.060, 35.23.020, 35.23.040, 35.23.190, 35.24.020, 35.24.080, 35.24.160, 35.27.070, 35.27.240, 35A.12.020, 35A.12.090, 35A.13.010, 35A.13.080, 46.52.100, 78.12.020, and 78.12.060.

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

Sec. 1. Section 36, chapter 299, Laws of 1961 as amended by section 73, chapter 258, Laws of 1984 and RCW 3.46.020 are each amended to read as follows:

Each judge of a municipal department shall be a judge of the district court in which the municipal department is situated. Such judge ~~((may)) shall be ((alternately))~~ designated as a municipal judge ~~((or police judge)).~~

Sec. 2. Section 123, chapter 299, Laws of 1961 as amended by section 50, chapter 258, Laws of 1984 and RCW 3.70.010 are each amended to read as follows:

There is established in the state an association, to be known as the Washington state magistrates' association, membership in which shall include all duly elected or appointed and qualified judges of courts of limited jurisdiction, including but not limited to district judges ~~((, police court judges))~~ and municipal court judges.

Sec. 3. Section 16, chapter 65, Laws of 1895 and RCW 7.16.160 are each amended to read as follows:

It may be issued by any court, except a ~~((justice's or a police))~~ district or municipal court, to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which ~~((he))~~ the party is entitled, and from which ~~((he))~~ the party is unlawfully precluded by such inferior tribunal, corporation, board or person.

Sec. 4. Section 1, chapter 15, Laws of 1923 and RCW 9.92.070 are each amended to read as follows:

Hereafter whenever any judge of any superior court ~~((, justice of the peace or police))~~ or a district or municipal judge shall sentence any person to pay any fine and costs, ~~((he))~~ the judge may, in ~~((his))~~ the judge's discretion, provide that such fine and costs may be paid in certain designated installments, or within certain designated period or periods; and if such fine and costs shall be paid by the defendant in accordance with such order no commitment or imprisonment of the defendant shall be made for failure to pay such fine or costs. PROVIDED, that the provisions of this section shall not apply to any sentence given for the violation of any of the liquor laws of this state.

Sec. 5. Section 35.18.060, chapter 7, Laws of 1965 as amended by section 1, chapter 116, Laws of 1965 ex. sess. and RCW 35.18.060 are each amended to read as follows:

The powers and duties of the city manager shall be:

- (1) To have general supervision over the administrative affairs of the municipality;
- (2) To appoint and remove at any time all department heads, officers, and employees of the city or town, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to

civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of the city planning commission, and other advisory citizens' committees, commissions and boards advisory to the city council: PROVIDED FURTHER, That the city manager shall appoint the ((police)) municipal judge to a term of four years, subject to confirmation by the council. The ((police)) municipal judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. The council may cause an audit to be made of any department or office of the city or town government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the city or town and its future needs;

(8) To prepare and submit to the council a tentative budget for the fiscal year;

(9) To perform such other duties as the council may determine by ordinance or resolution.

Sec. 6. Section 35.23.020, chapter 7, Laws of 1965 and RCW 35.23.020 are each amended to read as follows:

The elective officers of a city of the second class shall consist of a mayor, twelve councilmen, a city clerk, and a city treasurer(~~(, and a police judge. PROVIDED, That in any such city operating under a commission form of government the police judge shall be appointed by the mayor).~~).

Sec. 7. Section 35.23.040, chapter 7, Laws of 1965 as amended by section 21, chapter 126, Laws of 1979 ex. sess. and RCW 35.23.040 are each amended to read as follows:

A general municipal election shall be held biennially in second class cities not operating under the commission form of government in each odd-numbered year as provided in RCW 29.13.020.

The term of office of mayor, city clerk, city treasurer and councilmen in such cities shall be four years, and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170, but not more than six councilmen shall be elected in any one year to fill a full term.



~~((The term of office of police judge shall be two years and until his successor is elected and qualified and assumes office in accordance with RCW 29.04.170.))~~

Sec. 8. Section 35.23.190, chapter 7, Laws of 1965 as amended by section 17, chapter 167, Laws of 1986 and RCW 35.23.190 are each amended to read as follows:

Before entering upon his duties and within ten days after receiving notice of his election or appointment every officer of the city shall qualify by taking the oath of office and by filing such bond duly approved as may be required of him. The oath of office shall be filed with the county auditor. If no notice of election or appointment was received, the officer must qualify on or before the date fixed for the assumption by him of the duties of the office to which he was elected or appointed. The city council shall fix the amount of all official bonds and may designate what officers shall be required to give bonds in addition to those required to do so by statute.

The clerk, treasurer, city attorney, chief of police, ~~((police judge))~~ and street commissioner shall each execute an official bond in such penal sum as the city council by ordinance may determine, conditioned for the faithful performance of their duties, including in the same bond the duties of all offices of which he is the ex officio incumbent.

All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk except the city clerk's which shall be filed with the mayor. No city officer shall be eligible as a surety upon any bond running to the city as obligee.

The city council may require a new or additional bond of any officer whenever it deems it expedient.

Sec. 9. Section 35.24.020, chapter 7, Laws of 1965 as last amended by section 1, chapter 116, Laws of 1969 and RCW 35.24.020 are each amended to read as follows:

The government of a third class city shall be vested in a mayor, a city council of seven members, a city attorney, a clerk, a treasurer, all elective; and a chief of police, ~~((police))~~ municipal judge, city engineer, street superintendent, health officer and such other appointive officers as may be provided for by statute or ordinance: PROVIDED, That the council may enact an ordinance providing for the appointment of the city clerk, city attorney, and treasurer by the mayor, which appointment shall be subject to confirmation by a majority vote of the city council. Such ordinance shall be enacted and become effective not later than thirty days prior to the first day allowed for filing declarations of candidacy for such offices when such offices are subject to an approaching city primary election. Elective incumbent city clerks, city attorneys, and city treasurers shall serve for the remainder of their unexpired term notwithstanding any appointment made pursuant to RCW 35.24.020 and 35.24.050. If a free public library and reading room is

established, five library trustees shall be appointed. The city council by ordinance shall prescribe the duties and fix the compensation of all officers: **PROVIDED**, That the provisions of any such ordinance shall not be inconsistent with any statute: **PROVIDED FURTHER**, That where the city council finds that the appointment of a full time city engineer is unnecessary, it may in lieu of such appointment, by resolution provide for the performance of necessary engineering services on either a part time, temporary or periodic basis by a qualified engineering firm, pursuant to any reasonable contract.

The mayor shall appoint and at his pleasure may remove all appointive officers except as otherwise provided herein: **PROVIDED**, That ~~((police))~~ municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk.

Sec. 10. Section 35.24.080, chapter 7, Laws of 1965 as amended by section 18, chapter 167, Laws of 1986 and RCW 35.24.080 are each amended to read as follows:

In a city of the third class, the treasurer, city attorney, clerk, ~~((police judge;))~~ chief of police, and such other officers as the council may require shall each, before entering upon the duties of his office, take an oath of office and execute and file with the clerk an official bond in such penal sum as the council shall determine, conditioned for the faithful performance of his duties and otherwise conditioned as may be provided by ordinance. The oath of office shall be filed with the county auditor.

Sec. 11. Section 35.24.160, chapter 7, Laws of 1965 as amended by section 22, chapter 316, Laws of 1977 ex. sess. and RCW 35.24.160 are each amended to read as follows:

The department of police in a city of the third class shall be under the direction and control of the chief of police subject to the direction of the mayor. ~~((The chief of police shall prosecute before the police justice all violations of city ordinances which come to his knowledge.))~~ He may pursue and arrest violators of city ordinances beyond the city limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. With the concurrence of the mayor, he may appoint additional policemen to serve for one day only under his orders in the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or the public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall perform such other services as may be required by statute or ordinances of the city.

He shall execute and return all process issued and directed to him by lawful authority and for his services shall receive the same fees as are paid to constables.

Sec. 12. Section 35.27.070, chapter 7, Laws of 1965 as amended by section 14, chapter 116, Laws of 1965 ex. sess. and RCW 35.27.070 are each amended to read as follows:

The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk(;) and a marshal(~~(, and a police justice)~~); and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers as may be provided for by ordinance. All appointive officers shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council(~~(, except that a police judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office)~~).

Sec. 13. Section 35.27.240, chapter 7, Laws of 1965 as last amended by section 24, chapter 316, Laws of 1977 ex. sess. and RCW 35.27.240 are each amended to read as follows:

The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor. (~~He shall prosecute before the police justice all violations of town ordinances which come to his knowledge.~~) He may pursue and arrest violators of town ordinances beyond the town limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. He may appoint, subject to the approval of the mayor, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose compensation shall be fixed by the council. With the concurrence of the mayor, he may appoint additional policemen for one day only when necessary for the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall execute and return all process issued and directed to him by any legal authority and for his services shall receive the same fees as are paid to constables. He shall perform such other services as the council by ordinance may require.

Sec. 14. Section 35A.12.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.020 are each amended to read as follows:

The appointive officers shall be those provided for by charter or ordinance and shall include a city clerk and a chief law enforcement officer. The office of city clerk may be merged with that of a city treasurer, if any, with an appropriate title designated therefor. Provision shall be made for obtaining legal counsel for the city, either by appointment of a city attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services. The authority, duties and qualifications of all appointive officers shall be prescribed by charter or ordinance, consistent with the provisions of this title, and any amendments thereto, and the compensation of appointive officers shall be prescribed by ordinance: PROVIDED, That the compensation of an appointed (~~police judge or~~) municipal judge shall be within applicable statutory limits.

Sec. 15. Section 35A.12.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.090 are each amended to read as follows:

The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service (~~except that a police judge or municipal judge who is appointed may be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering him incapable of performing the duties of his office~~). The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.

Sec. 16. Section 35A.13.010, chapter 119, Laws of 1967 ex. sess. as last amended by section 2, chapter 106, Laws of 1985 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~~) municipal 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 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 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.

Sec. 17. Section 35A.13.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.13.080 are each amended to read as follows:

The powers and duties of the city manager shall be:

- (1) To have general supervision over the administrative affairs of the code city;
- (2) To appoint and remove at any time all department heads, officers, and employees of the code city, except members of the council, and subject

to the provisions of any applicable law, rule, or regulation relating to civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of a city planning commission, and other advisory citizens' committees, commissions, and boards advisory to the city council: PROVIDED FURTHER, That if the ((~~police judge or~~)) municipal judge of the code city is appointed, such appointment shall be made by the city manager subject to confirmation by the council, for a four year term. ((~~The police judge or municipal judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office.~~)) The council may cause an audit to be made of any department or office of the code city government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the code city and its future needs;

(8) To prepare and submit to the council a proposed budget for the fiscal year, as required by chapter 35A.33 RCW, and to be responsible for its administration upon adoption;

(9) To perform such other duties as the council may determine by ordinance or resolution.

Sec. 18. Section 12, chapter 2, Laws of 1983 as amended by section 6, chapter 302, Laws of 1985 and RCW 46.52.100 are each amended to read as follows:

Every (~~justice of the peace, police judge,~~) district court, municipal court, 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~~)) the 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,~~) district court, municipal court, 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~~) the party's 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~~) the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all (~~justice~~) district courts shall be before one of the two nearest (~~justices of the peace~~) district judges 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.

Sec. 19. Section 2, page 121, Laws of 1890 and RCW 78.12.020 are each amended to read as follows:

Three persons being residents of the county, and knowing or having reason to believe that the provisions of RCW 78.12.010 are being or have been violated within such county, may file a notice with any (~~justice of the peace or police judge~~) district or municipal court therein, which notice

shall be in writing, and shall state—First, the location, as near as may be, of the hole, excavation or shaft. Second, that the same is dangerous to persons or animals, and has been left or is being worked contrary to the provisions of this chapter. Third, the name of the person or persons, company or corporation who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. Fourth, if abandoned and no claimant; and Fifth, the estimated cost of fencing or otherwise securing the same against any avoidable accidents.

Sec. 20. Section 6, page 122, Laws of 1890 and RCW 78.12.060 are each amended to read as follows:

If the notice filed with the (~~justice of the peace, or police judge~~) district or municipal court, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, (~~said justice of the peace, or judge,~~) the court shall notify the (~~board of county commissioners of the county, or either of them,~~) county legislative authority of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced, or otherwise guarded, as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid as other county expenses: PROVIDED, That nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole, unless in their discretion, the same may be considered dangerous to persons or animals.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate January 15, 1987.

Passed the House February 11, 1987.

Approved by the Governor March 3, 1987.

Filed in Office of Secretary of State March 3, 1987.

## CHAPTER 4

[Engrossed House Bill No. 6]

### GAMBLING STATUTES RECODIFIED

AN ACT Relating to recodification of existing statutes regulating gambling; dividing definitions and authorized activities into separate sections; amending RCW 9.46.070, 9.46.120, 9.46.200, 9.46.220, 9.46.230, 9.46.240, and 9.46.250; reenacting and amending RCW 9.46.110; adding new sections to chapter 9.46 RCW; creating new sections; repealing RCW 9.46.020 and 9.46.030; and declaring an emergency.

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

NEW SECTION. Sec. 1. The separation of definitions and authorized activities provisions of the state's gambling statutes into shorter sections is intended to improve the readability and facilitate the future amendment of



these sections. This separation shall not change the meaning of any of the provisions involved.

**NEW SECTION.** Sec. 2. "Amusement game," as used in this chapter, means a game played for entertainment in which:

- (1) The contestant actively participates;
- (2) The outcome depends in a material degree upon the skill of the contestant;
- (3) Only merchandise prizes are awarded;
- (4) The outcome is not in the control of the operator;
- (5) 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
- (6) 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.

**NEW SECTION.** Sec. 3. "Bingo," as used in this chapter, 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 section, 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.

**NEW SECTION.** Sec. 4. "Bona fide charitable or nonprofit organization," as used in this chapter, means: (1) 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 (2) 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.

NEW SECTION. Sec. 5. "Bookmaking," as used in this chapter, means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

NEW SECTION. Sec. 6. "Commercial stimulant," as used in this chapter, means 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.

NEW SECTION. Sec. 7. "Commission," as used in this chapter, means the Washington state gambling commission created in RCW 9.46.040.

NEW SECTION. Sec. 8. "Contest of chance," as used in this chapter, 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.

NEW SECTION. Sec. 9. "Fishing derby," as used in this chapter, 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.

NEW SECTION. Sec. 10. "Gambling," as used in this chapter, means staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person 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 this chapter shall not constitute gambling.

NEW SECTION. Sec. 11. "Gambling device," as used in this chapter, means: (1) 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; (2) 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; (3) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and (4) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation. 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, 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.

NEW SECTION. Sec. 12. "Gambling information," as used in this chapter, 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. This section shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the federal communications commission.

NEW SECTION. Sec. 13. "Gambling premises," as used in this chapter, 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.

NEW SECTION. Sec. 14. "Gambling record," as used in this chapter, means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

**NEW SECTION.** Sec. 15. "Lottery," as used in this chapter, 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.

**NEW SECTION.** Sec. 16. "Member" and "bona fide member," as used in this chapter, 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:**

(1) 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;

(2) 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

(3) 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.

**NEW SECTION.** Sec. 17. "Player," as used in this chapter, 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 chapter is not a "player."

**NEW SECTION.** Sec. 18. (1) A person is engaged in "professional gambling" for the purposes of this chapter when:

(a) Acting other than as a player or in the manner authorized by this chapter, the person 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 authorized by this chapter, the person knowingly accepts or receives money or other property pursuant to an agreement or understanding with any other person whereby he or she participates or is to participate in the proceeds of gambling activity;

(c) The person engages in bookmaking; or

(d) The person conducts a lottery.

(2) Conduct under subsection (1)(a) of this section, except as exempted under this chapter, 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 the premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities authorized by this chapter, and acting other than as a player, and the person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, the person 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.

**NEW SECTION.** Sec. 19. "Punch boards" and "pull-tabs," as used in this chapter, 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.

**NEW SECTION.** Sec. 20. "Raffle," as used in this chapter, means a game in which tickets bearing an individual number are sold for not more

than five dollars each and in which a prize or prizes are awarded on the basis of a drawing from the tickets by the person or persons conducting the game, when the game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of the organization takes any part in the management or operation of the game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting the game.

**NEW SECTION.** Sec. 21. "Social card game," as used in this chapter, 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:

(1) There are two or more participants and each of them are players. However, no business with a public cardroom on its premises may have more than five separate tables at which card games are played;

(2) 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;

(3) 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 subsection shall not preclude a player from collecting or obtaining his or her winnings;

(4) 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 or her to play or results in or from his or her playing in excess of two dollars 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 fifty dollars, including all separate fees which might be paid by a player for various phases or events of the tournament: PROVIDED FURTHER, That this subsection shall not apply to the membership fee in any bona fide charitable or nonprofit organization;

(5) The type of card game is one specifically approved by the commission pursuant to RCW 9.46.070; and

(6) 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.

**NEW SECTION.** Sec. 22. "Thing of value," as used in this chapter, 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.

**NEW SECTION.** Sec. 23. "Whoever" and "person," as used in this chapter, 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 or her corporation or partnership, he or she shall be punishable for such violation as if it had been directly committed by him or her.

**NEW SECTION.** Sec. 24. (1) "Fund raising event," as used in this chapter, 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 section 4 of this act 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.

(2) Bona fide charitable or nonprofit organizations holding a license to conduct a fund raising event may join together to jointly conduct a fund raising event if:

(a) Approval to do so is received from the commission; and

(b) 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.

**NEW SECTION.** Sec. 25. 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.

**NEW SECTION.** Sec. 26. 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.

**NEW SECTION.** Sec. 27. 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 this chapter, 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.

NEW SECTION. Sec. 28. 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:

(1) Such activities are held in accordance with all other requirements of this chapter, other applicable laws, and rules of the commission;

(2) 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 section 3 of this act: PROVIDED, That a raffle conducted under this subsection may be conducted for a period longer than twelve days;

(3) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities;

(4) Gross revenues to the organization from all the activities together do not exceed five thousand dollars during any calendar year;

(5) 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;

(6) 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

(7) 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.

NEW SECTION. Sec. 29. 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.

**NEW SECTION.** Sec. 30. 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.

**NEW SECTION.** Sec. 31. 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:

(1) 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;

(2) 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

(3) 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;

(4) After the pool is closed a prospective score is assigned by random drawing to each square;

(5) 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;

(6) 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;

(7) The person or organization conducting the pool is conducting no other sports pool on the same athletic event; and

(8) The sports pool conforms to any rules and regulations of the commission applicable thereto.

**NEW SECTION.** Sec. 32. 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 prohibited in this chapter, 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:

(1) 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

(2) 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

(3) Participation is limited to members of the sponsoring organization and their bona fide guests.

**NEW SECTION.** Sec. 33. 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.

**NEW SECTION.** Sec. 34. (1) 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:

(a) Social card games as defined in section 21 (1) through (4) of this act; and

(b) Social dice games, which shall be limited to contests of chance, the outcome of which are determined by one or more rolls of dice.

(2) 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 section. However, the following conditions must be met:

(a) 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

(b) 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 subsection shall not preclude collection of a membership fee which is unrelated to participation in gambling activities authorized under this section.

**NEW SECTION.** Sec. 35. (1) The legislature hereby authorizes promotional contests of chance conducted in this state, or partially in this state, in which a person is required, in order to participate in the contest equally with other participants, to do only one or more of the following:

(a) Listen to or watch a television or radio program or subscribe to a cable television service;

(b) Fill out and return 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 newspaper, magazine, or program;

(c) Send a coupon or entry blank by United States mail to a designated address;

(d) Visit a business establishment to obtain or deposit a coupon or entry blank;

(e) Merely register, without the purchase of goods or services;

(f) Expend time, thought, attention, and energy in perusing promotional material;

(g) Place or answer a telephone call in a prescribed manner or otherwise make a prescribed response, guess, or answer;

(h) Furnish the container of a 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 thereon is acceptable in lieu thereof; or

(i) Pay an admission fee to gain admission to any bona fide exposition, fair, or show for the display or promotion of goods, wares, or services, or any agricultural fair authorized under chapter 15.76 or 36.37 RCW, if (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.

(2) Notwithstanding any other provision of this section, where any contest of chance is conducted by or on behalf of in-state retail grocery outlets in connection with business promotions, no such in-state retail grocery outlet may conduct more than one such contest of chance during each calendar year and the period of the contest of chance and its promotion

shall not extend for more than fourteen consecutive days: PROVIDED, That if the sponsoring organization has more than one outlet in the state, such contests of chance 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 contest of chance in connection with the initial opening of any such outlet: PROVIDED FURTHER, That such contests of chance may be conducted on an ongoing basis if the prizes awarded or accumulated to award do not exceed thirty dollars a day or five thousand dollars a year in the aggregate for all outlets of the sponsoring organizations. Nothing in this subsection applies to contests of chance conducted by or in connection with business promotions by manufacturers.

For purposes of this chapter, in-state retail grocery outlet includes any establishment or recognized grocery department thereof in which more than twenty percent of the gross receipts result from the sale of food items for off-premises preparation. These food items include such products as meat, poultry, fish, bread, cereals, vegetables, fruit, dairy products, coffee, tea, cocoa, carbonated and uncarbonated beverages, candy, condiments, spices, and canned goods, and like products; but not including prepared hot foods or hot food products ready for immediate consumption.

(3) For the purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the applicable rules of the federal communications commission. Broadcast programming, including advertising for others and station promotion, that complies with federal statutes and regulations is hereby authorized.

NEW SECTION. Sec. 36. 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 prohibited in this chapter, 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 this chapter, 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:

(1) 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;

(2) The purchaser of each chance shall sign his or her name on the face of the section he or she purchases;

(3) 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;

(4) Participation in the contest shall be limited to members of the organization which is conducting the contest and their guests;

(5) The target shall contain the following information:

(a) Distance from the shooting position to the target;

(b) The gauge of the shotgun;

(c) The type of choke on the barrel;

(d) The size of shot that will be used; and

(e) The prize or prizes that are to be awarded in the contest;

(6) 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;

(7) The turkey shoot shall award the prizes based upon the greatest number of shots striking a section;

(8) No turkey shoot may offer as a prize the right to advance or continue on to another turkey shoot or turkey shoot target; and

(9) 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.

**NEW SECTION.** Sec. 37. The penalties provided for professional gambling in this chapter shall not apply to the activities authorized by this chapter when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission.

Sec. 38. Section 3, chapter 139, Laws of 1981 and RCW 9.46.070 are each amended to read as follows:

The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punch boards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: **PROVIDED**, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: **PROVIDED FURTHER**, That the commission or director shall not issue, deny, suspend or revoke any license because of considerations of race, sex, creed, color, or national origin: **AND PROVIDED FURTHER**, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punch boards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by (~~RCW 9.46.030 as now or hereafter amended~~) this chapter;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission



may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or (b) participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission may require fingerprinting and background checks on any persons seeking licenses under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo: PROVIDED, That in establishing limitations pursuant to this subsection the commission shall take into account (i) the nature, character, and scope of the activities of the licensee; (ii) the source of all other income of the licensee; and (iii) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by ~~((RCW 9.46.030))~~ this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with ~~((RCW 9.46.020(20)(d) as now or hereafter amended))~~ section 21(4) of this 1987 act;

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.04 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized ~~((in RCW 9.46.030 as now or hereafter amended))~~ by this chapter;

(16) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments.

In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do

such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter; and

(20) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 39. Section 11, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 172, Laws of 1985 and by section 2, chapter 468, Laws of 1985 and RCW 9.46.110 are each reenacted and 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~~) by this chapter 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: PROVIDED FURTHER, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, which shall have a fifty 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)))~~ this chapter, 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.

Sec. 40. Section 12, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.120 are each amended to read as follows:

(1) Except in the case of an agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a member of a bona fide charitable or nonprofit organization (and their employees) or any other person, association or organization (and their employees) approved by the commission, shall take any part in the management or operation of any gambling activity authorized under ~~((RCW 9.46.030))~~ this chapter, and no person who takes any part in the management or operation of any such gambling activity shall take any part in the management or operation of any gambling activity 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 shall inure to the benefit of any person other than the organization conducting such gambling activities or if such gambling activities be for the charitable benefit of any specific persons designated in the application for a license, then only for such specific persons as so designated.

(2) No bona fide charitable or nonprofit organization or any other person, association or organization shall conduct any gambling activity authorized under ~~((RCW 9.46.030))~~ this chapter in any leased premises if rental for such premises is unreasonable or to be paid, wholly or partly, on the basis of a percentage of the receipts or profits derived from such gambling activity.

Sec. 41. Section 20, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 10, chapter 155, Laws of 1974 ex. sess. and RCW 9.46.200 are each amended to read as follows:

In addition to any other penalty provided for in this chapter, every person, directly or indirectly controlling the operation of any gambling activity authorized ~~((in RCW 9.46.030))~~ by this chapter, including a director,

officer, and/or manager of any association, organization or corporation conducting the same, whether charitable, nonprofit, or profit, shall be liable, jointly and severally, for money damages suffered by any person because of any violation of this chapter, together with interest on any such amount of money damages at six percent per annum from the date of the loss, and reasonable attorneys' fees: PROVIDED, That if any such director, officer, and/or manager did not know any such violation was taking place and had taken all reasonable care to prevent any such violation from taking place, and if such director, officer and/or manager shall establish by a preponderance of the evidence that he did not have such knowledge and that he had exercised all reasonable care to prevent the violations he shall not be liable hereunder. Any civil action under this section may be considered a class action.

Sec. 42. Section 22, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.220 are each amended to read as follows:

Whoever engages in professional gambling, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling, shall be guilty of a felony and fined not more than one hundred thousand dollars or imprisoned not more than five years or both: PROVIDED, HOWEVER, That this section shall not apply to those activities (~~enumerated in RCW 9.46.030~~) authorized by this chapter or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

Sec. 43. Section 23, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 12, chapter 139, Laws of 1981 and RCW 9.46.230 are each amended to read as follows:

(1) All gambling devices as defined in (~~RCW 9.46.020(10), as now or hereafter amended;~~) this chapter are common nuisances and shall be subject to seizure, immediately upon detection by any peace officer, and to confiscation and destruction by order of a superior or district justice court, except when in the possession of officers enforcing this chapter.

(2) No property right in any gambling device (~~as defined in RCW 9.46.020(10), as now or hereafter amended;~~) shall exist or be recognized in any person, except the possessory right of officers enforcing this chapter.

(3) All furnishings, fixtures, equipment, and stock, including without limitation furnishings and fixtures adaptable to nongambling uses and equipment and stock for printing, recording, computing, transporting, or safekeeping, used in connection with professional gambling or maintaining a gambling premises, and all money or other things of value at stake or displayed in or in connection with professional gambling or any gambling device used therein, shall be subject to seizure, immediately upon detection, by any peace officer, and unless good cause is shown to the contrary by the owner, shall be forfeited to the state or political subdivision by which seized by order of a court having jurisdiction, for disposition by public auction or

as otherwise provided by law. Bona fide liens against property so forfeited, on good cause shown by the lienor, shall be transferred from the property to the proceeds of the sale of the property. Forfeit moneys and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the state if the property was seized by officers thereof or to the political subdivision or other public agency, if any, whose officers made the seizure, except as otherwise provided by law. This subsection shall not apply to such items which are actually being used by, or being held for use by, a person licensed by the commission or who is otherwise authorized by ~~((RCW 9.46.030, as now or hereafter amended;))~~ this chapter or by commission rule to conduct gambling activities without a license in connection with gambling activities authorized by this section when:

(a) The person is acting in conformance with the provisions of chapter 9.46 RCW, as now or hereafter amended, and the rules and regulations adopted pursuant thereto; and

(b) The items are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

(4) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds a security interest in, stores, repairs, or transports any gambling device ~~((as defined in RCW 9.46.020 as now or hereafter amended))~~ or offers or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a felony and fined not more than one hundred thousand dollars or imprisoned not more than five years or both: PROVIDED, HOWEVER, That this subsection shall not apply to persons licensed by the commission, or who are otherwise authorized by ~~((RCW 9.46.030, as now or hereafter amended))~~ this chapter, or by commission rule, to conduct gambling activities without a license, respecting devices which are to be used, or are being used, solely in that activity for which the license was issued, or for which the person has been otherwise authorized when:

(a) The person is acting in conformance with the provisions of chapter 9.46 RCW, as now or hereafter amended, and the rules and regulations adopted pursuant thereto; and

(b) The devices are a type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts by such persons in furtherance of the activity for which the license was issued, or for which the person is authorized, when such activity is conducted in compliance with the provisions of this chapter, as now or hereafter amended, and in accordance with the rules and regulations adopted pursuant thereto. Subsection (2) of this section shall have no application in the enforcement of this subsection. In the enforcement of this subsection

direct possession of any such gambling device shall be presumed to be knowing possession thereof.

(5) Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this subsection shall not apply to records relating to and kept for activities (~~enumerated in RCW 9.46.030, as now or hereafter amended;~~) authorized by this chapter when the records are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto. In the enforcement of this subsection direct possession of any such gambling record shall be presumed to be knowing possession thereof.

Sec. 44. Section 24, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.240 are each amended to read as follows:

Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this section shall not apply to such information transmitted or received or equipment installed or maintained relating to activities (~~as enumerated in RCW 9.46.030~~) authorized by this chapter or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

Sec. 45. Section 25, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.250 are each amended to read as follows:

(1) All gambling premises are common nuisances and shall be subject to abatement by injunction or as otherwise provided by law. The plaintiff in any action brought under this subsection against any gambling premises, need not show special injury and may, in the discretion of the court, be relieved of all requirements as to giving security.

(2) When any property or premise held under a mortgage, contract or leasehold is determined by a court having jurisdiction to be a gambling premises, all rights and interests of the holder therein shall terminate and the owner shall be entitled to immediate possession at his election: PROVIDED, HOWEVER, That this subsection shall not apply to those premises in which activities (~~set out in RCW 9.46.030;~~) authorized by this chapter or any act or acts in furtherance thereof are carried on when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

(3) When any property or premises for which one or more licenses issued by the commission are in effect, is determined by a court having jurisdiction to be a gambling premise, all such licenses may be voided and no longer in effect, and no license so voided shall be issued or reissued for such property or premises for a period of up to sixty days thereafter. Enforcement of this subsection shall be the duty of all peace officers and all taxing and licensing officials of this state and its political subdivisions and other public agencies. This subsection shall not apply to property or premises in which activities ~~((set out in RCW 9.46.030))~~ authorized by this chapter, or any act or acts in furtherance thereof, are carried on when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

NEW SECTION. Sec. 46. Sections 2 through 37 of this act are each added to chapter 9.46 RCW.

NEW SECTION. Sec. 47. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 139, Laws of 1981, section 1, chapter 207, Laws of 1984, section 1, chapter 75, Laws of 1985, section 1, chapter 86, Laws of 1985, section 1, chapter 468, Laws of 1985, section 1, chapter 473, Laws of 1985 and RCW 9.46.020; and

(2) Section 2, chapter 139, Laws of 1981, section 1, chapter 70, Laws of 1984, section 1, chapter 170, Laws of 1985, section 2, chapter 473, Laws of 1985 and RCW 9.46.030.

NEW SECTION. Sec. 48. 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. 49. 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 January 26, 1987.

Passed the Senate March 9, 1987.

Approved by the Governor March 16, 1987.

Filed in Office of Secretary of State March 16, 1987.

---

## CHAPTER 5

[Substitute Senate Bill No. 5022]

### PUBLIC WORKS BOARD PROJECTS—APPROPRIATIONS

AN ACT Relating to appropriations for projects recommended by the public works board; making appropriations; creating a new section; and declaring an emergency.



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

**NEW SECTION.** Sec. 1. Pursuant to chapter 43.155 RCW, there is appropriated to the public works board from the public works assistance account for the biennium ending June 30, 1987, the following sums to make loans for the specified public works projects:

- (1) City of Pe Ell, water project, new water intake structure on Chehalis River and transmission lines . . . . . \$284,160
- (2) City of Yakima, bridge project, Nob Hill overpass bridge deck restoration . . . . . \$213,454
- (3) Town of Ilwaco, water project, new water supply source, treatment plant, and associated transmission facilities . . . . . \$750,000
- (4) Beacon Hill Sewer District, sanitary sewer project, pressure testing and rehabilitation of sewer lines . . . . . \$157,239
- (5) City of Pullman, road project, street reconstruction on College Hill and associated utility reconstruction . . . . . \$698,600
- (6) City of Bellevue, storm sewer project, replacement of six deteriorated culverts . . . . . \$515,250
- (7) City of Bellingham, bridge project, reconstruction of bridge connecting central waterfront and North Port industrial area . . . . . \$1,000,000
- (8) Clark County/City of Battle Ground, sanitary sewer project, transmission line to divert Battle Ground sewage to Salmon Creek wastewater treatment plant . . . . . \$1,000,000
- (9) Town of Ione, water project, upgrade of town water supply . . . . . \$140,000
- (10) City of Olympia, storm sewer project, installation of storm sewer on Black Lake Boulevard . . . . . \$502,650
- (11) City of Clarkston, sanitary sewer project, installation of back-up systems in wastewater treatment plant . . . . . \$378,800
- (12) City of Ellensburg, water project, construction of deep well and connection to city water system . . . . . \$210,000
- (13) City of Kelso, sanitary sewer project, rehabilitation of sewage collection system . . . . . \$1,000,000

- (14) City of North Bend, road project, reconstruction of Main Street and associated storm drainage facilities ..... \$16,000
- (15) City of Redmond, sanitary sewer project, replacement of sewer interceptor line..... \$601,200
- (16) City of Seattle, sanitary sewer project, replacement of temporary sewer line damaged in landslide with permanent line ..... \$441,900
- (17) Whitworth Water District No. 2, water project, development of new water source and construction of new pumping station ..... \$1,000,000
- (18) King County, storm sewer project, construction of regional storm water detention pond on McAleer Creek ..... \$138,700
- (19) Skyway Water and Sewer District, sanitary sewer project, replacement of sewer line and addition of pump..... \$241,682
- (20) City of Cashmere, water project, construction of new well and pump station ..... \$396,000
- (21) City of Kennewick, storm sewer project, installation of new storm sewer and associated relocation of utilities and street reconstruction..... \$1,000,000
- (22) King County Water District No. 127, water project, replacement of undersized water mains ..... \$298,295
- (23) City of Mount Vernon, sanitary sewer project, upgrade of existing secondary wastewater treatment plant ..... \$1,000,000
- (24) City of Mountlake Terrace, sanitary sewer project, construction of replacement force main from Ballinger Pumping Station to Highway 99 ..... \$855,000
- (25) City of Puyallup, road project, lowering and reconstruction of 13th Street Southeast and associated utility relocation ..... \$495,000
- (26) City of Coupeville, road project, widening and repaving a portion of North Main Street ..... \$259,000
- (27) City of Kent, storm sewer project, replacement of undersized and brittle storm drainage pipe ..... \$355,000

(28) City of Pomeroy, bridge project, replacement of 10th Street bridge over Pataha Creek .....	\$29,700
(29) City of Spokane, road project, relocation of arterial road on Monroe Street Hill and associated utility replacement .....	\$850,419
(30) City of Bonney Lake, water project, replacement of undersized and deteriorated Angeline Road and West Tapps Highway water mains .....	\$344,400
(31) City of Duval, water project, construction of new reservoir .....	\$421,200
(32) City of Issaquah, road project, reconstruction of Front Street South and associated utility replacement and street lighting .....	\$121,937
(33) City of Shelton, storm sewer project, installation of stormwater drainage system on section of Olympic Highway North and associated pedestrian improvements .....	\$345,600
(34) Southwest Suburban Sewer District, sanitary sewer project, improvements to Salmon Creek wastewater treatment plant .....	\$947,240
(35) Whatcom Water District No. 10, water project, replacement of water main on Lakeway between Scenic and Euclid Streets .....	\$122,580
(36) Yakima County, bridge project, reconstruction of four bridges and two culverts .....	\$394,000
<b>Total Appropriation .....</b>	<b>\$17,525,006</b>

**NEW SECTION.** Sec. 2. Any funds appropriated by section 1 of this act but not spent in the 1985-87 fiscal biennium are hereby reappropriated for the 1987-89 fiscal biennium.

**NEW SECTION.** Sec. 3. Pursuant to chapter 43.155 RCW, there is hereby reappropriated to the public works board from the public works assistance account for the biennium ending June 30, 1989, the sum of \$7,789,743, or as much thereof as may be necessary, for the purpose of completing the public works projects identified in chapter 291, Laws of 1986.

**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 14, 1987.

Passed the House March 10, 1987.

Approved by the Governor March 18, 1987.

Filed in Office of Secretary of State March 18, 1987.

---

## CHAPTER 6

[Senate Bill No. 5685]

### APPLE ADVERTISING COMMISSION—BOND AUTHORIZATION

AN ACT Relating to the Washington state apple advertising commission; authorizing the issuance of bonds to provide partial financing for the costs of acquiring, designing, constructing, furnishing, and equipping of a building for the commission; providing ways and means of payment of the bonds; creating new sections; making appropriations; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature hereby finds that, in order to permit the Washington state apple advertising commission to accomplish more efficiently its important public purposes, as enumerated in chapter 15.24 RCW, it is necessary for the state to assist in financing a new building for the commission, to be located on Euclid Avenue in Chelan county, and housing commission offices, warehouse space, and a display room. The state's assistance shall augment approximately five hundred thousand dollars in commission funds which will be applied directly to the payment of the costs of this project. The state's assistance shall be in the amount of eight hundred thousand dollars, or so much thereof as may be required, to be provided from the proceeds from the sale and issuance of general obligation bonds of the state, the principal of and interest on which shall be reimbursed to the state treasury by the commission from revenues derived from the assessments levied pursuant to chapter 15.24 RCW and other sources.

**NEW SECTION.** Sec. 2. For the purpose of providing part of the funds necessary for the Washington state apple advertising commission to undertake a capital project consisting of the land acquisition for, and the design, construction, furnishing, and equipping of, the building described in section 1 of this act, and to pay the administrative costs of such project, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, and other expenses incidental to the administration of such project, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred thousand dollars, or so much thereof as may be required.

**NEW SECTION.** Sec. 3. The bonds authorized in section 2 of this act shall be issued and sold in accordance with the provisions of chapter 39.42 RCW.

**NEW SECTION.** Sec. 4. The proceeds from the sale of the bonds authorized in section 2 of this act, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the Washington state apple advertising commission may direct the state treasurer to deposit therein, shall be deposited in the state building construction account in the state treasury.

**NEW SECTION.** Sec. 5. Subject to legislative appropriation, all proceeds from the sale of the bonds authorized in section 2 of this act shall be administered and expended by the Washington state apple advertising commission exclusively for the purposes specified in section 2 of this act.

**NEW SECTION.** Sec. 6. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized to be issued under section 2 of this act. The state finance committee may provide for the creation of one or more separate accounts in such fund to facilitate payment of such principal and interest.

On or before June 30 of each year, the state finance committee shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest on such bonds coming due in accordance with the provisions of the bond proceedings. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, the amount certified by the state finance committee to be due on the payment date.

**NEW SECTION.** Sec. 7. On or before June 30 of each year, the state finance committee shall certify to the Washington state apple advertising commission the principal and interest payments determined under section 6 of this act, exclusive of deposit interest credit, attributable to the bonds issued under section 2 of this act. On each date on which any interest or principal and interest payment is due, the commission shall cause the amount certified by the state finance committee to be due on such date to be paid out of the commission's general fund to the state treasurer for deposit into the general fund of the state treasury.

**NEW SECTION.** Sec. 8. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 2 of this act, and sections 6 and 7 of this act shall not be deemed to provide an exclusive method for the payment of such principal and interest.

**NEW SECTION.** Sec. 9. The bonds authorized by section 2 of this act shall constitute legal investments for all state funds or for funds under state control and all funds of any other public body.

NEW SECTION. Sec. 10. The bonds authorized by section 2 of this act shall be issued only after the treasurer of the Washington state apple advertising commission has certified that the net proceeds of the bonds, together with all money to be made available by the commission for the purposes described in section 2 of this act, shall be sufficient for such purposes; and also that, based upon the treasurer's estimates of future income from assessments levied pursuant to chapter 15.24 RCW and other sources, an adequate balance will be maintained in the commission's general fund to enable the commission to meet the requirements of section 7 of this act during the life of the bonds to be issued.

NEW SECTION. Sec. 11. (1) There is appropriated from the state building construction account of the general fund to the Washington state apple advertising commission for the biennium ending June 30, 1987, the sum of eight hundred thousand dollars, or so much thereof as may be necessary, for the purposes described in section 2 of this act.

(2) There is reappropriated from the state building construction account of the general fund to the Washington state apple advertising commission for the biennium ending June 30, 1989, any sum remaining from the foregoing appropriation that was not spent in the biennium ending June 30, 1987.

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.

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 immediately.

Passed the Senate February 20, 1987.

Passed the House March 17, 1987.

Approved by the Governor March 26, 1987.

Filed in Office of Secretary of State March 26, 1987.

## CHAPTER 7

[Engrossed Substitute Senate Bill No. 5351]  
SUPPLEMENTAL BUDGET

AN ACT Relating to state fiscal matters; amending RCW 72.09.090; amending section 1, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 101, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 102, chapter 6, Laws of 1985 [ex. sess.] (uncodified); amending section 107, chapter 6, Laws of 1985 ex. sess. as amended by section 101, chapter 312, Laws of 1986 (uncodified); amending section 111, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 114, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 127, chapter 6, Laws of 1985 ex. sess. as amended by section 105, chapter 312, Laws of 1986 (uncodified); amending section 129, chapter 6, Laws of 1985 ex. sess. as amended by

section 106, chapter 312, Laws of 1986 (uncodified); amending section 135, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 144, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 217, chapter 6, Laws of 1985 ex. sess. as amended by section 211, chapter 312, Laws of 1986 (uncodified); amending section 221, chapter 6, Laws of 1985 ex. sess. as amended by section 213, chapter 312, Laws of 1986 (uncodified); amending section 223, chapter 6, Laws of 1985 ex. sess. as amended by section 215, chapter 312, Laws of 1986 (uncodified); amending section 224, chapter 6, Laws of 1985 ex. sess. as amended by section 216, chapter 312, Laws of 1986 (uncodified); amending section 301, chapter 6, Laws of 1985 ex. sess. as amended by section 301, chapter 312, Laws of 1986 (uncodified); amending section 303, chapter 6, Laws of 1985 ex. sess. as amended by section 302, chapter 312, Laws of 1986 (uncodified); amending section 310, chapter 6, Laws of 1985 ex. sess. as amended by section 303, chapter 312, Laws of 1986 (uncodified); amending section 314, chapter 6, Laws of 1985 ex. sess. as amended by section 305, chapter 312, Laws of 1986 (uncodified); amending section 315, chapter 6, Laws of 1985 ex. sess. as amended by section 306, chapter 312, Laws of 1986 (uncodified); amending section 317, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 1, chapter 460, Laws of 1985 (uncodified); amending section 402, chapter 6, Laws of 1985 ex. sess. as amended by section 402, chapter 312, Laws of 1986 (uncodified); amending section 403, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 503, chapter 6, Laws of 1985 ex. sess. as amended by section 502, chapter 312, Laws of 1986 (uncodified); amending section 504, chapter 6, Laws of 1985 ex. sess. as amended by section 504, chapter 312, Laws of 1986 (uncodified); amending section 506, chapter 6, Laws of 1985 ex. sess. as amended by section 505, chapter 312, Laws of 1986 (uncodified); amending section 508, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 514, chapter 6, Laws of 1985 ex. sess. as amended by section 508, chapter 312, Laws of 1986 (uncodified); amending section 607, chapter 6, Laws of 1985 ex. sess. as amended by section 604, chapter 312, Laws of 1986 (uncodified); amending section 707, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 711, chapter 6, Laws of 1985 ex. sess. as amended by section 707, chapter 312, Laws of 1986 (uncodified); amending section 712, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 903, chapter 312, Laws of 1986 (uncodified); amending section 119, chapter 373, Laws of 1985 (uncodified); amending section 306, chapter 373, Laws of 1985 (uncodified); amending section 308, chapter 373, Laws of 1985 (uncodified); amending section 373, chapter 373, Laws of 1985 (uncodified); adding new sections to chapter 6, Laws of 1985 ex. sess.; adding new sections to chapter 373, Laws of 1985; creating a new section; repealing section 201, chapter 6, Laws of 1985 ex. sess., section 201, chapter 312, Laws of 1986 (uncodified); repealing section 202, chapter 6, Laws of 1985 ex. sess. (uncodified); repealing section 203, chapter 6, Laws of 1985 ex. sess., section 202, chapter 312, Laws of 1986 (uncodified); repealing section 204, chapter 6, Laws of 1985 ex. sess. (uncodified); repealing section 205, chapter 6, Laws of 1985 ex. sess., section 203, chapter 312, Laws of 1986 (uncodified); repealing section 206, chapter 6, Laws of 1985 ex. sess., section 204, chapter 312, Laws of 1986 (uncodified); repealing section 207, chapter 6, Laws of 1985 ex. sess., section 205, chapter 312, Laws of 1986 (uncodified); repealing section 208, chapter 6, Laws of 1985 ex. sess., section 206, chapter 312, Laws of 1986 (uncodified); repealing section 209, chapter 6, Laws of 1985 ex. sess. (uncodified); repealing section 210, chapter 6, Laws of 1985 ex. sess. (uncodified); repealing section 211, chapter 6, Laws of 1985 ex. sess., section 207, chapter 312, Laws of 1986 (uncodified); repealing section 212, chapter 6, Laws of 1985 ex. sess. (uncodified); repealing section 213, chapter 6, Laws of 1985 ex. sess., section 208, chapter 312, Laws of 1986 (uncodified); repealing section 214, chapter 6, Laws of 1985 ex. sess., section 209, chapter 312, Laws of 1986 (uncodified); repealing section 215, chapter 6, Laws of 1985 ex. sess., section 210, chapter 312, Laws of 1986 (uncodified); repealing section 809, chapter 312, Laws of 1986 (uncodified); making appropriations; and declaring an emergency.

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

Sec. 1. Section 1, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

(1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in the following sections, or so much thereof as shall be sufficient to accomplish the purposes

designated, are hereby appropriated and authorized to be ~~((disbursed))~~ incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1985, and ending June 30, 1987, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

(a) "Fiscal year 1986" or "FY 1986" means the fiscal year ending June 30, 1986.

(b) "Fiscal year 1987" or "FY 1987" means the fiscal year ending June 30, 1987.

(c) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall revert.

(d) "Revert" or "lapse" means the amount shall return to an unappropriated status.

~~((4))~~ (3) The appropriations in this act shall be initially allotted as provided in this act for each fiscal year.

~~((5))~~ (4) The legislature intends that the services and functions of state government be sustained through June 30, 1987, within the total amounts appropriated for the biennium in this act without any supplemental appropriations. By December 31, 1985, the governor shall submit to the legislature an expenditure control plan which includes a report of actions taken and future measures proposed to implement the intent expressed in this subsection. The plan shall also include proposed measures in response to any revenue decrease predicted in the December 1985 official revenue forecast. Legislative action, other than amendments to this act, shall not be required for implementation of the plan. The plan shall be accompanied by appropriate supporting documentation similar to that required for budget documents under RCW 43.88.030.

PART I  
GENERAL GOVERNMENT

Sec. 101. Section 101, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

	FY 1986	FY 1987
General Fund Appropriation . . . . .	\$ 14,515,000	<del>((15,834,000))</del>
		<u>20,509,000</u>
Total Appropriation . . . . .	<del>((30,349,000))</del>	<u>35,024,000</u>

Sec. 102. Section 102, chapter 6, Laws of 1985 [ex. sess.] (uncodified) is amended to read as follows:



FOR THE SENATE

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	11,092,000	((13,561,000))
		<u>16,236,000</u>
Total Appropriation . . . . . \$	((24,653,000))	
	<u>27,328,000</u>	

NEW SECTION. Sec. 103. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General fund appropriation . . . . . \$	1,281,000
---	-----------

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall be deposited in the legislative systems revolving fund.

Sec. 104. Section 107, chapter 6, Laws of 1985 ex. sess. as amended by section 101, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE SUPREME COURT

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	4,436,000	((4,651,000))
		<u>4,951,000</u>
Total Appropriation . . . . . \$	((9,087,000))	
	<u>9,387,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,314,000 of the fiscal year 1986 appropriation and \$((1,314,000)) 1,614,000 of the fiscal year 1987 appropriation are provided solely for the indigent appeals program.

(2) \$215,000 of the appropriation is provided solely for the twelve-month project ABLE (Appellate Backlog Elimination). The funds are to be expended during the twelve months of the project in divisions I and II of the court of appeals.

Sec. 105. Section 111, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE ~~((JUDICIAL QUALIFICATIONS COMMISSION))~~  
COMMISSION ON JUDICIAL CONDUCT

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	177,000	((177,000))
		<u>253,000</u>
Total Appropriation . . . . . \$	((354,000))	
	<u>430,000</u>	

Sec. 106. Section 114, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

## FOR THE SECRETARY OF STATE

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	3,242,000	<del>((2,444,000))</del> <u>2,906,000</u>
General Fund—Archives and Records Management Ac- count Appropriation— State . . . . . \$	878,000	829,000
General Fund—Archives and Records Management Ac- count Appropriation—Fed- eral . . . . . \$	47,000	
Total Appropriation . . . . . \$	<del>((7,440,000))</del> <u>7,902,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~\$(1,040,000)~~ 984,000 of the ~~((fiscal year 1986))~~ general fund—state appropriation ~~((are))~~ 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.

(2) \$641,000 for fiscal year 1986 and ~~\$(883,000)~~ 1,120,000 for fiscal year 1987 of the general fund—state appropriation are 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.

(3) \$204,000 of the general fund—state appropriation is provided solely to pay legal costs in defense of the state's electioneering and polling places statutes.

(4) \$77,000 of the general fund—state appropriation is provided solely for implementation of federal and state statutes relating to handicapped access to polling places.

Sec. 107. Section 127, chapter 6, Laws of 1985 ex. sess. as amended by section 105, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

## FOR THE DEPARTMENT OF REVENUE

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	30,552,000	<del>((28,994,000))</del> <u>29,344,000</u>
General Fund—Hazardous Waste Control and Elimina- tion Account Appropriation . . . \$	54,000	54,000

General Fund—Timber Tax Dis-		
tribution Account Appropria-		
tion . . . . .	\$ 1,469,000	1,469,000
Total Appropriation . . . . .	<del>\$(62,592,000)</del>	<u>62,942,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department, in cooperation with the department of social and health services, shall seek a waiver from the federal department of agriculture to delay implementation of the sales tax exemption on food stamp purchases in accordance with Public Law 99-198.

(2) \$350,000 of the fiscal year 1987 general fund appropriation is provided solely to fund the senior citizen tax deferral program.

Sec. 108. Section 129, chapter 6, Laws of 1985 ex. sess. as amended by section 106, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

	FY 1986	FY 1987
General Fund Appropriation—		
State . . . . .	\$ 3,825,000	<del>((3,738,000))</del> <u>3,838,000</u>
General Fund Appropriation—		
Private/Local . . . . .	\$ 30,000	30,000
General Fund—Motor Transport		
Account Appropriation . . . . .	\$ 3,452,000	3,207,000
General Administration Facilities		
and Services Revolving Fund		
Appropriation . . . . .	\$ 9,897,000	9,048,000
Total Appropriation . . . . .	<del>\$(33,227,000)</del>	<u>33,327,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The community college districts shall transfer to the motor transport account \$8,373 from the general local fund and \$34,469 from the local motor pool fund. These transfers shall be made in accordance with schedules provided by the office of financial management.

(2) \$115,000 of the general fund—state appropriation is provided solely to continue storage and transportation activities in connection with the surplus commodities distribution program of the federal department of agriculture. If federal funding for this purpose is continued after September 30, 1986, this appropriation shall lapse.

(3) \$136,411 of the fiscal year 1986 and \$136,411 of the fiscal year 1987 general fund appropriation are provided solely for the operation of the risk management office.

(4) \$109,425 of the fiscal year 1986 and \$109,425 of the fiscal year 1987 general fund appropriation are to fully implement chapter 188, Laws of 1985.

(5) \$150,000 of the fiscal year 1986 and \$150,000 of the fiscal year 1987 general fund—state appropriation are provided solely for energy retrofit studies.

(6) Not later than December 1, 1986, the department shall submit to the legislature an interim plan for the relocation of offices of the department of natural resources now located in the John A. Cherberg building. The interim plan shall not include design or construction of the proposed natural resources building but shall include one or more specific proposals to lease appropriate space within the Olympia area to house the offices now located in the Cherberg building.

(7) \$100,000 of the fiscal year 1987 general fund—state appropriation is provided solely for payment of legal costs associated with pursuit of a damage claim for the fire in Office Building No. 2.

Sec. 109. Section 135, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE BOARD OF ACCOUNTANCY

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	171,000	171,000
General Fund—Certified Public Accountant Examination Account Appropriation . . . . . \$	270,000	((270,000)) <u>279,000</u>
Total Appropriation . . . . .	\$((882,000))	<u>891,000</u>

Sec. 110. Section 144, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

	FY 1986	FY 1987
General Fund Appropriation—		
State . . . . . \$	3,540,000	((3,569,000)) <u>3,609,000</u>
General Fund Appropriation—		
Federal . . . . . \$	1,043,000	1,049,000
Total Appropriation . . . . .	\$((9,201,000))	<u>9,241,000</u>

PART II  
HUMAN SERVICES

NEW SECTION. Sec. 201. Section 201, chapter 6, Laws of 1985 ex. sess., section 201, chapter 312, Laws of 1986 (uncodified) is hereby repealed.

NEW SECTION. Sec. 202. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

General Fund Appropriation . . . . .	\$	323,578,000
Institutional Impact Account Appropriation . . . . .	\$	460,000
Total Appropriation . . . . .	\$	324,038,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section shall be spent as provided in this section. However, the department may spend money appropriated in a manner other than as provided only after approval by the director of financial management. The director of financial management shall notify the ways and means committees of the senate and house of representatives regarding deviation from legislative program appropriation levels. The moneys are from the general fund appropriation unless otherwise specified.

ADMINISTRATION

Headquarters . . . . .	\$	18,209,000
Institutional Impact (from the Institutional Impact Account) . . . . .	\$	460,000
Subtotal . . . . .	\$	18,669,000

INSTITUTIONAL SERVICES

Facility Operations . . . . .	\$	234,546,000
Clallam Bay Corrections Center . . . . .	\$	10,859,000
Drug/Alcohol Program . . . . .	\$	1,004,000
Jail Bed Contracts . . . . .	\$	1,240,000
Snohomish County Impact . . . . .	\$	200,000
Subtotal . . . . .	\$	247,849,000

COMMUNITY SERVICES

Supervision Services . . . . .	\$	30,769,000
Work Training Release . . . . .	\$	21,502,000
Director's Office . . . . .	\$	2,244,000
Victim/Witness Notification . . . . .	\$	200,000
Subtotal . . . . .	\$	54,715,000

INSTITUTIONAL INDUSTRIES

State Subsidy . . . . .	\$	2,805,000
TOTAL . . . . .	\$	324,038,000

Sec. 203. Section 10, chapter 136, Laws of 1981 and RCW 72.09.090 are each amended to read as follows:

~~((Institutional industries shall have the use of the tools, materials, and equipment which were used by the department of social and health services for correctional work programs.))~~ The institutional industries account is established in the state treasury. The department of corrections shall deposit in the account all moneys collected and all profits that accrue from the industrial and agricultural operations of the department and any moneys appropriated to the account. Moneys in the account may be spent only for expenses arising in the institutional industries operations.

The division's net profits from institutional industries' sales and contracts ~~((shall be placed in a special account and))~~ shall be reinvested, without appropriation, in the expansion and improvement of institutional industries. However, ~~((beginning five years after July 1, 1981;))~~ the board of directors shall annually recommend that some portion of the profits from institutional industries be returned to the state general fund.

The board and secretary shall request appropriations or increased appropriations whenever it appears that additional money is needed to provide for the establishment and operation of a comprehensive institutional industries program.

NEW SECTION. Sec. 204. The following acts or parts of acts are each hereby repealed:

- (1) Section 202, chapter 6, Laws of 1985 ex. sess. (uncodified);
- (2) Section 203, chapter 6, Laws of 1985 ex. sess., section 202, chapter 312, Laws of 1986 (uncodified);
- (3) Section 204, chapter 6, Laws of 1985 ex. sess. (uncodified);
- (4) Section 205, chapter 6, Laws of 1985 ex. sess., section 203, chapter 312, Laws of 1986 (uncodified);
- (5) Section 206, chapter 6, Laws of 1985 ex. sess., section 204, chapter 312, Laws of 1986 (uncodified);
- (6) Section 207, chapter 6, Laws of 1985 ex. sess., section 205, chapter 312, Laws of 1986 (uncodified);
- (7) Section 208, chapter 6, Laws of 1985 ex. sess., section 206, chapter 312, Laws of 1986 (uncodified);
- (8) Section 209, chapter 6, Laws of 1985 ex. sess. (uncodified);
- (9) Section 210, chapter 6, Laws of 1985 ex. sess. (uncodified);
- (10) Section 211, chapter 6, Laws of 1985 ex. sess., section 207, chapter 312, Laws of 1986 (uncodified);
- (11) Section 212, chapter 6, Laws of 1985 ex. sess. (uncodified);
- (12) Section 213, chapter 6, Laws of 1985 ex. sess., section 208, chapter 312, Laws of 1986 (uncodified);
- (13) Section 214, chapter 6, Laws of 1985 ex. sess., section 209, chapter 312, Laws of 1986 (uncodified); and

(14) Section 215, chapter 6, Laws of 1985 ex. sess., section 210, chapter 312, Laws of 1986 (unmodified).

**NEW SECTION.** Sec. 205. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

General Fund Appropriation—State . . . . .	\$	2,105,697,000
General Fund Appropriation—Federal . . . . .	\$	1,589,490,000
General Fund Appropriation—Local . . . . .	\$	9,827,000
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) . . . . .	\$	44,888,000
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 . . . . .	\$	28,908,000
General Fund—Institutional Impact Account Appropriation . . . . .	\$	74,000
Total Appropriation . . . . .	\$	3,778,884,000

(1) The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section shall be expended as provided in this section. However, the department may expend money appropriated in a manner other than as provided in this subsection only after approval by the director of financial management. The director of financial management shall notify the ways and means committees of the senate and house of representatives regarding deviation from legislative program appropriation levels.

	STATE	TOTAL
CHILDREN AND FAMILY SERVICES	128,460,000	178,938,000
JUVENILE REHABILITATION		
Community Services	26,835,000	26,913,000
Institution Services	43,593,000	44,483,000
Program Support	2,446,000	2,446,000
Subtotal	72,874,000	73,842,000

**MENTAL HEALTH**

Community Services	101,732,000	140,910,000
Institutional Services	136,842,000	145,161,000
Program Support	2,877,000	4,419,000
Special Projects	0	222,000
Subtotal	241,451,000	290,712,000

**DEVELOPMENTAL DISABILITIES**

Community Services	63,029,000	116,792,000
Institutional Services	102,117,000	191,358,000
Program Support	3,304,000	4,080,000
Subtotal	168,450,000	312,230,000

**LONG TERM CARE SERVICES** 269,674,000 525,710,000

**INCOME ASSISTANCE** 478,181,000 865,102,000

**COMMUNITY SOCIAL SERVICES** 34,780,000 54,388,000

**MEDICAL ASSISTANCE** 451,757,000 815,163,000

**PUBLIC HEALTH** 45,236,000 197,087,000

**VOCATIONAL REHABILITATION** 12,517,000 46,387,000

**ADMINISTRATION & SUPPORT** 61,456,000 100,605,000

**COMMUNITY SERVICES ADMIN.** 124,333,000 270,443,000

**REVENUE COLLECTIONS** 16,528,000 48,277,000

**AGENCY TOTALS** 2,105,697,000 3,778,884,000

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys except as expressly authorized in this act, unless the services were previously provided. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act and, in the case of unanticipated unrestricted federal moneys, as long as an equal amount of appropriated state general fund moneys is placed in a reserve status. Unrestricted federal moneys shall be used, to the maximum extent permitted under federal law, to replace state general fund moneys appropriated under this act for the fiscal year ending June 30, 1986. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on explicitly defined projects or matched on a formula basis by state funds. The governor's budget document for fiscal year 1987 shall include a report on compliance with this subsection and shall estimate the balance, as of July 1, 1986, in reserve status under this subsection. Such state general fund moneys in reserve may be expended



only as authorized in the supplemental appropriations act for the fiscal year ending June 30, 1987.

(3) This act is not intended to affect any vendor rate increases that were implemented prior to the effective date of this act.

(4) The department shall continue the aid to families with dependent children program for two-parent families through June 30, 1987.

(5) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions 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.

(6) Department staff shall assist general assistance clients in establishing eligibility for social security and/or supplemental security income benefits. The assistance shall include providing to the client or the appropriate social security office any documentation of the client's disability and, if appropriate, referral to legal counsel with expertise in social security law.

(7) \$452,000 for fiscal year 1986, of which \$405,000 is from the general fund—state appropriation and \$783,000 for fiscal year 1987, of which \$689,000 is from the general fund—state appropriation are provided solely for the Kitsap mental health services residential treatment center's alternative project. Of the \$452,000 for fiscal year 1986, \$61,000 of the general fund—state appropriation is provided solely for initial program costs associated with implementation. The state reimbursement rate shall not exceed \$180 per client day and treatment for individual clients shall not exceed 180 days. All eligible involuntary treatment referrals will be made to the project. No involuntary treatment referrals of Kitsap county residents will be made to Western State Hospital after March 31, 1986. The maximum reimbursement rate to Kitsap county private hospitals shall be \$250 per day per patient. Kitsap mental health services shall provide quarterly reports to the senate and house committees on ways and means describing the numbers and characteristics of clients served and resulting diversions from private hospitals and Western State Hospital. In addition, the department shall present an annual report to the same legislative committees beginning January 1, 1987, indicating progress made toward meeting the long-term residential bed needs of Kitsap County.

(8) It is the continuing intention of the legislature that payment levels in the aid to families with dependent children, general assistance, and refugee assistance programs contain an energy allowance to offset the high and rising costs of energy and that such allowance be excluded from consideration as income for the purpose of determining eligibility and benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to \$150,000,000 is so designated for exemptions of the following amounts:

Family size:	1	2	3	4	5	6	7	8 or more
Exemption:	\$30	39	46	56	63	72	84	92

(9) The legislature finds that rising hospital costs continue to be a matter of serious concern to the public and to the state government. The department may continue to pay for inpatient hospital services principally on the basis of diagnosis-related groups. The department shall continue in force ratable reductions not less than those imposed in 1984 on hospital payments under the medical care services program and the limited casualty program for the medically indigent.

Sec. 206. Section 217, chapter 6, Laws of 1985 ex. sess. as amended by section 211, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

	FY 1986	FY 1987
General Fund Appropriation—		
State . . . . . \$	6,442,000	<del>((9,478,000))</del>
		<u>10,757,000</u>
General Fund Appropriation—		
Federal . . . . . \$	68,233,000	70,406,000
General Fund—Building Code		
Council Account Appropria-		
tion . . . . . \$	84,000	120,000
Public Works Assistance Account		
Appropriation . . . . . \$	204,000	303,000
Total Appropriation . . . . .	<del>\$((155,270,000))</del>	<u>156,549,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$975,000 for fiscal year 1986 and \$975,000 for fiscal year 1987 of the general fund—state appropriation shall be used solely for grants in aid to public or private nonprofit organizations operating shelters for homeless persons. Grants awarded under this subsection shall be used to provide temporary emergency shelter, including either direct shelter services or vouchers to pay for low-cost commercial accommodations, to persons and families who are without housing and lack funds to purchase lodging.

Grantee organizations shall give priority in the use of grant funds to shelter for families and children. Grants shall be in addition to any federal or other funding available to grantee organizations, and shall be awarded in amounts not exceeding the amount of local government and private funds that an organization receives in the grant year. Grants shall not be awarded to cover periods exceeding twelve months. The department may audit the books and records of grantee organizations to assure compliance with the purposes of this subsection. In awarding grants, the director shall attempt to provide an equitable distribution of funds based on need throughout the state, including rural areas.

(2) \$475,000 for fiscal year 1986 and \$475,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for grants in aid to public or private nonprofit organizations operating food banks which distribute food without charge to persons unable to purchase enough food for their subsistence, and to public or private nonprofit organizations operating food distribution systems that furnish donated or purchased food to food banks. Grants awarded under this subsection shall be in addition to any federal or other funding available to grantee organizations, and shall be awarded in amounts not exceeding the amount of local government and private funds that an organization receives in the grant year. Sixty percent of the funds under this subsection shall be provided to food banks and forty percent to food distribution organizations. Grants shall not be awarded to cover periods exceeding twelve months. The department may audit the books and records of grantee organizations to assure compliance with the purposes of this subsection. In awarding grants, the director shall attempt to provide an equitable distribution of funds based on need throughout the state, including rural areas.

(3) \$50,000 for fiscal year 1986 and \$50,000 for fiscal year 1987 of the general fund—state appropriation is provided solely for administration of grants in aid to emergency shelter and food programs under subsections (1) and (2) of this section.

(4) If Second Substitute House Bill No. 738 is not enacted by July 1, 1985, \$250,000 in fiscal year 1986 and \$250,000 in fiscal year 1987 of the general fund—state appropriation shall revert.

(5) \$120,000, of which \$96,000 is from the general fund—state appropriation for fiscal year 1986 and \$24,000 is from the general fund—building code council account appropriation for fiscal year 1986, and \$120,000 from the general fund—building code council account appropriation for fiscal year 1987 is provided solely to implement Engrossed Substitute Senate Bill No. 3261. The general fund—state appropriation shall be paid back to the state general fund from the building code council account by June 30, 1989.

(6) \$60,000 of the general fund—building code council account appropriation for fiscal year 1986 is provided solely to implement Substitute

House Bill No. 1114. The funds generated from the surcharge on building permits established by SHB 1114 shall be deposited in the general fund—building code council account. If federal funds are available for the purposes of SHB 1114, a portion of the amount provided in this subsection equal to the amount of available federal funds shall revert.

(7) A maximum of \$100,000 for fiscal year 1986 and \$100,000 for fiscal year 1987 of the general fund—state appropriation may be spent in a study of mitigating the impact of the proposed Navy home port at Everett, Washington.

(8) \$2,970,000 of the general fund—state appropriation for fiscal year 1987 is provided solely to initiate preschool state education and assistance programs at the local level in accordance with chapter 418 (E2SHB 1078), Laws of 1985 (early childhood assistance act).

~~((+))~~ (9) \$200,000 for fiscal year 1986 and \$550,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for the state matching funds for the federal emergency management agency grant for damages caused by heavy rains, flooding, mud slides, and wind which occurred on January 16–25, 1986.

(10) \$1,279,000 of the fiscal year 1987 general fund—state appropriation is provided solely as state matching funds for federal emergency management agency grants. Matching funds are provided for Cowlitz county floods occurring in February 1986, damage to the Spokane upriver dam occurring in May 1986, and heavy rains and flooding in seven western Washington counties in November 1986.

Sec. 207. Section 221, chapter 6, Laws of 1985 ex. sess. as amended by section 213, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS

	FY 1986	FY 1987
General Fund—Public Safety and Education Account Appropriation . . . . . \$	65,000	58,000
Accident Fund Appropriation . . . . . \$	1,893,000	<del>((+848,000))</del>
		<u>2,023,000</u>
Medical Aid Fund Appropriation . . . \$	1,893,000	<del>((+848,000))</del>
		<u>2,023,000</u>
Total Appropriation . . . . . \$	<del>((7,605,000))</del>	<u>7,955,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$153,000 for fiscal year 1986 and \$153,000 for fiscal year 1987 of the accident fund appropriation, and \$153,000 for fiscal year 1986 and \$153,000 for fiscal year 1987 of the medical aid fund appropriation, are

provided solely for a mediation program and the publication and indexing of board decisions, as provided in Substitute Senate Bill No. 4190. If the bill is not enacted by July 1, 1985, the amounts provided shall revert.

(2) If House Bill No. 1869 is not enacted before April 1, 1986, \$13,000 of the public safety and education account appropriation shall revert.

Sec. 208. Section 223, chapter 6, Laws of 1985 ex. sess. as amended by section 215, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	4,014,000	3,795,000
General Fund—Public Safety and Education Account Ap- propriation . . . . . \$	3,952,000	3,954,000
Accident Fund Appropriation . . . . . \$	35,481,000	(( <del>34,916,000</del> )) <u>35,366,000</u>
Electrical License Fund Appropria- tion . . . . . \$	3,642,000	3,651,000
Medical Aid Fund Appropriation . . . \$	34,530,000	(( <del>33,868,000</del> )) <u>34,318,000</u>
Plumbing Certificate Fund Approp- riation . . . . . \$	218,000	314,000
Pressure Systems Safety Fund Ap- propriation . . . . . \$	524,000	531,000
Worker and Community Right to Know Fund Appropriation . . . . \$	540,000	961,000
Farm Worker Revolving Fund Ap- propriation—Local . . . . . \$	78,000	72,000
Total Appropriation . . . . . \$	(( <del>165,041,000</del> )) <u>165,941,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall establish a review committee. The review committee shall monitor on a regular quarterly basis the progress reports and work plans of the agency's information systems, including the medical information and payment system (MIPS), to ensure executive-level oversight and control of the data processing and management information systems within the agency. The review committee shall include representatives of the department of labor and industries, the office of financial management, and other appropriate persons.

(2) \$160,000 of the general fund appropriation is provided solely as a loan for the worker-right-to-know program and shall be repaid to the general fund when sufficient funds are available in the worker and community right to know fund.

(3) The farm worker revolving fund appropriation is provided solely for increased activities in connection with the licensing and regulation of farm labor contractors under chapter 280, Laws of 1985. If the bill is not enacted by July 1, 1985, this appropriation shall lapse.

Sec. 209. Section 224, chapter 6, Laws of 1985 ex. sess. as amended by section 216, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE ((BOARD OF PRISON TERMS AND PAROLES)) IN-  
DETERMINATE SENTENCE REVIEW BOARD

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	1,506,000	((1,342,000))
		<u>1,825,000</u>
Total Appropriation . . . . . \$	((2,848,000))	<u>3,331,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) (((\$77,000 for fiscal year 1986 and \$77,000 for fiscal year 1987 of the general fund—state appropriation are provided to continue the board membership at seven members through June 30, 1986, under Engrossed Substitute House Bill No. 204. If Engrossed Substitute House Bill No. 204 is not enacted by July 1, 1985, the amounts provided shall revert.

(2)) \$36,000 of the general fund—state appropriation is provided solely for one-time overtime costs associated with meeting the requirements of In re Obert Myers, 105 Wn.2d 257 (February 13, 1986).

((3)) (2) \$60,000 of the general fund—state appropriation is provided solely for one-time attorney general costs associated with meeting the requirements of In re Obert Myers, 105 Wn.2d 257 (February 13, 1986).

**PART III  
NATURAL RESOURCES**

Sec. 301. Section 301, chapter 6, Laws of 1985 ex. sess. as amended by section 301, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE STATE ENERGY OFFICE**

	FY 1986	FY 1987
General Fund Appropriation—		
State . . . . . \$	818,000	((792,000))
		<u>1,002,000</u>
General Fund Appropriation—		
Federal . . . . . \$	7,281,000	6,697,000

General Fund Appropriation—		
Geothermal Account/Federal . . \$	42,000	44,000
General Fund—Building Code		
Council Account Appropria-		
tion . . . . . \$	375,000	375,000
Total Appropriation . . . . .	<del>\$(16,424,000)</del>	
	<u>16,634,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

(1) \$122,000 in each fiscal year is provided solely for the state building energy management program. The office of financial management shall revert savings in state agency budgets resulting from this program.

(2) The general fund—building code council account appropriation ((is)) and \$210,000 of the fiscal year 1987 general fund—state appropriation are provided solely for an ((in-situ)) on-site testing program by the University of Washington college of architecture and department of mechanical engineering, of annual thermal transmittance of individual construction components and conservation measures proposed for new residential construction by the Pacific northwest electric power planning and conservation council. These funds shall be inclusive of administrative costs incurred by the state energy office. The funds generated from the surcharge on building permits established in Substitute House Bill No. 1114 shall be deposited in the general fund—building code council account. This appropriation is limited to the amount of revenues in the building code council account.

(3) \$15,000 of the fiscal year 1987 general fund—state appropriation is provided solely for membership assessments in the western interstate energy board.

Sec. 302. Section 303, chapter 6, Laws of 1985 ex. sess. as amended by section 302, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

	FY 1986	FY 1987
General Fund Appropriation—		
State . . . . . \$	20,873,000	<del>((22,136,000))</del>
		<u>22,510,000</u>
General Fund Appropriation—		
Federal . . . . . \$	10,122,000	10,128,000
General Fund Appropriation—		
Private/Local . . . . . \$	64,000	460,000
General Fund—Hazardous		
Waste Control and Elimina-		
tion Account Appropriation . . . \$	1,154,000	1,158,000

General Fund—Flood Control Account Appropriation . . . . . \$	2,000,000	2,000,000
General Fund—Special Grass Seed Burning Account Approp- riation . . . . . \$	35,000	35,000
General Fund—Reclamation Revolving Account Appropria- tion . . . . . \$	561,000	562,000
General Fund—Emergency Wa- ter Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess. . . . . \$	311,000	335,000
General Fund—Emergency Wa- ter Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess: Reappropria- tion . . . . . \$	3,000,000	3,570,000
Water Project Revolving Account Subtotal . . . . . \$	3,311,000	3,905,000
General Fund—Litter Control Account Appropriation . . . . . \$	2,356,000	2,929,000
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26) . . . . \$	363,000	373,000
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26): Reappropriation . . . . . \$	20,000,000	26,278,000
Referendum 26 Subtotal . . . \$	20,363,000	26,651,000
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities 1980: Appropriated		



pursuant to chapter 159, Laws of 1980 (Referendum 39) . . . . . \$	39,346,000	39,441,000
General Fund—State and Local Improvements Revolving Account—Waste Disposal Facilities 1980: Appropriated pursuant to chapter 159, Laws of 1980 (Referendum 39): Re-appropriation . . . . . \$	130,000,000	127,400,000
Referendum 39 Subtotal . . . \$	169,346,000	166,841,000
General Fund—State and Local Improvements Revolving Account—Water Supply Facilities . . . . . \$	3,354,000	3,412,000
General Fund—State and Local Improvements Revolving Account—Water Supply Facilities: Reappropriation . . . . . \$	18,000,000	18,043,000
Water Supply Subtotal . . . . \$	21,354,000	21,455,000
Stream Gaging Basic Data Fund Appropriation . . . . . \$	100,000	100,000
Total Appropriation . . . . . \$	<del>509,999,000</del>	
	<u>510,373,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

(1) On or before October 1, 1985, the department of ecology shall file with the committees on ways and means of the senate and house of representatives and the office of financial management a master compilation by project type of those projects proposed for funding during the 1985-87 biennium from the appropriations for waste disposal facilities and water supply facilities. A separate compilation shall be supplied for each bond proceed account. The department shall submit updates for the master compilation to the committees on ways and means and the office of financial management at six-month intervals during the 1985-87 biennium. The updates shall reflect project completions, deletions, substitutions, or additions made during the course of administering the projects. If the department proposes to change or modify any project list on the master compilation, it shall give the committees on ways and means and the office of financial management thirty days' written notice of the change or modification prior to the expenditure or obligation of any funds appropriated by this section. The department shall immediately inform the committees and the office of financial management of significant changes from historic federal funding

levels for waste disposal facilities and water supply facilities. If the department does not comply fully and in a timely manner with the several compilations, updates, and modification reports required by this subsection, the director of financial management is authorized to place in reserve the second year funds allotted to the department until such time as the documents are produced and distributed as directed by this subsection.

(2) The appropriation from the state and local improvements revolving account—water supply facilities (Referendum 27) may be expended to pay up to 50% of the eligible cost of any project as a grant or loan or combination thereof. Also, the department may lend up to 100% of the eligible costs of preconstruction activities and the department may provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(3) The appropriation from the state and local improvements revolving account—waste disposal facilities (Referendum 26) may be expended by the department to pay for up to 50% of the eligible cost of any project as a grant or up to 100% as a loan or combination thereof, for waste water treatment or disposal, agricultural pollution, lake rehabilitation, or solid waste management facilities. The department is authorized to provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(4) The appropriation from the state and local improvements revolving account—waste disposal facilities 1980 (Referendum 39) may be expended by the department to pay up to 75% of the eligible cost of any project as a grant or up to 100% as a loan, or combination thereof, for waste water treatment or disposal, agricultural pollution, lake rehabilitation, or solid waste management facilities. The department is authorized to provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(5) The department may operate, and seek and accept grants or gifts for the purpose of operating and maintaining, the Padilla Bay estuarine sanctuary and interpretive center.

(6) Not more than \$10,545,000 of the general fund—state appropriation for fiscal year 1986 and \$11,302,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the hazardous waste and air quality program.

(7) Not more than \$3,919,000 of the general fund—state appropriation for fiscal year 1986 and \$4,361,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the water and land resources program including but not limited to:

- (a) Public water supply reservation;
- (b) Well drilling enforcement;
- (c) Ground/surface water data collection;
- (d) State-wide groundwater planning;

- (e) Increased shoreline management grants to local governments; and
- (f) Shoreline management support.

(8) Not more than \$2,155,000 of the general fund—state appropriation for fiscal year 1986 and \$2,178,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the water quality program including but not limited to:

- (a) Groundwater management and investigation;
- (b) Groundwater technical assistance; and
- (c) Municipal water management.

(9) \$985,000 of the general fund—state appropriation is provided for grants to activated air pollution control authorities.

(10) \$200,000 of the general fund—state appropriation is provided solely as a loan for the hazardous substances information and education program. At the close of the 1985–87 biennium, the state treasurer shall transfer \$200,000 from the worker and community right to know fund to the general fund. If House Bill No. 865 is not enacted before July 1, 1985, the general fund amount provided in this subsection shall revert and the transfer from the worker and community right to know fund shall not occur.

(11) \$354,000 of the general fund—state appropriation is provided solely for the department to develop a state hazardous waste management plan, including criteria for the siting of hazardous waste management facilities.

(12) For the purpose of implementing the requirements of a shellfish protection program, including a pilot program for the prevention of non-point source pollution of important shellfish resource areas, the department of ecology shall expend up to a maximum of \$300,000 for:

(a) The development of regulations designating priority shellfish protection resource areas;

(b) Contracts with local governments and conservation districts to develop plans, educational programs, and other activities to clean up and protect shellfish resource areas; and

(c) Washington conservation corps activities and other programs to assist land owners in eliminating animal waste related pollution.

(13) The office of financial management is authorized to allow the department to deviate from the annual allocation of moneys provided in this section. This authorization pertains only to moneys appropriated and reappropriated for construction grants and hazardous waste remedial action construction contracts.

(14) \$470,000 of the general fund—state appropriation and \$396,000 of the general fund—local appropriation are provided solely to implement either Senate Bill No. 4876 or House Bill No. 1655 on low-level radioactive waste. If neither Senate Bill No. 4876 nor House Bill No. 1655 is enacted by July 1, 1986, the amounts provided by this subsection shall lapse.

(15) \$57,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 69 (chapter 426, Laws of 1985), dealing with the development of guidelines and standards for the establishment of solid waste trust funds.

(16) \$52,000 of the general fund—state appropriation is provided solely to implement House Bill No. 974 (chapter 456, Laws of 1985), dealing with acid rain assessment.

(17) \$45,000 of the general fund—state appropriation is provided solely for water quality laboratory analysis.

(18) \$59,000 of the general fund—state appropriation is provided solely for the conduct of civil and criminal investigations of violations of environmental statutes.

(19) Not more than \$15,000 from the general fund—reclamation revolving account appropriation shall be paid to Cowlitz county as reimbursement for prior contributions of the flood control district to the account.

(20) Not more than \$150,000 from the general fund—private/local appropriation may be expended by the department to perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility. The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986.

(21) \$149,000 of the fiscal year 1987 general fund—state appropriation is provided solely to continue the state's litigation concerning federal department of energy high-level nuclear waste site designation.

(22) \$225,000 of the fiscal year 1987 general fund—state appropriation is provided solely for startup staffing and planning for agency growth due in part to enhanced water quality programs.

Sec. 303. Section 310, chapter 6, Laws of 1985 ex. sess. as amended by section 303, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	10,265,000	((+0,016,000)) <u>10,191,000</u>
Motor Vehicle Fund Appropria- tion . . . . . \$	281,000	298,000
Total Appropriation . . . . . \$	\$((20,860,000))	<u>21,035,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,951,000 of the general fund—state appropriation shall be expended in each fiscal year solely for the University of Washington for the continuation of the Washington high technology center and the center for international trade in forest products as matching funds to private-sector, federal, and in-kind contributions, on the basis of the following percentages:

(a) Washington high technology center, 50 percent; and nonstate contributions, 50 percent; and

(b) Center for international trade in forest products, 50 percent; and nonstate contributions, 50 percent.

(2) The motor vehicle fund appropriation shall be used in conformance with constitutional limitations.

(3) \$175,000 of the general fund appropriation is provided solely for the Washington state economic development board. If House Bill No. 627 is not enacted before July 1, 1985, the amount provided in this subsection shall revert.

(4) Not more than \$251,000 of the general fund—state appropriation shall be expended in fiscal year 1986 for the high-technology coordinating board. A plan shall be submitted to the legislature not later than December 20, 1985, detailing the future activities, structure, and costs of the board.

(5) Funds provided for county economic development councils shall be matched at fifty percent, except that no funds contained in this appropriation nor in-kind contributions shall be used for such matching funds.

(6) The department may contract with the small business development center at Washington State University for services to assist the promotion and expansion of small businesses in the state.

(7) The department is authorized to transfer from the surplus of the state trade fair fund not more than \$150,000 to the centennial commission.

(8) \$23,000 for fiscal year 1986 and \$37,000 for fiscal year 1987 from the motor vehicle fund appropriation are provided solely to implement a computer-assisted tourist information network at selected visitor information centers and state highway rest areas. The department shall coordinate with the state department of transportation in establishing the system. All revenue derived from a vendor or vendors associated with the system shall be deposited by the department in the motor vehicle fund.

(9) \$175,000 of fiscal year 1987 general fund—state appropriation is provided solely for development of baseline data and, if warranted, a proposal to site a superconducting supercollider project in the state.

Sec. 304. Section 314, chapter 6, Laws of 1985 ex. sess. as amended by section 305, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

	FY 1986	FY 1987
General Fund Appropriation—		
State .....	\$ 22,416,000	((14,923,000))
		<u>16,323,000</u>
General Fund Appropriation—		
Federal .....	\$ 129,000	129,000
General Fund—ORV (Off-Road Vehicle) Account Appropria- tion .....	\$ 1,508,000	1,488,000
General Fund—Geothermal Ac- count Appropriation—Fed- eral .....	\$ 8,000	8,000
General Fund—Forest Develop- ment Account Appropriation ..	\$ 7,496,000	7,945,000
General Fund—Survey and Maps Account Appropriation ..	\$ 362,000	369,000
General Fund—Landowner Con- tingency Forest Fire Suppres- sion Account Appropriation ...	\$ 708,000	((724,000))
		<u>1,624,000</u>
General Fund—Resource Man- agement Cost Account Approp- riation .....	\$ 26,361,000	27,419,000
Total Appropriation .....	\$((111,993,000))	<u>114,293,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$346,000 of the general fund—state appropriation is provided solely for litigation costs in fiscal year 1986, and \$245,000 of the general fund—state appropriation is provided solely for litigation costs in fiscal year 1987, associated with court actions brought by the state against timber companies that have defaulted on timber sales contracts. \$200,000 of the fiscal year 1987 general fund—state appropriation is provided solely for litigation costs incurred as a result of the Barker Mountain fire.

(2) \$310,000 of the general fund—state appropriation in each fiscal year is provided solely for costs associated with flood damage litigation in Skagit and Whatcom counties.

(3) \$482,000 of the general fund—state appropriation for fiscal year 1986 shall be used solely for the department of natural resources to move from the public lands building and vacate the house office building.

(4) \$600,000 of the fiscal year 1987 general fund—state appropriation is provided solely for costs incurred as a result of fire suppression activity.

(5) \$600,000 of the fiscal year 1987 general fund—state appropriation is provided solely for costs associated with the control and eradication of the Western Spruce budworm. The department shall seek reimbursement from landowners where appropriate.

Sec. 305. Section 315, chapter 6, Laws of 1985 ex. sess. as amended by section 306, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE		
	FY 1986	FY 1987
General Fund Appropriation—		
State . . . . . \$	7,482,000	( <del>7,409,000</del> )
		<u>7,434,000</u>
General Fund Appropriation—		
Federal . . . . . \$	387,000	( <del>354,000</del> )
		<u>390,000</u>
General Fund—Feed and Fertilizer Account Appropriation . . . \$	10,000	7,000
Fertilizer, Agricultural, Mineral and Lime Fund Appropriation . . . . . \$	214,000	220,000
Commercial Feed Fund Appropriation . . . . . \$	246,000	236,000
Seed Fund Appropriation . . . . . \$	486,000	498,000
Nursery Inspection Fund Appropriation . . . . . \$	315,000	( <del>316,000</del> )
		<u>361,000</u>
Livestock Security Interest Fund Appropriation . . . . . \$	21,000	17,000
Total Appropriation . . . . . \$	<del>(18,218,000)</del>	
	<u>18,324,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

(1) Not more than \$851,000 of the general fund—state appropriation shall be expended in each fiscal year for enhanced export and domestic marketing in the agricultural development program.

(2) Not more than \$549,000 of the general fund—state appropriation in each fiscal year shall be expended for the continuation of the IM-PACT center at Washington State University.

(3) \$125,000 for fiscal year 1986 and \$125,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for the purchase of materials or biological control agents for controlling or eradicating noxious weeds and shall be available only for distribution by the director of the department to those activated county noxious weed control

boards and active weed districts that employ administrative personnel to supervise a weed control program and that have a budget from other than state sources of at least twenty-five thousand dollars annually. The moneys provided under this paragraph shall be allocated to such boards and districts based on the severity of the noxious weed control problems.

(4) \$57,000 of the general fund—state appropriation is provided for the purchase of vaccine for the prevention of brucellosis and for the cost of distributing brucellosis vaccine to veterinarians practicing in the state of Washington, in a manner to be established by the office of state veterinarian.

(5) \$25,000 of the fiscal year 1987 general fund—state appropriation is provided solely to support operating costs for the department's Tokyo office.

(6) \$45,000 of the fiscal year 1987 nursery inspection fund appropriation is provided solely to begin development of a plant pathology laboratory.

(7) \$36,000 of the fiscal year 1987 general fund—federal appropriation is provided solely for activities related to gypsy moth eradication.

Sec. 306. Section 317, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE WASHINGTON CENTENNIAL COMMISSION

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	754,000	739,000
General Fund—State Centennial Commission Account Approp- riation . . . . . \$	77,000	((145,000))
		<u>495,000</u>
Total Appropriation . . . . . \$	((1,715,000))	<u>2,065,000</u>

PART IV  
TRANSPORTATION

Sec. 401. Section 1, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

The transportation budget of the state is hereby adopted and, subject to the provisions hereinafter set forth, the several amounts hereinafter specified, or so much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds hereinafter named to the designated state agencies and offices for salaries, wages, and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, incurred for the period ending June 30, 1987.

Sec. 402. Section 402, chapter 6, Laws of 1985 ex. sess. as amended by section 402, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:



FOR THE DEPARTMENT OF LICENSING

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	6,342,000	6,924,000
General Fund—Architects' License Account Appropriation . . \$	234,000	234,000
General Fund—Medical Disciplinary Account Appropriation . . . . . \$	440,000	((440,000)) <u>450,000</u>
General Fund—Health Professions Account Appropriation . . . \$	2,826,000	2,770,000
General Fund—Professional Engineers' Account Appropriation . . . . . \$	405,000	400,000
General Fund—Real Estate Commission Account Appropriation . . . . . \$	2,834,000	2,434,000
Total Appropriation . . . . . \$	\$( <del>26,283,000</del> )	<u>26,293,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$900,000 of the fiscal year 1987 general fund—state appropriation is provided solely for redevelopment and expansion of the master license system. This funding is contingent on interagency transfers of \$200,000 from the department of labor and industries and \$200,000 from the department of employment security, and contingent on services in kind worth \$200,000 from the department of revenue. The department shall begin development and pilot testing of common business identification numbers.

(2) \$44,000 of the fiscal year 1987 general fund—state appropriation is provided solely for regulation of commodity-related activities under Senate Bill No. 4527 or Substitute House Bill No. 1012. If neither Substitute House Bill No. 1012 nor Senate Bill No. 4527 is enacted by July 1, 1986, the amount provided by this subsection shall lapse.

(3) \$151,000 of the fiscal year 1987 general fund—state appropriation is provided solely to establish a small business capital formation program under Substitute House Bill No. 205. If Substitute House Bill No. 205 is not enacted by July 1, 1986, the amount provided by this subsection shall lapse.

(4) \$132,000 of the fiscal year 1987 general fund—state appropriation is provided solely for registration and regulation of vessel dealers under House Bill No. 1613. If House Bill No. 1613 is not enacted by July 1, 1986, the amount provided by this subsection shall lapse.

Sec. 403. Section 403, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES' COMMISSION

	FY 1986	FY 1987
Motor Vehicle Fund—Puget Sound Ferry Operations Account Appropriation .....	\$ 137,000	(( <del>137,000</del> ))
		<u>157,000</u>
Total Appropriation .....	\$(( <del>274,000</del> ))	<u>294,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The commission shall contract for \$50,000 a year with the public employment relations commission for secretarial support and mediation services.

(2) \$20,000 of the fiscal year 1987 appropriation is provided for attorney general costs for the defense of the appeals of the commission decisions in the cases of Masters, Mates, and Pilots Union v. Washington state ferry system MEC no. 7-84 and Donald Downing v. marine employees' commission and Washington state ferry system, Kitsap county superior court case no. 85-2-00800-8.

PART V  
EDUCATION

Sec. 501. Section 503, chapter 6, Laws of 1985 ex. sess. as amended by section 502, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)

General Fund Appropriation .....	\$(( <del>3,436,768,000</del> ))	<u>3,449,216,000</u>
----------------------------------	----------------------------------	----------------------

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 shall require school districts to ensure that, during the respective school year, the district has complied with all rules adopted by the superintendent of public instruction to implement RCW 28A.58.095. For any violation of such rules, the superintendent 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 with the rules.

(2) \$314,650,000 is provided solely for the remaining months of the 1984-85 school year.

(3) Allocations for certificated salaries for the 1985-86 and 1986-87 school years shall be calculated by multiplying each district's average basic education certificated salary allocation defined in section 504 of this act by the district's formula-generated certificated staff units determined as follows:

(a) One certificated staff unit for each twenty average annual full time equivalent kindergarten, elementary, and secondary students, excluding handicapped full time equivalent enrollment as calculated according to the procedures in the allocation model established in section 506 of this act and excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations in subsection (3) (b) through (e) of this section: PROVIDED, That those school districts with a minimum enrollment of 250 full time equivalent students and whose full time equivalent student enrollment count in a given enrollment month exceeds the first of the month full time equivalent enrollment count by 5% shall be entitled to an additional state allocation of 110% of the ((~~pro-rata~~)) share that such increased enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month.

(b) During the 1985-86 school year, 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, for the 1986-87 school year one certificated staff unit for each average annual seventeen and one-half full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction: PROVIDED, That in skills 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 twenty-five average annual full time equivalent students and for small school plants within any school district, which small plants enroll not more than twenty-five average annual full time equivalent students and have been judged to be remote and necessary by the state board of education, certificated staff units shall be determined as follows:

(i) For the 1985-86 school year, for those enrolling no students in grades seven or eight, three certificated staff units;

(ii) For the 1985-86 school year, for those enrolling students in either grades seven or eight, four certificated staff units;

(iii) For the 1986-87 school year, for those enrolling no students in grades seven or eight, two certificated staff units for enrollment of not more than five students, plus one-twentieth of a certificated staff unit for each additional student enrolled; and

(iv) For the 1986-87 school year, for those enrolling students in either grades seven or eight, two certificated staff units for enrollment of not more than five students, plus one-tenth of a certificated staff unit for each additional student enrolled.

(d) For districts enrolling more than twenty-five but 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 enroll more than twenty-five average annual full time equivalent students and 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 enrollments 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 grades K-8 program or a grades 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 grades K-6 program or a grades 1-6 program, an additional one-half of a certificated unit.

(e) A district that operates no more than two high schools with enrollments of not more than three hundred average annual full time equivalent students shall be allocated certificated staff units for enrollment in each such high school 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.

(f) In addition to those staffing ratios specified by RCW 28A.41.140, school districts with an enrollment of at least 100 annual average full time equivalent students in grades kindergarten through third grade shall receive during the 1986-87 school year a certificated unit allocation in addition to

that provided in subsection (3)(a) of this section, at a rate of one certificated staff unit per 1,000 annual average full time equivalent students enrolled in grades kindergarten through third grade: PROVIDED, That school districts shall use the additional certificated unit allocation to provide during the 1986-87 school year additional personnel whose primary duty is the daily classroom educational instruction of students.

(4) Allocations for classified salaries for the 1985-86 and 1986-87 school years shall be calculated by multiplying each district's average basic education classified salary allocation as defined in section 504 of this act by the district's formula-generated classified staff units determined as follows:

(a) One classified staff unit per each three certificated staff units determined under subsection (3) (a), (c), (d), and (e) 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) Fringe benefit allocations shall be calculated at a rate of 20.03 percent in the 1985-86 school year and (~~(20.08)~~) 20.12 percent in the 1986-87 school year of certificated salary allocations provided pursuant to subsection (3) of this section, and a rate of 16.86 percent in the 1985-86 school year and (~~(16.91)~~) 16.96 percent in the 1986-87 school year of classified salary allocations provided pursuant to subsection (4) of this section.

(6) Insurance benefit allocations for the 1985-86 and 1986-87 school years shall be calculated at a rate of \$167 per month for the number of certificated staff units determined in subsection (3) of this section and for the number of classified staff units determined in subsection (4) of this section multiplied by 1.152.

(7)(a) For nonemployee related costs with each certificated staff unit determined under subsection (3) (a), (c), (d), and (e) of this section, there shall be provided a maximum of \$5,614 per staff unit in the 1985-86 school year and a maximum of \$5,833 per staff unit in the 1986-87 school year.

(b) For nonemployee related costs with each certificated staff unit determined under subsection (3)(b) of this section, there shall be provided a maximum of \$10,698 per staff unit in the 1985-86 school year and a maximum of \$11,115 per staff unit in the 1986-87 school year.

(8) Allocations for costs of substitutes for classroom teachers shall be provided at a rate of \$268 per full time equivalent basic education classroom teacher during the 1985-86 and 1986-87 school years.

(9) The superintendent shall distribute a maximum of ~~\$(3,010,000)~~ 2,628,000 outside the basic education formula during fiscal years 1986 and 1987 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a

maximum of \$((~~320,000~~) 298,000) may be expended in fiscal year 1986 and a maximum of \$((~~342,000~~) 318,000) in fiscal year 1987.

(b) For summer vocational programs at skills centers, not more than \$((~~771,000~~) 757,000) shall be expended in fiscal year 1986 and not more than \$((~~1,077,000~~) 1,062,000) in fiscal year 1987.

(c) For school district emergencies, a maximum of \$((~~136,000~~) 57,000) may be expended in fiscal year 1986 and a maximum of \$136,000 may be expended in fiscal year 1987.

(10) A maximum of \$125,000 shall be distributed to enhance funding provided in subsections (3) through (9) of this section in the 1986-87 school year for remote and necessary school plants on islands without scheduled public transportation which are the sole school plants serving students in elementary grades on these islands.

Sec. 502. Section 504, chapter 6, Laws of 1985 ex. sess. as amended by section 504, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—SCHOOL DISTRICT EMPLOYEE COMPENSATION**

General Fund Appropriation . . . . . \$ 47,733,000

(1) For the purposes of section 503 of this act and this section, the following conditions and limitations apply:

(a) "LEAP Document 7" means the computer tabulation of 1984-85 derived base salaries for basic education certified staff and 1984-85 average salaries for basic education classified staff, as developed by the legislative evaluation and accountability program committee on April 11, 1985, at 10:36 hours.

(b) "Revised LEAP Document 7" means the computer tabulation of certificated and classified derived base salaries as developed by the legislative evaluation and accountability program committee on February 27, 1986, at 9:41 hours.

(c) For the purposes of the appropriation in section 502 of this 1986 act, each district's average basic education certificated salary allocation shall be the district's certificated derived base salary shown on LEAP Document 7, multiplied by the district's prior year staff mix factor calculated using LEAP Document 1.

(d) For the purposes of the appropriation in section 502 of this 1986 act, each district's average basic education classified salary allocation for both the 1985-86 and 1986-87 school years shall be the district's classified derived base salary multiplied by the district's prior year classified increment mix factor, as specified in this section. For the 1985-86 school year, the classified derived base salary for each district shall be the average classified salary specified for each district in LEAP Document 7 divided by the

1984-85 classified increment mix factor for each district calculated according to the formula used by the superintendent of public instruction in the 1984-85 school year. By December 1, 1985, the superintendent of public instruction shall provide to the legislative evaluation and accountability program committee the appropriate data with which to modify LEAP Document 7 to reflect the classified derived base salary for use in the 1986-87 school year.

(e) "Incremental fringe benefits" means ~~((19.44))~~ 19.48 percent for certificated staff and ~~((15.49))~~ 15.54 percent for classified staff, which percentages shall be the fringe benefit rates applied to all salary increases provided in this section, and is for employer contributions to employee benefits and retirement benefits.

(2) For the purposes of RCW 28A.58.095 and section 503(1) of this act, the following conditions and limitations apply:

(a) Effective September 1, 1986, each school district is authorized to grant salary increases that increase the district's actual basic education certificated derived base salary to no more than the sum of: (i) The district's certificated derived base salary as shown on revised LEAP Document 7; and (ii) three percent of the state-wide average certificated derived base salary as shown on revised LEAP Document 7.

(b) Effective September 1, 1986, each school district is authorized to grant salary increases that increase the district's actual basic education classified derived base salary to no more than the sum of: (i) The district's classified derived base salary as shown on revised LEAP Document 7; and (ii) three percent of the state-wide average classified derived base salary as shown on revised LEAP Document 7.

(c) The maximum average percentage salary increase in school district programs other than the basic education program shall not exceed the percentage increase authorized pursuant to this section for the district's basic education program.

(d) Insurance benefits are limited by this act to an average monthly rate of \$167 per full time equivalent certificated employee and to an average monthly rate of \$167 per classified unit. Classified units shall be calculated on the basis of 1,440 hours of work per year, with no individual employee counted for more than one unit. In accordance with RCW 28A.58.095, this subsection relates to insurance benefit increases granted in either the 1985-86 or 1986-87 school year which would raise the rate per full time equivalent unit to over \$167 per month.

(e) Increments granted by school districts to certificated staff shall constitute salary increase in the year in which the increments are given by a district to the extent only that the aggregate of increments granted by a district exceeds the aggregate of increments pursuant to LEAP Document 1.

(f) Seniority increments granted by a school district pursuant to the district's salary schedule for classified employees shall constitute salary increase in the year in which the increments are given to the extent only that the aggregate of the increments granted by the district exceeds the amount of the district's increments calculated using the formula adopted by the superintendent of public instruction for the classified increment mix factor.

(g) Districts may elect an alternate measure of salary compliance for classified staff by comparing base salaries of 1986-87 staff to the imputed base that was or would have been paid the same staff in the same positions during 1985-86 if the districts electing this alternative certify by board resolution that any amount in excess of state-funded salary levels in each year henceforward is solely a district obligation created through local district personnel policies and salary schedule placements, and that the effect shall neither incur nor imply any current or future funding obligation by the state.

(3)(a) A maximum of ~~\$(650,000)~~ 700,000 of the appropriation in this section is provided to fund the conversion from LEAP Document 7 to revised LEAP Document 7, effective September 1, 1986. The superintendent of public instruction shall distribute these moneys to fund increases in salary costs and incremental fringe benefits resulting from using revised LEAP Document 7 to calculate allocations for certificated and classified staff units as in section 502 of this 1986 act.

(b) ~~\$(28,582,000)~~ 28,861,000 is provided, effective September 1, 1986, to increase funding for each basic education certificated staff unit allocated for the 1986-87 school year in section 502 of this 1986 act by an amount equal to the district's 1985-86 LEAP Document 1 basic education staff mix factor times three percent of the state-wide average certificated derived base salary as shown on revised LEAP Document 7, and for incremental fringe benefits.

(c) ~~\$(5,926,000)~~ 5,971,000 is provided, effective September 1, 1986, to increase funding for each basic education classified staff unit allocated for the 1986-87 school year in section 502 of this 1986 act by an amount equal to the district's 1985-86 basic education classified increment mix factor times three percent of the state-wide average classified derived base salary as shown on revised LEAP Document 7, and for incremental fringe benefits.

(d) A maximum of ~~\$(2,263,000)~~ 2,390,000 is provided for salary increases and incremental fringe benefits in the following programs, to be distributed by increasing 1986-87 school year allocation rates as specified:

- (i) Transitional bilingual instruction (section 508), \$11.43 per pupil;
- (ii) Remediation assistance (section 509), \$8.80 per pupil;
- (iii) Education of highly capable students (section 510), \$6.77 per pupil;



(iv) Vocational-technical institutes (section 512), \$59.94 per FTE pupil;

(v) Pupil transportation (section 514), \$0.46 per weighted pupil-mile.

(e) A maximum of ~~\$(3,968,000)~~ 4,934,000 is provided for salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program (section 506), and for state-supported staff in educational service districts (section 502) and institutional education programs (section 507). The superintendent of public instruction shall distribute a three percent salary increase for these programs using the pertinent program state-wide average derived base salaries.

(f) \$6,344,000 of the appropriation in this section is provided to enhance salaries for certificated personnel in state-supported programs pursuant to this subsection. Each school district with a certificated derived base salary of less than \$16,500, as shown on revised LEAP Document 7, is authorized to grant salary increases effective September 1, 1986, which both:

(i) Increase the actual full time equivalent salary of each certificated employee of the district to a minimum of \$16,500 for the 1986-87 school year; and

(ii) Increase the district's actual basic education certificated derived base salary, excluding the salary increase provided in subsection (2)(a) of this section, to no more than \$16,500.

For the purposes of allocating basic education funds in the 1986-87 school year, the superintendent of public instruction shall modify revised LEAP Document 7 to reflect a certificated derived base salary of \$16,500 for each district which grants the increases authorized by this subsection. The superintendent of public instruction may distribute a maximum of \$71,000 of the funds provided by this subsection to those districts whose actual cost of granting minimum increases to \$16,500 under (i) of this subsection exceeds the increase in the district's total salary allocation resulting from the modification of revised LEAP Document 7.

In addition to other increases provided by this section, each school district with a certificated derived base salary of at least \$16,500, as shown on revised LEAP Document 7, is authorized to grant such increases effective September 1, 1986, as are necessary to achieve a minimum full time equivalent salary of \$16,500 for any individual certificated employee. ~~\$(1,500,000)~~ 700,000, or so much thereof as may be necessary, shall be distributed by the superintendent of public instruction solely to increase salaries of individual certificated employees in these districts who would otherwise receive a full time equivalent salary of less than \$16,500.

(4) Increases provided by this section shall be included in the programs referenced in RCW 84.52.0531(1) for purposes of calculating the levy lid.

Sec. 503. Section 506, chapter 6, Laws of 1985 ex. sess. as amended by section 505, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR HANDICAPPED EDUCATION PROGRAMS**

General Fund Appropriation—State . . . . .	\$ (( <del>362,380,000</del> ))
	<u>366,011,233</u>
General Fund Appropriation—Federal . . . . .	\$ 30,153,000
Total Appropriation . . . . .	\$ (( <del>392,533,000</del> ))
	<u>396,164,233</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$32,120,000 of the general fund—state appropriation is provided solely for the remaining months of the 1984–85 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1985–86 school year in accordance with a district's actual handicapped enrollments and the allocation model established in LEAP Document 8 as developed by the legislative evaluation and accountability program committee on May 28, 1985, at 14:04 hours.

(3) The superintendent of public instruction shall distribute state funds for the 1986–87 school year in accordance with a district's actual handicapped enrollments and the allocation model established in LEAP Document 8 (revised) as developed by the legislative evaluation and accountability program committee on December 10, 1985, at 9:45 hours.

(4) A maximum of \$250,840 may be expended from the general fund—state appropriation to fund three teachers and one aide at Children's Orthopedic Hospital and Medical Center. This amount is in lieu of money provided through home and hospital allocation and the handicapped program.

Sec. 504. Section 508, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation . . . . .	\$ (( <del>9,342,000</del> ))
	<u>10,197,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) \$760,000 is provided solely for the remaining months of the 1984–85 school year.

(2) The superintendent shall distribute funds for the 1985–86 and 1986–87 school years at a maximum rate of \$410 per eligible student.

Sec. 505. Section 514, chapter 6, Laws of 1985 ex. sess. as amended by section 508, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund Appropriation . . . . . \$ ~~((204,421,000))~~  
205,991,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) A maximum of \$90,093,000 may be distributed for pupil transportation operating costs in the 1985–86 school year.
- (2) A maximum of \$755,000 may be expended for regional transportation coordinators.
- (3) A maximum of \$56,000 may be expended for bus driver training.

**PART VI  
HIGHER EDUCATION**

Sec. 601. Section 607, chapter 6, Laws of 1985 ex. sess. as amended by section 604, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

	FY 1986	FY 1987
General Fund Appropriation . . . . . \$	17,003,000	<del>((17,206,000))</del>
		<u>17,291,000</u>
Total Appropriation . . . . . \$	<del>((34,209,000))</del>	
	<u>34,294,000</u>	

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$7,073,000 from the fiscal year 1986 general fund appropriation and \$7,273,000 from the fiscal year 1987 general fund appropriation are provided solely for the instruction program. Not less than a biennial average of \$2,797 per academic year full time equivalent student shall be spent from the state general fund in the instruction program. Of the amounts provided in this subsection, at least \$132,000 shall be spent for enhancement of the instructional equipment budget. Of the amounts provided in this subsection, at least \$582,000 shall be spent for enrollments in underserved urban areas.
- (2) A maximum of \$130,000 may be spent for departmental research fellowships, limited to no more than three months per award.
- (3) \$20,000 is provided solely for fiscal year 1986 from the general fund appropriation for the Washington state institute for public policy to complete the Washington state minorities incarceration study using the staff of the University of Washington. \$15,000 of this amount is provided solely for increasing the number of sample counties in the study. \$5,000, or the amount equal to the unexpended balance of the 1983–85 appropriation for

this purpose, is provided solely for continuation of the original study. The expanded study shall be presented to the legislature by November 1, 1985.

(4) \$50,000 of the fiscal year 1986 and \$45,000 of the fiscal year 1987 general fund appropriations are provided solely for the institute of public policy to conduct a study using the staff of the school of business administration at the University of Washington to update the 1972 Washington input-output study. The study shall be completed and a report made to the senate and house ways and means committees by June 30, 1987.

(5) A maximum of \$40,000 from the general fund—state appropriation may be spent for matching funds as provided in this subsection. The Washington state center for the improvement of the quality of undergraduate instruction shall include The Evergreen State College, as a participant with other higher education institutions desiring to participate, in instructional program innovation through the establishment of federated learning centers. State funds shall be matched with cash matching funds to the greatest extent possible.

(6) The office of financial management shall initially allot for the following:

- (a) Equipment \$722,000
- (b) Plant operations and maintenance \$6,184,000

(7) A maximum of \$178,000 may be spent on intercollegiate sports activities.

(8) \$20,000 of the fiscal year 1987 appropriation is provided solely to the institute of public policy to conduct a study of social, economic, and demographic trends and their policy implications for the state of Washington.

NEW SECTION, Sec. 602. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION**

General Fund Appropriation . . . . . \$ 261,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for necessary expenditures attributable to the fire of February 16, 1987, at Everett Community College, including cleanup of the fire site, repair of damage to telephone and electrical systems, temporary space rental, and replacement of library operating systems and some print materials.

NEW SECTION, Sec. 603. A new section is added to chapter 373, Laws of 1985 to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION**

General Fund Appropriation . . . . . \$ 470,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to remodel and equip

existing space at Everett Community College to house library, food service and other functions displaced as a result of the fire of February 16, 1987, and to program and design replacement facilities totalling 55,000 square feet for the library and student center functions.

**NEW SECTION.** Sec. 604. (1) The amounts specified, or so much thereof as may be necessary, are appropriated to the designated institutions of higher education from the general fund for the biennium ending June 30, 1987, solely to provide the specified average salary increases for academic and exempt employees, including state-funded full-time faculty, departmental chairs, medical residents, teaching and research assistants, librarians, counselors, and instructional and professional staff, and including part-time community college faculty, but excluding presidents, chancellors, chief executive officers, provosts, vice-presidents, and deans in all higher education institutions, and senior administrative officials in the four-year universities and The Evergreen State College who report directly to the excluded persons, effective March 1, 1987, or on the first day of the month in which this act takes effect, whichever is later:

(a) \$2,170,000 to the University of Washington for an average salary increase of 5.0 percent;

(b) \$1,015,000 to Washington State University for an average salary increase of 5.0 percent;

(c) \$240,000 to Central Washington University for an average salary increase of 4.5 percent;

(d) \$277,000 to Eastern Washington University for an average salary increase of 4.5 percent;

(e) \$132,000 to The Evergreen State College for an average salary increase of 4.5 percent;

(f) \$322,000 to Western Washington University for an average salary increase of 4.5 percent; and

(g) \$2,130,000 to the state board for community college education, for an average salary increase of 4.0 percent.

(2) This section shall not prevent the granting of equivalent salary increases to research faculty supported by moneys other than state funds as long as sufficient moneys exist to support such increases.

(3) The salary increases authorized by this section shall terminate on June 30, 1987, unless reauthorized in the 1987-89 biennial appropriations act.

## PART VII SPECIAL APPROPRIATIONS

Sec. 701. Section 707, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

### FOR THE STATE TREASURER—TRANSFERS

General Fund Appropriation: For transfer to the General Fund—Institutional Impact Account .....	\$	((350,000))
		<u>510,000</u>
General Fund Appropriation: For transfer to the Energy Account—Nonappropriated, for interest earned in prior biennia .....	\$	164,733
General Fund Appropriation: For transfer to the General Fund—Flood Control Assistance Account pursuant to RCW 86.26-.007 .....	\$	4,000,000
General Fund—Forest Development Account Appropriation: For transfer to the General Fund—Resource Management Cost Account to the extent funds are available as determined by the department of natural resources. The department shall provide the state treasurer with a schedule of such transfers .....	\$	11,908,000
Motor Vehicle Fund—Highway Stabilization Account Appropriation: For transfer to the Motor Vehicle Fund—State .....	\$	25,000,000
Motor Vehicle Fund Appropriation: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation and the Washington state patrol during the period July 1, 1985, through June 30, 1987 .....	\$	11,250,000
State Treasurer's Service Fund Appropriation: For transfer to the general fund on or before July 20, 1987, an amount up to \$9,853,000 in excess of the cash requirements in the State Treasurer's Service Fund for fiscal year 1988, for credit to the fiscal year in which earned .....	\$	9,853,000
General Fund—Charitable, Educational, Penal and Reformatory Institutions Account Appropriations: For transfer to the General Fund—Resource Management Cost Account to the extent that funds are available as determined by the department of natural resources. The department shall provide the state treasurer with a schedule of such transfers .....	\$	600,000

General Fund Appropriation: For transfer to the Tort Claims Revolving Fund on June 30, ((1985)) 1987 . . . . . \$ ((2,000,000))  
6,115,000

General Fund Appropriation: For transfer to the Tort Claims Revolving Fund as required to maintain a positive working capital balance . . . . . \$ 2,000,000

Sec. 702. Section 711, chapter 6, Laws of 1985 ex. sess. as amended by section 707, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premiums tax distribution . . . . . \$ ((3,599,171))  
4,889,205

General Fund Appropriation for public utility district excise tax distribution . . . . . \$ ((22,129,000))  
21,585,279

General Fund Appropriation for prosecuting attorneys' salaries . . . . . \$ ((1,708,071))  
1,768,071

General Fund Appropriation for motor vehicle excise tax distribution . . . . . \$ ((45,955,000))  
49,374,722

General Fund Appropriation for local mass transit assistance . . . . . \$ ((138,500,000))  
145,145,505

General Fund Appropriation for camper and travel trailer excise tax distribution . . . . . \$ ((1,712,190))  
1,717,666

General Fund—Aquatic Lands Enhancement Account Appropriation for aquatic lands revenue distribution . . . . . \$ 56,100

Liquor Excise Tax Fund Appropriation for liquor excise tax distribution . . . . . \$ ((17,881,633))  
18,686,210

Motor Vehicle Fund Appropriation for motor vehicle fuel tax distribution . . . . . \$ ((257,401,676))  
263,540,027

Liquor Revolving Fund Appropriation for liquor profits distribution . . . . . \$ ((41,000,000))  
40,150,000

General Fund—Timber Tax Distribution Account Appropriation for distribution to "Timber" counties .....	\$	((36,890,000))
		<u>33,864,336</u>
General Fund—Municipal Sales and Use Tax Equalization Account Appropriation .....	\$	((24,745,000))
		<u>26,590,257</u>
General Fund—County Sales and Use Tax Equalization Account Appropriation .....	\$	((8,300,000))
		<u>8,493,886</u>
General Fund—Death Investigations Account Appropriation for distribution to counties for public funded autopsies .....	\$	480,000
Total Appropriation .....	\$	((600,357,841))
		<u>616,341,264</u>

Sec. 703. Section 712, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—FEDERAL REVENUES FOR DISTRIBUTION**

Federal Forest Revolving Fund Appropriation for federal forest fund distribution .....	\$	((25,164,000))
		<u>47,607,000</u>
General Fund Appropriation for federal flood control funds distribution .....	\$	30,000
General Fund Appropriation for federal grazing fees distribution .....	\$	50,000
General Fund—Geothermal Account Appropriation .....	\$	117,260
General Fund Appropriation for distribution to counties in conformance with Public Law 97-99 .....	\$	837,896
Total Appropriation .....	\$	((26,199,156))
		<u>48,642,156</u>

Sec. 704. Section 903, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

The state treasurer shall transfer to the general fund \$((1,500,000)) 2,169,000 from the public facilities construction loan and grant revolving account on or before June 30, 1987.

**NEW SECTION.** Sec. 705. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

<b>FOR THE GOVERNOR—PACIFIC CELEBRATION</b>		
General Fund Appropriation .....	\$	150,000



The appropriation in this section is for preparatory development of Pacific celebration events.

**PART VIII  
CAPITAL PROJECTS**

**NEW SECTION.** Sec. 801. A new section is added to chapter 373, Laws of 1985 to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

To reimburse the legislature for the legislative building renovation project.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		419,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		419,000

Sec. 802. Section 119, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Temple of Justice renovation (CR-86-1-011)

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		((600,000))
		<u>2,600,000</u>
GF, St Fac Renew Acct		48,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
	((10,000,000))	((10,648,000))
	<u>12,712,000</u>	<u>15,360,000</u>

**NEW SECTION.** Sec. 803. A new section is added to chapter 373, Laws of 1985 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

To provide the state share of the purchase price of Covenant Beach for a public park to be owned and operated by the city of Des Moines, except that this appropriation is contingent on the participation of the city of Des Moines and the county of King in this purchase.

Reappropriation	Appropriation
-----------------	---------------

GF, State Bldg Constr Acct		1,100,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		1,100,000

**NEW SECTION.** Sec. 804. A new section is added to chapter 373, Laws of 1985 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

To purchase building from the United States forest service located at Lewis and Clark state park to be used for state park and other related purposes.

	Reappropriation	Appropriation
General Fund		75,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		75,000

Sec. 805. Section 306, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR EDUCATION**

Public school building construction: 1985-87 (CI-86-4-001)

	Reappropriation	Appropriation
Common School Constr Fund		((+138,275,000))
		<u>153,519,000</u>
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		((+138,275,000))
		<u>153,519,000</u>

Sec. 806. Section 308, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR EDUCATION**

Artwork grants (CI-86-4-008)

	Reappropriation	Appropriation
--	-----------------	---------------

Common School Constr Fund		((325,000))
		<u>445,000</u>

Project Costs Through 6/30/85	Estimated Costs 7/1/87 and Thereafter	Estimated Total Costs
--	--	-----------------------------

((325,000))  
445,000

NEW SECTION. Sec. 807. Section 809, chapter 312, Laws of 1986 (uncodified) is repealed.

NEW SECTION. Sec. 808. A new section is added to chapter 373, Laws of 1985 to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION**

Energy conservation projects: Tacoma Community College (CR-1-010)

	Reappropriation	Appropriation
General Fund		185,000
Project Costs Through 6/30/85	Estimated Costs 7/1/87 and Thereafter	Estimated Total Costs
		185,000

The appropriation in this section is subject to the following conditions and limitations: Funds appropriated under this section shall not be allotted until \$185,000 of local plant funds are deposited in the state general fund.

Sec. 809. Section 373, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

G wing renovation and construction of surge space north of G wing (CR-86-1-011)

	Reappropriation	Appropriation
GF, H Ed Reimb S/T Bonds		6,297,000
Project Costs Through	Estimated Costs 7/1/87 and	Estimated Total Costs

6/30/85

Thereafter

6,297,000

PART IX  
MISCELLANEOUS

NEW SECTION. Sec. 901. 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. 902. 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 26, 1987.

Passed the House March 30, 1987.

Approved by the Governor March 31, 1987.

Filed in Office of Secretary of State March 31, 1987.

---

CHAPTER 8

[Second Substitute House Bill No. 339]

DISTINGUISHED PROFESSORSHIP TRUST FUND PROGRAM FOR HIGHER  
EDUCATION

AN ACT Relating to the distinguished professorship program; adding new sections to chapter 28B.10 RCW; creating a new section; and repealing RCW 28B.10.860, 28B.10.861, 28B.10.862, 28B.10.863, 28B.10.864, and 28B.10.865.

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

NEW SECTION. Sec. 1. The legislature recognizes that quality in the state's public four-year institutions of higher education would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public four-year institutions of higher education in creating endowments for funding distinguished professorships.

NEW SECTION. Sec. 2. The Washington distinguished professorship trust fund program is established.

The program shall be administered by the higher education coordinating board.

The trust fund shall be administered by the state treasurer.

NEW SECTION. Sec. 3. Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. All moneys deposited in the fund shall be invested

by the state treasurer. Notwithstanding RCW 43.84.090, all earnings of investments of balances of the fund shall be credited to the fund. At the request of the higher education coordinating board under section 5 of this act, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund.

**NEW SECTION.** Sec. 4. In consultation with the eligible institutions of higher education, the higher education coordinating board shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of professorships previously received.

Any allocation system shall be superseded by conditions in any act of the legislature appropriating funds for this program.

**NEW SECTION.** Sec. 5. All state four-year institutions of higher education shall be eligible for matching trust funds. An institution may apply to the higher education coordinating board for two hundred fifty thousand dollars from the fund when the institution can match the state funds with an equal amount of pledged or contributed private donations. These donations shall be made specifically to the professorship program, and shall be donated after July 1, 1985.

Upon an application by an institution, the board may designate two hundred fifty thousand dollars from the trust fund for that institution's pledged professorship. If the pledged two hundred fifty thousand dollars is not received within three years, the board shall make the designated funds available for another pledged professorship.

Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the professorship.

**NEW SECTION.** Sec. 6. The professorship is the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution.

The institution is responsible for soliciting private donations, investing and maintaining all endowment funds, administering the professorship, and reporting on the program to the governor and the legislature upon request. The institution may augment the endowment fund with additional private donations. The principal of the invested endowment fund shall not be invaded.

The proceeds from the endowment fund may be used to supplement the salary of the holder of the professorship, to pay salaries for his or her assistants, and to pay expenses associated with the holder's scholarly work.

NEW SECTION. Sec. 7. Any private or public money, including all investment income, deposited in the Washington distinguished professorship trust fund or any local endowment for professorship programs shall not be subject to collective bargaining.

NEW SECTION. Sec. 8. A distinguished professorship program established under chapter 343, Laws of 1985 shall continue to operate under sections 1 through 7 of this act and the requirements of sections 1 through 7 of this act shall apply.

NEW SECTION. Sec. 9. (1) After consulting with the higher education coordinating board and the state four-year institutions of higher education, the governor may transfer the administration of this program to another agency which has an appropriate educationally related mission.

(2) By December 1, 1989, the higher education coordinating board and any agency administering this program, if applicable, shall make recommendations to the governor and the legislature on any needed changes in the program.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 343, Laws of 1985 and RCW 28B.10.860;
- (2) Section 2, chapter 343, Laws of 1985 and RCW 28B.10.861;
- (3) Section 3, chapter 343, Laws of 1985 and RCW 28B.10.862;
- (4) Section 4, chapter 343, Laws of 1985 and RCW 28B.10.863;
- (5) Section 5, chapter 343, Laws of 1985 and RCW 28B.10.864; and
- (6) Section 6, chapter 343, Laws of 1985 and RCW 28B.10.865.

NEW SECTION. Sec. 11. Sections 1 through 9 of this act are each added to chapter 28B.10 RCW.

NEW SECTION. Sec. 12. (1) For the biennium ending June 30, 1989, all appropriations to the Washington distinguished professorship trust fund shall be allocated as provided in this section. The state treasurer shall reserve the following amounts in the trust fund for distribution to four-year higher education institutions at such time as qualifying gifts as defined in section 1 of this act for distinguished professorships have been deposited:

(a) Forty-five percent of the appropriation for the University of Washington;

(b) Thirty percent of the appropriation for Washington State University;

(c) Twenty-five percent of the appropriation divided among Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College.

(2) Distribution of funds allocated in subsection (1)(c) of this section shall be made in the following manner: Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College are guaranteed one professorship. The remaining

professorship shall be allocated on a first come first served basis to a regional university or The Evergreen State College which has used the professorship guaranteed it, and qualified for an additional professorship under section 5 of this act. If the regional universities and The Evergreen State College have not obligated the unassigned professorship by May 1, 1989, that professorship may be allocated to either the University of Washington or Washington State University in accordance with rules promulgated by the higher education coordinating board.

(3) As of January 1, 1989, if any funds reserved in subsection (1) (a) or (b) of this section have not been designated as matching funds for qualifying gifts, any four-year institution of higher education, which has already fully utilized the professorships allocated to it by this section, and, in the case of the regional universities and The Evergreen State College, has exhausted the allocation in subsection (1)(c) of this section, may be eligible for such funds under rules promulgated by the higher education coordinating board.

Passed the House March 18, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor March 31, 1987.

Filed in Office of Secretary of State March 31, 1987.

## CHAPTER 9

[Substitute Senate Bill No. 5330]

### DISABILITY ACCOMMODATION REVOLVING FUND

AN ACT Relating to the establishment of a revolving fund to accommodate persons of disability in state employ; adding a new section to chapter 41.04 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 recognizes that persons of disability have faced unfair discrimination in employment. Equal opportunity for persons of disability often necessitate job site changes and equipment purchases. It is the intent of the legislature to remove a potential barrier to employment of persons of disability by giving state agencies, including institutions of higher education, the ability to accommodate the job site and equipment needs of persons of disability without the delay of waiting for an appropriation from the legislature.

**NEW SECTION.** Sec. 2. A new section is added to chapter 41.04 RCW to read as follows:

(1) The disability accommodation revolving fund is created in the custody of the state treasurer. Disbursements from the fund shall be on authorization of the director of the department of personnel or the director's designee. The fund is subject to the allotment procedure provided under

chapter 43.88 RCW, but no appropriation is required for disbursements. The fund shall be used exclusively by state agencies to accommodate the unanticipated job site or equipment needs of persons of disability in state employ.

(2) The director of the department of personnel shall appoint an advisory review board to review and approve requests for disbursements from the disability accommodation revolving fund. The review board shall establish application procedures, adopt criteria, and provide technical assistance to users of the fund.

(3) Agencies that receive moneys from the disability accommodation revolving fund shall return to the fund the amount received from the fund by no later than the end of the first month of the following fiscal biennium.

**NEW SECTION.** Sec. 3. The sum of two hundred thousand dollars is appropriated from the general fund to the disability accommodation revolving fund for the purposes of this act.

Passed the Senate March 9, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

## CHAPTER 10

[Senate Bill No. 5331]

### PERSONS OF DISABILITY—EMPLOYMENT SECURITY DEPARTMENT TO DEVELOP PROPOSALS FOR ROUTINE COLLECTION OF EMPLOYMENT DATA FOR PERSONS OF DISABILITY

AN ACT Relating to the collection of employment and unemployment data on persons of disability; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature has recognized the need for particularized data on the employment of persons of disability. The state does not currently collect data on the number of employed or unemployed persons of disability. Collection of such data can facilitate the development of targeted programs to assist persons of disability in finding and maintaining employment.

**NEW SECTION.** Sec. 2. The employment security department shall develop alternative proposals to accomplish the routine collection of data on



employment of persons of disability. The department shall submit the proposals to the house of representatives and senate commerce and labor and ways and means committees by December 1, 1987.

Passed the Senate February 20, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

## CHAPTER 11

[Senate Bill No. 5060]

### INTOXICATED PEDESTRIANS—LAW ENFORCEMENT OFFICER RESPONSE

AN ACT Relating to pedestrians under the influence of alcohol or drugs; and amending RCW 46.61.266.

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

Sec. 1. Section 43, chapter 62, Laws of 1975 and RCW 46.61.266 are each amended to read as follows:

A law enforcement officer may offer to transport a pedestrian who ((is)) appears to be under the influence of alcohol or any drug ((to a degree which renders himself a hazard shall not walk or be upon a highway except on a sidewalk or, where there is no sidewalk, then off the main traveled portion of the highway)) and who is walking along or within the right of way of a public roadway, unless the pedestrian is to be taken into protective custody under RCW 70.96A.120.

The law enforcement officer offering to transport an intoxicated pedestrian under this section shall:

(1) Transport the intoxicated pedestrian to a safe place; or

(2) Release the intoxicated pedestrian to a competent person.

The law enforcement officer shall take no action if the pedestrian refuses this assistance. No suit or action may be commenced or prosecuted against the law enforcement officer, law enforcement agency, the state of Washington, or any political subdivision of the state for any act resulting from the refusal of the pedestrian to accept this assistance.

Passed the Senate February 9, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

CHAPTER 12

[Senate Bill No. 5197]

COMMUNITY COLLEGE INTERNATIONAL STUDENT EXCHANGE PROGRAM

AN ACT Relating to the community college international student exchange program for students of foreign nations; and adding new sections to chapter 28B.15 RCW.

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

NEW SECTION. Sec. 1. The community college international student exchange program is hereby established.

NEW SECTION. Sec. 2. The legislature intends to permit the governing boards of the community colleges to charge resident tuition and fees for students of foreign nations who are participants in the international student exchange program.

NEW SECTION. Sec. 3. The boards of trustees of the community colleges may waive the nonresident portion of tuition fees for undergraduate students of foreign nations as follows:

(1) Priority in the awarding of waivers shall be given to students on academic exchanges and students participating in special programs recognized through formal agreements between states, cities, or institutions;

(2) The waiver programs under this section shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of foreign students granted resident tuition through this program shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period;

(3) Participation shall be limited to one hundred full-time foreign students each year.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act are added to chapter 28B.15 RCW.

Passed the Senate March 10, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

CHAPTER 13

[Senate Bill No. 5010]

LEGISLATIVE TERMS OF OFFICE—COMMENCEMENT DATE

AN ACT Relating to legislative terms of office; amending RCW 44.07B.870; and recodifying RCW 44.07B.870.

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

Sec. 1. Section 68, chapter 288, Laws of 1981 and RCW 44.07B.870 are each amended to read as follows:

The regular term of office of each senator and representative (~~(elected after May 18, 1981;)~~) shall commence on the second Monday in January following the date of election.

NEW SECTION. Sec. 2. RCW 44.07B.870 is recodified as a section in chapter 44.04 RCW.

Passed the Senate January 27, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

## CHAPTER 14

[Substitute Senate Bill No. 5849]

### INSURANCE CANCELLATION OR NONRENEWAL—AGENT OR BROKER TO RECEIVE NOTICE

AN ACT Relating to insurance; and adding a new section to chapter 48.18 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.18 RCW to read as follows:

Whenever a notice of cancellation or nonrenewal is required to be furnished to an insured under any provision of this chapter, a copy of such notice shall be provided at the same time to the agent or broker of record for the insured.

Passed the Senate March 11, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

## CHAPTER 15

[Substitute House Bill No. 492]

### HIGHER EDUCATION FEES—PERIODIC PAYMENT PLAN REVISED

AN ACT Relating to the payment of tuition and fees; amending RCW 28B.15.411; reenacting and amending RCW 28B.15.031; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 1, chapter 356, Laws of 1985 and RCW 28B.15.411 are each amended to read as follows:

Each institution of higher education, at its discretion, may offer students an optional plan to pay in advance the (~~(general tuition)~~) building

fees, operating fees, and services and activities fees for any quarter or semester in periodic installments, as established by that institution of higher education.

~~((This section shall expire June 30, 1987.))~~

Sec. 2. Section 2, chapter 279, Laws of 1971 ex. sess. as last amended by section 2, chapter 356, Laws of 1985 and by section 13, chapter 390, Laws of 1985 and RCW 28B.15.031 are each reenacted and amended to read as follows:

The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be transmitted to the state treasurer within thirty-five days of receipt to be deposited in the state general fund: PROVIDED, That two and one-half percent of moneys received as operating fees be exempt from such deposit and be retained by the institutions for the purposes of RCW 28B.15.820: PROVIDED FURTHER, That ~~((until June 30, 1987,))~~ money received by institutions of higher education ~~((participating in))~~ from the periodic payment plan authorized by RCW 28B.15.411 shall be transmitted to the state treasurer within five days following the close of registration of the appropriate quarter or semester.

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, 1987.

Passed the House March 6, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 2, 1987.

Filed in Office of Secretary of State April 2, 1987.

## CHAPTER 16

[Engrossed Substitute House Bill No. 296]

## LOCAL GOVERNANCE STUDY COMMISSION EXTENDED

AN ACT Relating to the local governance study commission; amending RCW 43.63A-.253, 43.63A.255, and 43.63A.256; adding a new section to chapter 82.08 RCW; making an appropriation; 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 82.08 RCW to read as follows:

For the biennium beginning July 1, 1987, distributions of liquor excise tax receipts to counties, cities, and towns under RCW 82.08.170 shall be altered as follows: After apportioning, but prior to distributing moneys in the liquor excise tax fund to counties, cities, and towns under RCW 82.08-.170, an amount equal to sixteen thousand dollars from the amount to be apportioned to counties, and sixteen thousand dollars from the amount to be apportioned to cities and towns shall be placed into the local governance study commission account for each of the quarterly distributions on July 1, 1987, October 1, 1987, January 1, 1988, and April 1, 1988.

This section shall expire June 30, 1988.

Sec. 2. Section 4, chapter 388, Laws of 1985 and RCW 43.63A.253 are each amended to read as follows:

The commission shall:

(1) Identify and examine the present demographic and governmental service provision of cities, counties, and special purpose districts together with an examination of the present manner in which revenues are received for the provision of services by the various jurisdictions;

(2) Examine the public policies and history that led to the current situation;

(3) Analyze why policies that are identified in the study had an impact on growth and development in the state of Washington and why they contributed to the current situation;

(4) Examine the policies, practices, and experiences in other states in regard to allocating responsibility, revenue authority, and responsiveness to provide governmental services;

(5) Create advisory committees of representatives of special purpose districts, to advise the commission on issues affecting the operation of these districts, and members of the private sector;

(6) Develop recommended policy, statutory, and constitutional changes as may be determined would serve to better define the appropriate roles and activities of cities, counties, and special purpose districts and their interrelationship to one another; and

(7) Submit to the governor and the legislature a report containing the commission's findings, conclusions, and recommendations by ~~((November 1, 1986))~~ January 2, 1988.

Sec. 3. Section 9, chapter 388, Laws of 1985 and RCW 43.63A.255 are each amended to read as follows:

RCW 43.63A.250 through 43.63A.254 shall expire June 30, ~~((1987))~~ 1988.

Sec. 4. Section 7, chapter 388, Laws of 1985 and RCW 43.63A.256 are each amended to read as follows:

The local ~~((government))~~ governance study commission account is hereby established in the state treasury. Moneys shall be placed into the local government study commission account as provided in RCW 82.44.151 to be used by the department of community development ~~((for the biennium ending June 30, 1987))~~ through the fiscal year ending June 30, 1988, to carry out the purposes of RCW 43.63A.250 through 43.63A.254.

This section shall expire June 30, ~~((1987))~~ 1988.

NEW SECTION. Sec. 5. There is appropriated from the local governance study commission account to the department of community development for the fiscal year ending June 30, 1988, the sum of one hundred twenty-eight thousand dollars or so much thereof as may be necessary, to carry out the purposes of this act.

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 June 30, 1987.

Passed the House March 12, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

## CHAPTER 17

[Substitute House Bill No. 11]

### EMERGENCY SERVICE COMMUNICATION DISTRICTS

AN ACT Relating to emergency service communication; adding new sections to chapter 82.14B RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. In lieu of providing a county-wide system of emergency service communication, the legislative authority of a county may establish one or more less than county-wide emergency service communication districts within the county for the purpose of providing and funding

emergency service communication systems. An emergency service communication district is a quasi municipal corporation, 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, and to sue and be sued.

The county legislative authority shall be the governing body of an emergency service communication district. The county treasurer shall act as the ex officio treasurer of the emergency services communication district. The electors of an emergency service communication district are all registered voters residing within the district.

NEW SECTION. Sec. 2. (1) A county legislative authority proposing to establish an emergency service communication district, or to modify the boundaries of an existing emergency service communication district, or to dissolve an existing emergency service communication district, shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days prior to the hearing, in a newspaper of general circulation within the emergency service communication district, or proposed emergency service communication district. This notice shall be in addition to any other notice required by law to be published. Additional notice of the hearing may be given by mail, posting within the proposed emergency service communication district, or in any manner the county legislative authority deems necessary to notify affected persons. All hearings shall be public and the county legislative authority shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the emergency service communication district.

(2) Following the hearing held pursuant to subsection (1) of this section, the county legislative authority may call a special election on one of the dates specified in RCW 29.13.020, and submit a ballot proposition to establish the emergency service communication district, modify the boundaries of the emergency service communication district, or dissolve the emergency service communication district, if the county legislative authority finds the action to be in the public interest and adopts a resolution providing for the action. A ballot proposition to establish an emergency service communication district shall be submitted to the voters of the proposed district. A ballot proposition to modify the boundaries of an emergency service communication district shall be submitted to the voters resident in the area to be annexed to, or deannexed from, the district. A ballot proposition to dissolve an emergency service communication district shall be submitted to the voters of the district. Approval shall be by a simple majority vote.

**NEW SECTION.** Sec. 3. An emergency service communication district is authorized to finance and provide an emergency service communication system and, if authorized by the voters, to finance the system by imposing the excise tax authorized in RCW 82.14B.030.

**NEW SECTION.** Sec. 4. RCW 82.14B.040 through 82.14B.060 apply to any emergency service communication district established under sections 1 through 3 of this act. A ballot proposition to authorize the excise tax authorized under RCW 82.14B.040 through 82.14B.060 may be submitted to the voters of a proposed emergency service communication district at the same election the ballot proposition creating the district is submitted. The authority to impose the tax shall only exist if both of these ballot propositions are approved.

**NEW SECTION.** Sec. 5. Sections 1 through 4 of this act are each added to chapter 82.14B RCW.

**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 House January 26, 1987.

Passed the Senate March 25, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

---

## CHAPTER 18

[Substitute House Bill No. 9]

### PUBLIC UTILITY DISTRICTS—COMBINED UTILITY FUNCTIONS— ACCOUNTING

AN ACT Relating to public utility district accounting; and adding new sections to chapter 54.16 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 54.16 RCW to read as follows:

A public utility district by resolution may combine two or more of its separate utility functions into a single utility and combine its related funds or accounts into a single fund or account. The separate utility functions include electrical energy systems, domestic water systems, irrigation systems, sanitary sewer systems, and storm sewer systems. All powers granted to public utility districts to acquire, construct, maintain, and operate such systems may be exercised in the joint acquisition, construction, maintenance, and operation of such combined systems. The establishment, maintenance, and operation of the combined system shall be governed by the public utility



district statutes relating to one of the utility systems that is being combined, as specified in the resolution combining the utility systems.

**NEW SECTION.** Sec. 2. A new section is added to chapter 54.16 RCW to read as follows:

A public utility district may make and repay interfund loans between its funds.

Passed the House January 28, 1987.

Passed the Senate March 25, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

## CHAPTER 19

[Substitute House Bill No. 263]

### LOCAL GOVERNMENTS—LOAN AGREEMENTS WITH THE STATE OR FEDERAL GOVERNMENT

AN ACT Relating to local government debt; adding a new chapter to Title 39 RCW; adding a new section to chapter 39.36 RCW; adding a new section to chapter 43.155 RCW; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. As used in this chapter, "municipal corporation" includes counties, cities, towns, port districts, sewer districts, water districts, school districts, metropolitan park districts, or such other units of local government which are authorized to issue obligations.

**NEW SECTION.** Sec. 2. Any municipal corporation may enter into a loan agreement containing the terms and conditions of a loan from an agency of the state of Washington or the United States of America and evidencing the obligation of the municipal corporation to repay that loan under the terms and conditions set forth in the loan agreement. A loan agreement may provide that the municipal corporation will repay the loan solely from revenues set aside into a special fund for repayment of that loan. In the case of a municipal corporation authorized to borrow money payable from taxes, and authorized to levy such taxes, the loan agreement may provide that repayment of the loan is a general obligation of the municipal corporation, or both a general obligation and an obligation payable from revenues set aside into a special fund.

The state or federal agency making the loan shall have such rights of recovery in the event of default in payment or other breach of the loan agreement as may be provided in the loan agreement or otherwise by law.

**NEW SECTION.** Sec. 3. Nothing in this chapter authorizes municipal corporations to incur indebtedness beyond constitutional indebtedness limitations.

**NEW SECTION.** Sec. 4. The authority under this chapter is supplemental and in addition to the authority to issue obligations under any other provision of law.

**NEW SECTION.** Sec. 5. A new section is added to chapter 39.36 RCW to read as follows:

This chapter does not apply to a loan made pursuant to a loan agreement under chapter 39.— RCW (sections 1 through 4 of this act), and any computation of indebtedness under this chapter shall exclude the amount of any loan under such a loan agreement.

**NEW SECTION.** Sec. 6. A new section is added to chapter 43.155 RCW to read as follows:

Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.— RCW (sections 1 through 4 of this act).

**NEW SECTION.** Sec. 7. Sections 1 through 4 of this act shall constitute a new chapter in Title 39 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 House March 6, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

## CHAPTER 20

[Substitute Senate Bill No. 5193]

### MINING—PERMITS, LEASES, CONTRACTS—REVISIONS

AN ACT Relating to mining on public lands; amending RCW 79.01.616, 79.01.618, 79.01.620, 79.01.624, 79.01.628, 79.01.632, 79.01.633, 79.01.634, 79.01.640, 79.01.644, 79.01.650, and 79.90.330; adding new sections to chapter 79.01 RCW; and repealing RCW 79.01.636.

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

Sec. 1. Section 155, chapter 255, Laws of 1927 as amended by section 2, chapter 56, Laws of 1965 and RCW 79.01.616 are each amended to read as follows:

The department of natural resources (~~(shall have the power to execute)~~) may issue permits and leases(;) for prospecting, and contracts for the mining of valuable minerals and specified materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any public lands belonging to or held in trust by the state, or which have been sold and the minerals

thereof reserved by the state(~~(to any person;))~~) in tracts ((of)) not to exceed ((the equivalent of one section and not less than the equivalent of one-sixteenth of a section in legal subdivisions according to the United States government surveys)) six hundred forty acres or an entire government-surveyed section.

NEW SECTION. Sec. 2. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.617:

The department of natural resources may offer nonrenewable placer mining contracts by public auction for the mining of gold under terms set by the department. In the case of lands known to contain valuable minerals or specified materials in commercially significant quantities, the department may offer mining contracts by public auction.

Sec. 3. Section 3, chapter 56, Laws of 1965 as amended by section 200, chapter 3, Laws of 1983 and RCW 79.01.618 are each amended to read as follows:

The department of natural resources ((shall have the authority to promulgate all reasonable)) may adopt rules ((and regulations)) necessary for carrying out the mineral leasing, contracting, and permitting provisions of RCW 79.01.616 through ((79.01.650)) 79.01.651. Such rules ((and regulations)) shall be enacted under ((the provisions of)) chapter 34.04 RCW. The department may amend or rescind any rules ((or regulations promulgated)) adopted under ((the provisions of)) this section. The department shall publish these rules ((and regulations)) in pamphlet form for the information of the public.

Sec. 4. Section 156, chapter 255, Laws of 1927 as amended by section 4, chapter 56, Laws of 1965 and RCW 79.01.620 are each amended to read as follows:

Any person desiring to obtain a lease ((or leases)) for mineral prospecting purposes upon any lands in which the mineral rights are owned or administered by the department of natural resources, shall file in the proper office of the department ((of natural resources)) an application or applications therefor, upon the prescribed form(~~(, and shall pay to the department a rental of twenty-five cents per acre for the first year of such lease or leases, payable in advance to the department at the time of making application therefor)),~~) together with ((an)) application fees(~~(- PROVIDED; That)).~~) The department may reject an application for a mineral prospecting lease when the department determines rejection to be in the best interests of the state, and in such case shall inform the applicant of the reason for rejection and refund the application fee. The department may also reject the application and declare ((the first year's rental and)) the application fee forfeited should the applicant fail to ((complete and)) execute the lease. ((The department may upon receipt of an application for a prospecting lease cause an investigation and report to be made, such report to indicate

improvements upon and to the land, the estimated amount of damage which might accrue to the land through prospecting or mining, and the mineral character of the land:))

Sec. 5. Section 157, chapter 255, Laws of 1927 as amended by section 5, chapter 56, Laws of 1965 and RCW 79.01.624 are each amended to read as follows:

~~((In case the lands described in the application for a mineral prospecting lease or mining contract, shall have been leased for any other purpose than mineral prospecting or mining, and the minerals therein reserved by the state, the department of natural resources upon the filing of the application, shall at its option cause a full investigation and report to be made as to the nature and location of the lands applied for, and the estimated amount of damages that will accrue to such lands by reason of prospecting and/or mining therefrom.~~

~~The applicant shall provide compensation for all damages to the lessee's interest and to the state. In case the applicant has not provided for satisfactory compensation to the lessee's interest and to the state, the department may at its discretion require the filing of a cash or surety bond with the department in an amount sufficient in the opinion of the department to cover such compensation until the amount and payment of compensation has been provided for, in accordance with the rules and regulations adopted by the department:))~~ Where the surface rights are held by a third party, the lessee shall not exercise the rights reserved by the state upon lands covered by the lessee's lease or contract until the lessee has provided the department with satisfactory evidence of compliance with the requirements of the state's mineral rights reservations. Where the surface rights are held by the state, the lessee shall not exercise its mineral rights upon lands covered by the lessee's lease or contract until the lessee has made satisfactory arrangements with the department to compensate the state for loss or damage to the state's surface rights.

Sec. 6. Section 158, chapter 255, Laws of 1927 as last amended by section 6, chapter 56, Laws of 1965 and RCW 79.01.628 are each amended to read as follows:

Leases for prospecting purposes ~~((shall))~~ may be for ~~((the))~~ a term of ((two)) up to seven years from the date of the lease. The lessee shall pay an annual lease rental ((on the lease shall be twenty-five cents per acre per year payable in advance to the department of natural resources during the term of the lease)) as set by the board of natural resources. The annual lease rental shall be paid in advance. The lessee~~((, or his assigns;))~~ shall not have the right to extract and remove for commercial sale or use from the leased premises any minerals or specified materials found on the premises except upon ~~((making application for conversion to))~~ obtaining a mining contract. ~~((Upon the commencement of actual mining, recovery, and saving of minerals and specified materials, a minimum royalty of two dollars and~~

~~fifty cents per acre per year in lieu of an annual rental shall become effective.~~

~~The lessee will pay royalties to the state as provided in the mining contract and in the rules and regulations promulgated by the department. The minimum royalty shall be allowed as a credit against royalties due during the calendar year said minimum royalty is paid. The lessee, or his assigns, shall have the right to cut and use such timber found on the leased premises belonging to the state for mining and fuel as provided for in rules and regulations promulgated by the department.)~~ The lessee shall perform annual prospecting work in cost amounts as set by the board of natural resources. The lessee may make payment to the department in lieu of the performance of annual prospecting work for up to three years during the term of the lease. Prospecting work performed must contribute to the mineral evaluation of the leased premises.

The lessee may at any time give notice of intent to terminate the lease if all of the covenants of the lease including reclamation are met. The notice of termination of lease shall be made by giving written notice together with copies of all information obtained from the premises. The lease shall terminate sixty days thereafter if all arrears and sums which are due under the lease up to the time of termination have been paid.

Sec. 7. Section 159, chapter 255, Laws of 1927 as amended by section 7, chapter 56, Laws of 1965 and RCW 79.01.632 are each amended to read as follows:

~~The holder of any prospecting lease(, or his assigns,) shall ((if he apply therefor to the department of natural resources within sixty days prior to the expiration of the prospecting lease,)) have a preference right to a mining contract ((to) on the premises described in ((said)) the lease((, or any part thereof, upon the same terms and royalties as provided in the prospecting lease. Any contract issued upon conversion from a two year prospecting lease shall have deducted the time already expended on said)) if application therefor is made to the department of natural resources at least one hundred eighty days prior to the expiration of the prospecting lease.~~

((At such time as application is made for a mining contract, the lessee shall submit evidence and proof of development work as provided for in rules and regulations promulgated by the department, together with the rental or minimum royalty and the application fee to the department)). A lessee applying for a mining contract shall furnish plans for development leading toward production. The plans shall address the reclamation of the property. A mining contract shall be for a term of twenty years.

The first year of the contract and each year thereafter, the lessee shall perform development work in cost amounts as set by the board of natural resources. The lessee may make payment to the department in lieu of development work.

The lessee may at any time give notice of intent to terminate the contract if all of the covenants of the contract including reclamation are met. The notice of termination of contract shall be made by giving written notice together with copies of all information obtained from the premises. The contract shall terminate sixty days thereafter if all arrears and sums which are due under the contract up to the time of termination have been paid.

The lessee shall have sixty days from the termination date of the contract in which to remove improvements, except those necessary for the safety and maintenance of mine workings, from the premises without material damage to the land or subsurface covered by the contract. However, the lessee shall upon written request to the department be granted an extension where forces beyond the control of the lessee prevent removal of the improvements within sixty days.

Any lessee not converting a ((two year)) prospecting lease to a mining contract ((or being refused a contract by the department)) shall not be entitled to a new prospecting lease ((or mining contract)) on the lease premises ((leased)) for one year from the expiration date of the prior lease. Such lands included in ((said)) the prospecting lease ((or contract conversion)) shall be open to application by any person other than the prior lessee, ((his)) and the lessee's agents or associates during the year period described above.

Sec. 8. Section 8, chapter 56, Laws of 1965 and RCW 79.01.633 are each amended to read as follows:

Where the surface rights have been sold and the minerals retained by the state, the state's right of entry to these lands is hereby transferred and assigned to the lessee during the life of the lease or contract ((and said lessee herewith shall be responsible for providing compensation to the owner of the surface rights for damages incurred through prospecting and mining)). No lessee shall commence any operation upon lands covered by his or her lease or contract until ((such lessee has provided for compensation to the owners of private rights thereon according to law)) the lessee has complied with RCW 79.01.624.

Sec. 9. Section 9, chapter 56, Laws of 1965 and RCW 79.01.634 are each amended to read as follows:

The department of natural resources shall ((automatically)) terminate and cancel a prospecting lease or mining contract upon failure of the lessee to make payment of the annual rental or royalties or comply with the terms and conditions of said lease or contract upon the date such payments and compliances are due. The lessee shall be notified of such termination and cancellation, said notice to be mailed to the last known address of the lessee. Termination and cancellation shall become effective thirty days from the date of mailing said notice: PROVIDED, That the department may, upon written request from the lessee, grant an extension of time in which to make such payment or comply with said terms and conditions.

Sec. 10. Section 161, chapter 255, Laws of 1927 as amended by section 11, chapter 56, Laws of 1965 and RCW 79.01.640 are each amended to read as follows:

Prospecting leases or mining contracts referred to in chapter 79.01 RCW shall be as prescribed by, and in accordance with rules (~~and regulations promulgated~~) adopted by the department of natural resources.

The department (~~is authorized to insert~~) may include in any mineral prospecting lease or mining contract to be issued under (~~the provisions of~~) this chapter such terms and conditions as are customary and proper for the protection of the rights of the state and of the lessee not in conflict with (~~the provisions of~~) this chapter, or rules (~~and regulations promulgated by the commissioner~~) adopted by the department.

Any lessee shall have the right to contract with others to work or operate the leased premises or any part thereof or to subcontract the same and the use of said land or any part thereof for the purpose of mining for valuable minerals or specified materials, with the same rights and privileges granted to the lessee. Notice of such contracting or subcontracting with others to work or operate the property shall be made in writing to the department.

NEW SECTION. Sec. 11. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.642:

At time of termination for any mineral prospecting lease, permit, mining contract, or placer mining contract, the premises shall be reclaimed in accordance with plans approved by the department.

Sec. 12. Section 162, chapter 255, Laws of 1927 as last amended by section 12, chapter 56, Laws of 1965 and RCW 79.01.644 are each amended to read as follows:

Mining contracts entered into as provided in chapter 79.01 RCW shall (~~in addition to the provisions contained in the form specified~~) provide for the payment to the state of production royalties (~~payable at specified periods and rates to be agreed upon by the department of natural resources and the applicant, but which periods and rates shall be in accordance with the rules and regulations promulgated by the department. The lessee, or his assigns, may apply for the renewal of the contract to the department within ninety days prior to the expiration of said contract. Upon receipt of such application, the department shall make the necessary investigation to determine whether the terms of the contract have been complied with, and if he [it] finds they have been complied with in good faith, he [it] shall then be required to issue a new contract of the premises described in the present contract, or any part thereof, upon the same terms and percentages as are provided for in the present contract. PROVIDED, That the prospecting or exploration period of the present contract shall be waived and the new contract shall specify an annual minimum royalty of not less~~

~~than two dollars and fifty cents per acre)) as set by the board of natural resources. A lessee shall pay in advance annually a minimum royalty which shall be set by the board of natural resources. The minimum royalty shall be allowed as a credit against production royalties due during the contract year.~~

NEW SECTION. Sec. 13. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.645:

The lessee may apply for the renewal of a mining contract, except placer mining contracts issued pursuant to section 2 of this act, to the department within ninety days before the expiration of the contract. Upon receipt of the application, the department shall make the necessary investigation to determine whether the terms of the contract have been complied with, and if the department finds they have been complied with in good faith, the department shall renew the contract. The terms and conditions of the renewal contract shall remain the same except for royalty rates, which shall be determined by reference to then existing law.

Sec. 14. Section 15, chapter 56, Laws of 1965 and RCW 79.01.650 are each amended to read as follows:

The state shall have the right to sell or otherwise dispose of any surface resource, timber, ((sand, or)) rock, gravel, sand, silt, coal, or hydrocarbons, except minerals or materials specifically covered by a mineral prospecting lease or mining contract, found upon the land during the period covered by said lease or contract. The state shall also have the right to enter upon such land and remove same, and shall not be obliged to withhold from any sale any timber for prospecting or mining purposes((:-PROVIDED, That the lessee shall be permitted to use timber as provided in this chapter and in rules and regulations promulgated by the department of natural resources)). The lessee shall, upon payment to the department of natural resources, have the right to cut and use timber found on the leased premises for mining purposes as provided in rules adopted by the department.

NEW SECTION. Sec. 15. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.651:

The department may issue permits for recreational mineral prospecting in designated areas containing noneconomic mineral deposits. The term of a permit shall not exceed one year. Designated areas, equipment allowed, methods of prospecting, as well as other appropriate permit conditions, shall be set in rules adopted by the department. Fees shall be set by the board of natural resources.

Sec. 16. Section 39, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.90.330 are each amended to read as follows:

The department of natural resources ~~((shall have the power to execute))~~ may issue permits and leases(;) for prospecting, placer mining contracts, and contracts for the mining of valuable minerals and specific



materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any aquatic lands belonging to the state, or which have been sold and the minerals thereon reserved by the state (~~(, to any person;)~~) in tracts (~~(of)~~) not to exceed (~~((the equivalent of one section and not less than the equivalent of one-sixteenth of a section in legal subdivisions according to the United States government surveys))~~) six hundred forty acres or an entire government-surveyed section. The procedures contained at RCW 79.01.616 through (~~(79.01.650))~~ 79.01.651, inclusive, shall apply thereto.

NEW SECTION. Sec. 17. Section 160, chapter 255, Laws of 1927, section 10, chapter 56, Laws of 1965 and RCW 79.01.636 are each repealed.

Passed the Senate February 20, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

## CHAPTER 21

[Substitute Senate Bill No. 5318]

### BURNING PERMITS—FIRE PROTECTION DISTRICT REVOCATION AUTHORITY

AN ACT Relating to clarifying fire protection districts' authority to issue or revoke burning permits due to air pollution conditions; and amending RCW 52.12.101.

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

Sec. 1. Section 20, chapter 254, Laws of 1947 as amended by section 1, chapter 229, Laws of 1984 and RCW 52.12.101 are each amended to read as follows:

In any district in which the commissioners have adopted and published a resolution assuming the authority of issuing burning permits, a person, firm, or corporation shall not start, permit, or cause to be started or permitted an open fire on any land within a fire protection district, without a written permit issued by the district under terms and conditions as the district establishes by resolution. A fire district shall not assume authority to issue a burning permit for a fire on any forest or cut over land, except as otherwise provided by law. A fire district shall have the authority to revoke a permit issued by the district for the protection of life or property or to prevent or abate the nuisances caused by such burning.

Passed the Senate February 25, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

CHAPTER 22

[House Bill No. 295]

DRIVERS' LICENSE REVOCATION—IMPLIED CONSENT—REVISIONS

AN ACT Relating to the revocation of drivers' licenses; and reenacting and amending RCW 46.20.308.

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

Sec. 1. Section 11, chapter 260, Laws of 1981 as last amended by section 1, chapter 64, Laws of 1986 and by section 5, chapter 153, Laws of 1986 and RCW 46.20.308 are each reenacted and amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. However, in those instances where: (a) The person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample; or (b) as a result of a traffic accident the person is being treated for a medical condition in a hospital, clinic, doctor's office, or other similar facility in which a breath testing instrument is not present, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that (a) his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test, and (b) that his or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the

accident, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61-.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) The department of licensing, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle (~~(upon the public highways of)~~) within this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that refusal would result in the revocation of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege.

(7) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, the department shall immediately notify the person involved in writing by personal service or by certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying the steps he must take to obtain a hearing. Within ten days after receiving such notice the person may, in writing, request a formal hearing. Upon receipt of such request, the department shall afford the person an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the scope of such hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle (~~(upon the public highways of)~~) within this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation of his privilege to drive. The department shall order that the revocation either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as provided in this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during pendency of the hearing and appeal.

(8) If the revocation is sustained after such a hearing, the person whose license, privilege, or permit is revoked has the right to file a petition in the superior court of the county (~~(in which he or she resides, or, if a nonresident of this state, where the charge arose,)~~) of arrest to review the final order of revocation by the department in the manner provided in RCW 46.20.334.

(9) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Passed the House March 6, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 23

[House Bill No. 1]

### PLANTATION CHRISTMAS TREES—BUSINESS AND OCCUPATION TAX EXEMPTION

AN ACT Relating to excise taxation of the production and sale of plantation Christmas trees; amending RCW 82.04.050 and 82.04.100; reenacting and amending RCW 82.04.330; adding a new section to chapter 82.04 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 82.04 RCW, to be codified within RCW 82.04.020 through 82.04.212, to read as follows:

"Plantation Christmas trees" means Christmas trees which are exempt from the timber excise tax under RCW 84.33.170.

Sec. 2. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 231, Laws of 1986 and RCW 82.04.050 are each amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their 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 a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by

such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is 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, or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon, or (e) purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, 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, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of

rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services 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, and 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 enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) Amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

(4) The term shall also include the renting or leasing of tangible personal property to consumers.

(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.

(6) The term shall not include the sale of or charge made for labor and services rendered in respect to 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 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, nor shall it include sales of feed, seed, seedlings, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including plantation Christmas trees and milk, eggs, wool, fur, meat, honey,

or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

(7) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving 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 article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

Sec. 3. Section 82.04.100, chapter 15, Laws of 1961 as last amended by section 2, chapter 148, Laws of 1985 and RCW 82.04.100 are each amended to read as follows:

"Extractor" means every person who from 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 other than plantation Christmas trees, or other natural products, or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. "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; or persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession.

Sec. 4. Section 82.04.330, chapter 15, Laws of 1961 as last amended by section 1, chapter 148, Laws of 1985 and by section 10, chapter 414, Laws of 1985 and RCW 82.04.330 are each reenacted and 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 the person's own lands or upon land in which the person has a present right of possession, any agricultural or horticultural produce or crop, or of raising upon the person's own lands or upon land in which the person has a present right of possession, any plantation Christmas tree or 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 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.

**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 February 27, 1987.

Passed the Senate March 25, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 24

[Engrossed House Bill No. 678]

### RIGHT-TO-KNOW ADVISORY COUNCIL—REVISIONS

AN ACT Relating to the right-to-know advisory council; and amending RCW 49.70.120.

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

Sec. 1. Section 17, chapter 289, Laws of 1984 as amended by section 5, chapter 409, Laws of 1985 and RCW 49.70.120 are each amended to read as follows:

(1) The director shall establish in the department a right-to-know advisory council, which shall consist of sixteen members appointed by the director. Each of these members shall be appointed for a term of three years, provided that of the members of the council first appointed by the director, five shall serve for terms of one year, five shall serve for terms of two years, and five shall serve for terms of three years. Of these members, one shall be appointed from persons having (~~training~~) knowledge and experience in industrial hygiene recommended by recognized labor unions; one from persons recommended by recognized agricultural organizations; one from persons recommended by recognized migrant labor organizations; one from persons recommended by recognized environmental organizations; one from persons



recommended by recognized public interest organizations; one from persons recommended by recognized organizations of chemical industries; one from persons recommended by recognized community organizations; one from persons recommended by recognized organizations of petroleum industries; one from persons recommended by recognized organizations of fire fighters; one from persons recommended by recognized business or trade organizations; one from persons recommended by recognized organizations of small business; one from persons holding an M.D. degree recommended by recognized public health organizations; two persons from professional accident and safety organizations; one person from the technology-based industries; and one from persons with training and experience in environmental epidemiology and toxicology recommended by recognized research or academic organizations. In the event that no recommendations for a particular category of membership are made to the director three months after June 7, 1984, in the case of the initial appointments, or within sixty days of the date of the expiration of the term of office of any member or the occurrence of any vacancy in the case of subsequent appointments, the director shall appoint as a member for that category of membership a person whom the director believes will be representative thereof.

(2) A majority of the membership of the council constitutes a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the members of the council present and voting.

(3) ~~The ((council shall meet regularly as it may determine, and shall also meet at the call of the department))~~ director or the director's designee shall be the nonvoting ex officio chair of the council. The council shall meet at least semiannually at the call of the chair.

(4) The council shall appoint ~~((a chair and))~~ other officers as may be necessary from among its members. The council may, within the limits of any funds appropriated or otherwise made available to it for this purpose, appoint such staff or hire such experts as it may require.

(5) Members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available to it for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

Passed the House February 27, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 25

[House Bill No. 358]

## OFFICE OF THE STATE ACTUARY—QUALIFICATIONS, APPOINTMENT, AND DUTIES REVISED—JOINT COMMITTEE ON PENSION POLICY CREATED

AN ACT Relating to the office of the state actuary and creating a joint committee on pension policy; amending RCW 44.44.010, 44.44.030, and 44.44.040; adding new sections to chapter 44.44 RCW; and repealing RCW 44.44.020.

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

Sec. 1. Section 19, chapter 105, Laws of 1975-'76 2nd ex. sess. and RCW 44.44.010 are each amended to read as follows:

(1) There is hereby created an office within the legislative branch to be known as the office of the state actuary.

(2) The executive head of the office shall be the state actuary who shall be qualified by education and experience in the field of actuarial science ~~((and shall be a member of the American Academy of Actuaries. Such person shall be appointed by a special committee of the legislature consisting of: (a) Three members of the senate selected by the president, two of whom shall be members of the majority party and one of whom shall be a member of the minority party, and (b) three members of the house of representatives selected by the speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party. The original appointment shall be made not later than ninety days after March 19, 1976. A two-thirds vote of the committee shall be required to make the appointment:~~

~~(3) If a vacancy occurs in the position of state actuary it shall be filled in the same manner as the original appointment)).~~

Sec. 2. Section 21, chapter 105, Laws of 1975-'76 2nd ex. sess. and RCW 44.44.030 are each amended to read as follows:

(1) The state actuary shall have the authority to select and employ such research, technical, clerical personnel, and consultants as the actuary deems necessary, whose salaries shall be fixed by the actuary and approved by the joint committee ~~((of legislators referred to in RCW 44.44.010))~~ on pension policy, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

(2) All actuarial valuations and experience studies performed by the office of the state actuary shall be signed by a member of the American academy of actuaries. If the state actuary is not such a member, the state actuary, after approval by the committee, shall contract for a period not to exceed two years with a member of the American academy of actuaries to assist in developing actuarial valuations and experience studies.

Sec. 3. Section 22, chapter 105, Laws of 1975-'76 2nd ex. sess. as amended by section 6, chapter 317, Laws of 1986 and RCW 44.44.040 are each amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law. Reimbursement for such services shall be made to the state actuary pursuant to the provisions of RCW 39.34.130 as now or hereafter amended.

(2) Advise the legislature and the governor regarding ~~((the))~~ pension benefit provisions, and funding policies~~((:))~~ and investment policies of the ~~((department of retirement systems))~~ state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under section 4 of this 1987 act.

NEW SECTION. Sec. 4. A new section is added to chapter 44.44 RCW to read as follows:

(1) There is hereby created a joint committee on pension policy. The committee shall consist of: (a) Eight members of the senate appointed by the president of the senate, four of whom shall be members of the majority party and four of whom shall be members of the minority party; and (b) eight members of the house of representatives appointed by the speaker, four of whom shall be members of the majority party and four of whom shall be members of the minority party. Members of the committee shall be appointed before the close of the 1987 legislative session and before the close of each regular session during an odd-numbered year thereafter.

(2) Each member's term of office shall run from the close of the session in which he or she was appointed until the close of the next regular session

held in an odd-numbered year. If a successor is not appointed during a session, the member's term shall continue until the member is reappointed or a successor is appointed. The term of office for a committee member who does not continue as a member of the senate or house shall cease upon the convening of the next session of the legislature during an odd-numbered year after the member's appointment, or upon the member's resignation, whichever is earlier. Vacancies on the committee shall be filled by appointment in the same manner as described in subsection (1) of this section. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years.

(4) The committee shall establish an executive committee of four members, including the chairperson and the vice-chairperson, representing the majority and minority caucuses of each house.

**NEW SECTION.** Sec. 5. A new section is added to chapter 44.44 RCW to read as follows:

The joint committee on pension policy shall have the following powers and duties:

(1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the legislature;

(2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the legislature; and

(3) Appoint or remove the state actuary by a two-thirds vote of the committee.

**NEW SECTION.** Sec. 6. Section 20, chapter 105, Laws of 1975-'76 2nd ex. sess. and RCW 44.44.020 are each repealed.

Passed the House March 13, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 26

[Substitute House Bill No. 98]  
MILITIA—CIVIL IMMUNITY

AN ACT Relating to the militia; adding a new section to chapter 38.40 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature recognizes that Congress has established comprehensive administrative programs to compensate members

of the military forces for injuries they may incur while performing training for national defense.

**NEW SECTION.** Sec. 2. A new section is added to chapter 38.40 RCW to read as follows:

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

**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 House February 25, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 27

[House Bill No. 204]

### USE TAXATION OF TANGIBLE PERSONAL PROPERTY USED BOTH INSIDE AND OUTSIDE OF WASHINGTON

AN ACT Relating to the taxation of tangible personal property used both inside and outside of Washington; and amending RCW 82.12.0251 and 82.12.035.

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

Sec. 1. Section 51, chapter 37, Laws of 1980 as last amended by section 4, chapter 353, Laws of 1985 and RCW 82.12.0251 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of any article of tangible personal property brought into the state of Washington by a nonresident thereof for his or her use or enjoyment while temporarily within the state of Washington unless such property is used in conducting a nontransitory business activity within the state of Washington; or in respect to the use by a nonresident of (~~(this state)~~) Washington of a motor vehicle or trailer which is registered or licensed under the laws of the state of his or her residence, and which is not required to be registered or

licensed under the laws of ~~((this state))~~ Washington, including motor vehicles or trailers exempt pursuant to a declaration issued by the department of licensing under RCW 46.85.060; or in respect to the use of household goods, personal effects, and private automobiles by a bona fide resident of ~~((this state))~~ Washington or nonresident members of the armed forces who are stationed in ~~((this state))~~ Washington pursuant to military orders, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than ninety days prior to the time he or she entered ~~((this state))~~ Washington.

For purposes of this section, "state" means a state of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof.

Sec. 2. Section 5, chapter 89, Laws of 1967 ex. sess. and RCW 82.12-.035 are each amended to read as follows:

A credit shall be allowed against the taxes imposed by this chapter upon the use of tangible personal property in ~~((this))~~ the state of Washington in the amount that the present user thereof or his or her bailor or donor has paid a retail sales or use tax with respect to such property to any other state of the United States, any political subdivision thereof, ((or)) the District of Columbia, and any foreign country or political subdivision thereof, prior to the use of such property in ~~((this state))~~ Washington.

Passed the House March 2, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 28

[House Bill No. 282]

### PURCHASES MADE WITH FOOD COUPONS—TAX EXEMPTION

AN ACT Relating to retail sales and use tax exemptions for purchases with food coupons; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 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 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales of eligible foods which are purchased with coupons issued under the Food Stamp Act of 1977, notwithstanding anything to the contrary in RCW 82.08.0293.

When a purchase of eligible foods is made with a combination of coupons issued under the Food Stamp Act of 1977 and cash, check, or similar payment, the cash, check, or similar payment shall be applied first to food products exempt from tax under RCW 82.08.0293 whenever possible.

As used in this section, "eligible foods" shall have the same meaning as that established under federal law for purposes of the Food Stamp Act of 1977.

**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 eligible foods which are purchased with coupons issued under the Food Stamp Act of 1977, notwithstanding anything to the contrary in RCW 82.12.0293.

As used in this section, "eligible foods" shall have the same meaning as that established under federal law for purposes of the Food Stamp Act of 1977.

**NEW SECTION.** Sec. 3. This act shall take effect October 1, 1987.

Passed the House February 27, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

## CHAPTER 29

[Substitute Senate Bill No. 5174]

### WASHINGTON LAND BANK—STATE INVESTMENT BOARD AUTHORIZED TO INVEST IN LAND BANK—LAND BANK APPROVAL REQUIRED FOR LAND BANK LOAN DEFERRALS

AN ACT Relating to investment by the state investment board in the Washington land bank; and amending RCW 31.30.080 and 43.33A.080.

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

Sec. 1. Section 8, chapter 284, Laws of 1986 and RCW 31.30.080 are each amended to read as follows:

With approval by the Washington land bank, a borrower may elect, during the first five years of a loan originated by the Washington land bank or in which it participates with another lender, to defer payment of all or any portion of the principal and/or interest due from the borrower to the corporation~~((, unless the))~~ if deferral of such payment ~~((would))~~ will not cause the principal and accrued interest on such loan to exceed sixty-five percent of the original appraised value or the current appraised value, whichever is less. Upon such election, the payment schedule related to such loan shall be recomputed and modified to provide for repayment of the principal amount of the loan plus accrued but unpaid interest and all interest which shall accrue during the period of deferral and thereafter over a term equal to the original term of the loan, commencing as of the date of such deferral.

Sec. 2. Section 8, chapter 3, Laws of 1981 and RCW 43.33A.080 are each amended to read as follows:

The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by chapter 31.30 RCW.

Passed the Senate February 16, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 6, 1987.

Filed in Office of Secretary of State April 6, 1987.

---

## CHAPTER 30

[Senate Bill No. 5034]

### MODEL TRAFFIC ORDINANCE UPDATED

AN ACT Relating to the Model Traffic Ordinance; amending RCW 46.90.300 and 46.90.463; and declaring an emergency.

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

Sec. 1. Section 1, chapter 19, Laws of 1985 as amended by section 1, chapter 24, Laws of 1986 and RCW 46.90.300 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 46.12.070, 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, 46.16.028, 46.16.030, 46.16.088, 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, 46.20.394, 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, 46.52.170, 46.52.180, 46.52.190, 46.52.200, 46.65.090, 46.79.120, and 46.80.010.

Sec. 2. Section 3, chapter 19, Laws of 1985 and RCW 46.90.463 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 46.61.581, 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, 46.61.688, and 46.61.690.

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 9, 1987.

Passed the House March 30, 1987.

Approved by the Governor April 7, 1987.

Filed in Office of Secretary of State April 7, 1987.

---

## CHAPTER 31

[Senate Bill No. 5009]

### OUTPATIENT DIALYSIS FACILITIES—TAX EXEMPTION FOR REAL AND PERSONAL PROPERTY

AN ACT Relating to the exemption from property taxes of outpatient dialysis facilities; and amending RCW 84.36.040.

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

Sec. 1. Section 84.36.040, chapter 15, Laws of 1961 as last amended by section 2, chapter 220, Laws of 1984 and RCW 84.36.040 are each amended to read as follows:

The real and personal property used by nonprofit (1) day care centers as defined pursuant to RCW 74.15.020 as now or hereafter amended; (2) free public libraries; (3) orphanages and orphan asylums; (4) homes for the aged; (5) homes for the sick or infirm; ~~((and;))~~ (6) hospitals for the sick; and (7) outpatient dialysis facilities, which are used for the purposes of such organizations shall be exempt from taxation: PROVIDED, That the benefit of the exemption inures to the user.

To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805.

Passed the Senate January 14, 1987.

Passed the House March 30, 1987.

Approved by the Governor April 7, 1987.

Filed in Office of Secretary of State April 7, 1987.

---

CHAPTER 32

[Reengrossed Senate Bill No. 5955]

SPORTS FRANCHISES—PUBLIC OWNERSHIP

AN ACT Relating to public ownership of professional sports franchises; adding a new section to chapter 35.21 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature hereby declares and finds that professional sports franchises are economic, cultural, and entertainment assets to the state and that unilateral actions by the owners of such franchises to move franchises to other locations result in a loss of direct and indirect employment and national visibility for the state. The legislature finds that the retention of professional sports franchises and the enabling authority created by section 2 of this act are public purposes and that section 2 of this act shall not be construed in any manner contrary to the provisions of Article VIII, section 7, of the Washington state Constitution.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

(1) Any city, code city, or county, individually or collectively, may own and operate an existing professional sports franchise when the owners of such franchises announce their intention to sell or move a franchise.

(2) If a city, code city, or county purchases a professional sports franchise, a public corporation shall be created to manage and operate the franchise. The public corporation created under this section shall have all of the authorities granted by RCW 35.21.730 through 35.21.757.

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 March 20, 1987.

Passed the House April 10, 1987.

Approved by the Governor April 10, 1987.

Filed in Office of Secretary of State April 10, 1987.

## CHAPTER 33

[Senate Bill No. 5019]

### SEWER AND WATER DISTRICT FORMATION OR REORGANIZATION— PETITIONS TO SPECIFY PROPOSED PROPERTY TAX LEVY ASSESSMENT

AN ACT Relating to sewer and water districts; and amending RCW 56.04.030, 56.04-.050, 57.04.030, and 57.04.050.

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

Sec. 1. Section 2, chapter 210, Laws of 1941 as amended by section 2, chapter 140, Laws of 1945 and RCW 56.04.030 are each amended to read as follows:

For the purpose of formation or reorganization of such sewer districts, a petition shall be presented to the board of county commissioners of the county in which said proposed sewer district is located, which petition shall set forth the object for the creation or reorganization of the said district, shall designate the boundaries thereof and set forth the further fact that the establishment or reorganization of said district will be conducive to the public health, convenience and welfare and will be of benefit to the property included therein. The petition shall specify the proposed property tax levy assessment, if any, which shall not exceed one dollar and twenty-five cents per thousand dollars of assessed value, for general preliminary expenses of the district. Said petition shall be signed by at least twenty-five percent of the qualified electors residing within the district described in the said petition: PROVIDED, If in the opinion of the county health officer the existing sewerage disposal facilities are inadequate in the district to be created only, and it is for the public welfare, then the board of county commissioners of such county may declare a sewerage disposal district a necessity, and such district shall be organized under the provisions of this title, and all amendments thereto. The said petition or resolution shall be filed with the county auditor, who shall, within ten days examine the signatures thereof and certify to the sufficiency or insufficiency. For such purpose the county auditor shall have access to all registration books in the possession of the officers of any political subdivision in such proposed district. No person having signed such a petition shall be allowed to withdraw his name therefrom after the filing of the same with the county auditor. If such petition shall be found to contain a sufficient number of signatures, the county auditor shall transmit the same, together with his certificate of sufficiency attached thereto to the

board of county commissioners. If such petition or resolution is certified to contain a sufficient number of signatures, or if in the opinion of the county health officer the existing sewerage disposal facilities are a menace to the health and convenience of the public, the board of county commissioners may, by resolution, and not otherwise, declare a sewerage district a necessity, then at a regular or special meeting of the board of county commissioners of such county, the said county commissioners shall cause to be published for at least once a week for two successive weeks in some newspaper printed and published in said county, and in case no such newspaper be printed or published in such county, then at least once a week for two successive weeks in some newspaper of general circulation therein, giving notice that such a petition has been presented, stating the time of the meeting at which the same shall be presented, and setting forth the boundaries of said proposed district.

Sec. 2. Section 4, chapter 210, Laws of 1941 as last amended by section 61, chapter 195, Laws of 1973 1st ex. sess. and RCW 56.04.050 are each amended to read as follows:

Upon entry of the findings of the final hearing on the petition, if the commissioners find the proposed sewer system will be conducive to the public health, welfare, and convenience and be of special benefit to the land within the boundaries of the said proposed or reorganized district, they shall by resolution call a special election to be held not less than thirty days and not more than sixty days from the date thereof, and shall cause to be published a notice of such election at least once a week for four successive weeks in a newspaper of general circulation in the county, setting forth the hours during which the polls will be open, the boundaries of the proposed or reorganized district as finally adopted, and the object of the election, and the notice shall also be posted for ten days in ten public places in the proposed or reorganized district. The proposition shall be expressed on the ballots in the following terms:

- Sewer District ..... YES
- Sewer District ..... NO

or in the reorganization of a district, the proposition shall be expressed on the ballot in the following terms:

- Sewer District Reorganization ..... YES
- Sewer District Reorganization ..... NO

giving in each instance the name of the district as decided by the board.

At the same election the county commissioners shall submit a proposition to the voters, for their approval or rejection, authorizing the sewer district, if formed, to levy at the earliest time permitted by law on all property located in the district a general tax for one year, in excess of the tax limitations provided by law, ((of)) in the amount specified in the petition to

create the district, not to exceed one dollar and twenty-five cents per thousand dollars of assessed value, for general preliminary expenses of the district, said proposition to be expressed on the ballots in the following terms:

- One year (~~one dollar and twenty-five cents~~) .... dollars and .... cents per thousand dollars of assessed value tax. . . . . YES
- One year (~~one dollar and twenty-five cents~~) .... dollars and .... cents per thousand dollars of assessed value tax . . . . . NO

Such proposition to be effective must be approved by a majority of at least three-fifths of the electors thereof voting on the proposition in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended.

Sec. 3. Section 2, chapter 114, Laws of 1929 as last amended by section 58, chapter 469, Laws of 1985 and RCW 57.04.030 are each amended to read as follows:

For the purpose of formation of water districts, a petition shall be presented to the county legislative authority of each county in which the proposed water district is located, which petition shall set forth the object for the creation of the district, shall designate the boundaries thereof and set forth the further fact that establishment of the district will be conducive to the public health, convenience and welfare and will be of benefit to the property included in the district. The petition shall specify the proposed property tax levy assessment, if any, which shall not exceed one dollar and twenty-five cents per thousand dollars of assessed value, for general preliminary expenses of the district. The petition shall be signed by at least twenty-five percent of the qualified electors who shall be qualified electors on the date of filing the petition, residing within the district described in the petition. The petition shall be filed with the county election officer of each county in which the proposed district is located, who shall, within ten days examine and verify the signatures of the signers residing in the county; and for such purpose the county election official shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed district. No person having signed such a petition shall be allowed to withdraw his name from the petition after the filing of the petition with the county election officer. The petition shall be transmitted to the election officer of the county in which the largest land area of the district is located who shall certify to the sufficiency or insufficiency of the number of signatures. If the petition shall be found to contain a sufficient number of signatures, the county election officer shall then transmit the same, together with a certificate of sufficiency attached thereto to the county legislative authority of each county in which the proposed district is located. Following receipt of a petition certified to contain a sufficient number

of signatures, at a regular or special meeting the county legislative authority shall cause to be published once a week for at least two weeks in one or more newspapers of general circulation in the proposed district, a notice that such a petition has been presented, stating the time of the meeting at which the petition shall be considered, and setting forth the boundaries of the proposed district. When such a petition is presented for hearing, each county legislative authority shall hear the petition or may adjourn the hearing from time to time not exceeding one month in all. Any person, firm, or corporation may appear before the county legislative authority and make objections to the establishment of the district or the proposed boundary lines thereof. Upon a final hearing each county legislative authority shall make such changes in the proposed boundary lines within the county as it deems to be proper and shall establish and define the boundaries and shall find whether the proposed water district will be conducive to the public health, welfare and convenience and be of special benefit to the land included within the boundaries of the proposed district. No lands which will not, in the judgment of the county legislative authority, be benefited by inclusion therein, shall be included within the boundaries of the district. No change shall be made by the county legislative authority in the boundary lines to include any territory outside of the boundaries described in the petition, except that the boundaries of any proposed district may be extended by the county legislative authority to include other lands in the county upon a petition signed by the owners of all of the land within the proposed extension.

Sec. 4. Section 3, chapter 114, Laws of 1929 as last amended by section 11, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.04.050 are each amended to read as follows:

Upon entry of the findings of the final hearing on the petition if one or more county legislative authorities find that the proposed district will be conducive to the public health, welfare, and convenience and be of special benefit to the land therein, they shall by resolution call a special election to be held not less than thirty days from the date of the resolution, and cause to be published a notice of the election for four successive weeks in a newspaper of general circulation in the proposed district, which notice shall state the hours during which the polls will be open, the boundaries of the district as finally adopted and the object of the election, and the notice shall also be posted for ten days in ten public places in the proposed district. In submitting the proposition to the voters, it shall be expressed on the ballots in the following terms:

- Water District . . . . . YES
- Water District . . . . . NO

giving the name of the district as provided in the petition.

At the same election a proposition shall be submitted to the voters, for their approval or rejection, authorizing the water district, if formed, to levy

at the earliest time permitted by law on all property located in the district a general tax for one year, in excess of the limitations provided by law, ((of)) in the amount specified in the petition to create the district, not to exceed one dollar and twenty-five cents per thousand dollars of assessed value, for general preliminary expenses of the district, said proposition to be expressed on the ballots in the following terms:

- One year ((one dollar and twenty-five cents)) ..... dollars and ..... cents per thousand dollars of assessed value tax ..... YES
- One year ((one dollar and twenty-five cents)) ..... dollars and ..... cents per thousand dollars of assessed value tax ..... NO

Such proposition to be effective must be approved by a majority of at least three-fifths of the electors thereof voting on the proposition in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended.

Passed the Senate January 27, 1987.  
Passed the House April 2, 1987.  
Approved by the Governor April 13, 1987.  
Filed in Office of Secretary of State April 13, 1987.

---

**CHAPTER 34**  
[Engrossed Senate Bill No. 5105]  
**POISONS REGULATED**

AN ACT Relating to poisons; amending RCW 16.52.193; 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. As used in this chapter "poison" means:

- (1) Arsenic and its preparations;
- (2) Cyanide and its preparations, including hydrocyanic acid;
- (3) Strychnine; and
- (4) Any other substance designated by the state board of pharmacy which, when introduced into the human body in quantities of sixty grains or less, causes violent sickness or death.

NEW SECTION. Sec. 2. All substances regulated under chapters 15-.58, 17.21, 69.04, 69.41, and 69.50 RCW, and chapter \_\_\_\_ (Engrossed Substitute House Bill No. 931), Laws of 1987 are exempt from the provisions of this chapter.

**NEW SECTION.** Sec. 3. It is unlawful for any person, either on the person's own behalf or while an employee of another, to sell any poison without first recording in ink in a "poison register" kept solely for this purpose the following information:

- (1) The date and hour of the sale;
- (2) The full name and home address of the purchaser;
- (3) The kind and quantity of poison sold; and
- (4) The purpose for which the poison is being purchased.

The purchaser shall present to the seller identification which contains the purchaser's photograph and signature. No sale may be made unless the seller is satisfied that the purchaser's representations are true and that the poison will be used for a lawful purpose. Both the purchaser and the seller shall sign the poison register entry.

**NEW SECTION.** Sec. 4. Every poison register shall be open for inspection by law enforcement and health officials at all times and shall be preserved for at least two years after the date of the last entry. Any person failing to maintain the poison register as required in this chapter is guilty of a misdemeanor.

**NEW SECTION.** Sec. 5. Any person making any false representation to a seller when purchasing a poison is guilty of a gross misdemeanor.

**NEW SECTION.** Sec. 6. The state board of pharmacy, after consulting with the department of licensing, shall require and provide for the annual licensure of every person now or hereafter engaged in manufacturing or selling poisons within this state. Upon a payment of a fee as set by the board, the board shall issue a license in such form as it may prescribe to such manufacturer or seller. Such license shall be displayed in a conspicuous place in such manufacturer's or seller's place of business for which it is issued.

Any person manufacturing or selling poison within this state without a license is guilty of a misdemeanor.

Sec. 7. Section 2, chapter 105, Laws of 1941 and RCW 16.52.193 are each amended to read as follows:

It shall be unlawful for any person other than a registered pharmacist to sell at retail or furnish to any person any strychnine: **PROVIDED**, That nothing herein shall prohibit county, state or federal agents, in the course of their duties, from furnishing strychnine to any person. Every such registered pharmacist selling or furnishing such strychnine shall, before delivering the same, ~~((make or cause to be made an entry in a book kept for that purpose; stating the name and address of the purchaser, the quantity of strychnine purchased, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for at least five years after the last entry))~~ record the transaction as provided in section 3 of



this 1987 act. If any such registered pharmacist shall suspect that any person desiring to purchase strychnine intends to use the same for the purpose of poisoning unlawfully any domestic animal or domestic bird, he may refuse to sell to such person, but whether or not he makes such sale, he shall if he so suspects an intention to use the strychnine unlawfully, immediately notify the nearest peace officer, giving such officer a complete description of the person purchasing, or attempting to purchase, such strychnine.

**NEW SECTION.** Sec. 8. Sections 1 through 6 of this act shall constitute a new chapter in Title 69 RCW.

Passed the Senate April 7, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

---

## CHAPTER 35

[Engrossed Substitute Senate Bill No. 5170]

### NURSERY DEALER LICENSES AND FEES—ROOTSTOCK ANNUAL ASSESSMENT—FUNDS

AN ACT Relating to agricultural fees and assessments; and amending RCW 15.13.280, 15.13.310, and 15.13.470.

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

Sec. 1. Section 4, chapter 33, Laws of 1971 ex. sess. as last amended by section 4, chapter 36, Laws of 1985 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. The application shall be accompanied by ((the following annual licensing fee:)) a fee established by the director by rule. The director shall establish by rule, in accordance with chapter 34.04 RCW, a schedule of fees for retail nursery dealer licenses and a schedule of fees for wholesale nursery dealer licenses which shall be based upon the amount of a person's retail or wholesale sales of horticultural plants and turf. The schedule for retail licenses shall include, but shall not be limited to, separate fees for at least the following two categories: (a) A fee for a person whose gross business sales of such materials do not exceed two thousand five hundred dollars; and (b) a fee for a person whose gross business sales of such materials exceed two thousand five hundred dollars. ((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 to the expiration date by the director for cause. Each license shall be posted in a conspicuous place open to the public in the location for which it was issued.

(5) The department may audit licensees during normal business hours to determine that appropriate fees have been paid.

Sec. 2. Section 7, chapter 33, Laws of 1971 ex. sess. as amended by section 4, chapter 73, Laws of 1983 1st ex. sess. and RCW 15.13.310 are each amended to read as follows:

(1) There is hereby levied an annual assessment ~~((of one percent))~~ on the gross sale price of the wholesale market value for all fruit trees, fruit tree seedlings, ~~((and))~~ fruit tree rootstock, and all other rootstock used for fruit tree propagation produced in Washington, and sold within the state or shipped from the state of Washington by any licensed nursery dealer during any license period, as set forth in this chapter~~((: PROVIDED, That)).~~ The director ((may)) shall by rule subsequent to a hearing~~((, on or after this chapter has been in effect for a period of two years, reduce such assessment to conform))~~ determine the rate of an assessment conforming with the costs necessary to carry out the fruit tree certification and nursery improvement programs specified in RCW 15.13.470.

Such wholesale market price may be determined by the wholesale catalogue price of the seller of such fruit trees, fruit tree seedlings, or fruit tree rootstock or of the shipper moving such fruit trees, fruit tree seedlings, or fruit tree rootstock out of the state. If the seller or shipper do not have a

catalogue, then such wholesale market price may be based on the actual selling price or an average wholesale market price. The director in determining such average wholesale market price may use catalogues of various businesses licensed under the provisions of this chapter or any other reasonable method.

(2) Such assessment shall be due and payable on the first day of July of each year.

(3) The gross sale period shall be from July 1 to June 30 of the previous license period.

(4) The department may audit the records of licensees during normal business hours to determine that the appropriate assessment has been paid.

Sec. 3. Section 25, chapter 33, Laws of 1971 ex. sess. as last amended by section 5, chapter 36, Laws of 1985 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)~~) to the director, deposited in an account within the agricultural local fund, and used solely for carrying out this chapter and rules adopted under this chapter. No appropriation is required for the disbursement of moneys from the account by the director. Any residual balance of funds remaining in the nursery inspection fund on the effective date of this 1987 section shall be transferred to that account within the agricultural local fund; 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. For the purpose of testing and improvement of fruit trees, fruit tree seedlings, fruit tree rootstock, or other plant material used for the propagation of fruit trees, the director may, with advice from the advisory committee under RCW 15.13.320, expend up to fifty percent of the money collected from assessments during each fiscal year ending June 30. At no time may such contribution allow the balance of the northwest nursery fund to fall below the combined program cost of the two previous fiscal years. The amount of this minimum balance shall be determined by the director on June 30 of each year.

Passed the Senate April 7, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

## CHAPTER 36

[Substitute Senate Bill No. 5014]

## WEATHERIZATION OF RESIDENCES OF LOW-INCOME PERSONS

AN ACT Relating to weatherization of residences of low-income persons; adding a new chapter to Title 70 RCW; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds and declares that weatherization of the residences of low-income households will help conserve energy resources in this state and can reduce the need to obtain energy from more costly conventional energy resources. The legislature also finds that rising energy costs have made it difficult for low-income citizens of the state to afford adequate fuel for residential space heat. Weatherization of residences will lower energy consumption, making space heat more affordable for persons in low-income households. It will also reduce the uncollectible accounts of fuel suppliers resulting from low-income customers not being able to pay fuel bills.

The program implementing the policy of this chapter is necessary to support the poor and infirm and also to benefit the health, safety, and general welfare of all citizens of the state.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community development.

(2) "Energy assessment" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

(3) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

(4) "Low income" means household income that is at or below one hundred twenty-five percent of the federally established poverty level.

(5) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

(6) "Residence" means a dwelling unit as defined by the department.

(7) "Sponsor" means any entity that submits a proposal under section 4 of this act, including but not limited to any local community action agency, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

(8) "Sponsor match" means the share, if any, of the cost of weatherization to be paid by the sponsor.

(9) "Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a residence.

(10) "Weatherizing agency" means any approved department grantee or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

**NEW SECTION.** Sec. 3. (1) The low-income weatherization assistance account is created in the state treasury. All moneys from the money distributed to the state pursuant to Exxon v. United States, 561 F.Supp. 816 (1983), affirmed 773 F.2d 1240 (1985), or any other oil overcharge settlements or judgments distributed by the federal government, that are allocated to the low-income weatherization assistance account shall be deposited in the account. The department may accept such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, and shall deposit such funds in the account. Any moneys received from sponsor match payments shall be deposited in the account. The legislature may also appropriate moneys to the account. Moneys in the account shall be spent pursuant to appropriation and only for the purposes and in the manner provided in section 4 of this act. Any moneys appropriated that are not spent by the department shall return to the account.

(2) Notwithstanding RCW 43.84.090, all earnings of investments of balances in the low-income weatherization assistance account shall be credited to the account.

**NEW SECTION.** Sec. 4. (1) The department shall solicit proposals for low-income weatherization programs from potential sponsors. A proposal shall state the amount of the sponsor match, the amount requested from the low-income weatherization assistance account, the name of the weatherizing agency, and any other information required by the department.

(2)(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville Power Administration, or other sources to pay the sponsor match.

(b) Moneys provided by a sponsor pursuant to requirements in this section shall be in addition to and shall not supplant any funding for low-income weatherization that would otherwise have been provided by the sponsor or any other entity enumerated in (a) of this subsection.

(c) No proposal may require any contribution as a condition of weatherization from any household whose residence is weatherized under the proposal.

(d) Proposals shall provide that full levels of all cost-effective structurally feasible measures, as determined by the department, shall be installed when a low-income residence is weatherized.

(3) The department may in its discretion accept, accept in part, or reject proposals submitted. The department shall allocate funds appropriated from the low-income weatherization assistance account among proposals accepted or accepted in part so as to achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers and shall, to the extent feasible, ensure a balance of participation in proportion to population among low-income households for: (a) Geographic regions in the state; (b) types of fuel used for heating; (c) owner-occupied and rental residences; and (d) single-family and multifamily dwellings. The department may allocate funds to a nonutility sponsor without requiring a sponsor match if the department determines that such an allocation is necessary to provide the greatest benefits to low-income residents of the state.

(4) (a) A sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of weatherization, or (ii) make yearly payments to the low-income weatherization assistance account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments shall not be less than the value of the lump sum payment that would have been made under (i) of this subsection.

(b) The department may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(5) The department shall adopt rules to carry out this section.

NEW SECTION. Sec. 5. (1) The department is responsible for ensuring that sponsors and weatherizing agencies comply with the state laws, the department's rules, and the sponsor's proposal in carrying out proposals.

(2) Before a residence is weatherized, the department shall require that an energy assessment be conducted.

NEW SECTION. Sec. 6. Before a leased or rented residence is weatherized, written permission shall be obtained from the owner of the residence for the weatherization. The department shall adopt rules to ensure that: (1) The benefits of weatherization assistance in connection with a leased or rented residence accrue primarily to low-income tenants; (2) as a result of weatherization provided under this chapter, the rent on the residence is not increased and the tenant is not evicted; and (3) as a result of weatherization provided under this chapter, no undue or excessive enhancement occurs in the value of the residence. This section is in the public interest and any violation by a landlord of the rules adopted under this section shall be an act in trade or commerce violating chapter 19.86 RCW, the consumer protection act.

NEW SECTION. Sec. 7. Payments to the low-income weatherization assistance account shall be treated, for purposes of state law, as payments

for energy conservation and shall be eligible for any tax credits or deductions, equity returns, or other benefits for which conservation investments are eligible.

**NEW SECTION.** Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 70 RCW.

**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. 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 6, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

---

## CHAPTER 37

### [Substitute Senate Bill No. 5046] INSURANCE RIDERS

AN ACT Relating to insurance riders; 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; and adding a new section to chapter 48.46 RCW.

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:

Upon application by an insured, a rider shall be canceled if at least five years after its issuance, no health care services have been received by the insured during that time for the condition specified in the rider, and a physician, selected by the carrier for that purpose, agrees in writing to the full medical recovery of the insured from that condition, such agreement not to be unreasonably withheld. The option of the insured to apply for cancellation shall be disclosed on the face of the rider in clear and conspicuous language.

For purposes of this section, a rider is a legal document that modifies a contract to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

**NEW SECTION.** Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

Upon application by an insured, a rider shall be canceled if at least five years after its issuance, no health care services have been received by the

insured during that time for the condition specified in the rider, and a physician, selected by the carrier for that purpose, agrees in writing to the full medical recovery of the insured from that condition, such agreement not to be unreasonably withheld. The option of the insured to apply for cancellation shall be disclosed on the face of the rider in clear and conspicuous language.

For purposes of this section, a rider is a legal document that modifies a contract to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

**NEW SECTION.** Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

Upon application by a subscriber, a rider shall be canceled if at least five years after its issuance, no health care services have been received by the subscriber during that time for the condition specified in the rider, and a physician, selected by the carrier for that purpose, agrees in writing to the full medical recovery of the subscriber from that condition, such agreement not to be unreasonably withheld. The option of the subscriber to apply for cancellation shall be disclosed on the face of the rider in clear and conspicuous language.

For purposes of this section, a rider is a legal document that modifies a contract to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

**NEW SECTION.** Sec. 4. A new section is added to chapter 48.46 RCW to read as follows:

Upon application by an enrollee, a rider shall be canceled if at least five years after its issuance, no health care services have been received by the enrollee during that time for the condition specified in the rider, and a physician, selected by the carrier for that purpose, agrees in writing to the full medical recovery of the enrollee from that condition, such agreement not to be unreasonably withheld. The option of the enrollee to apply for cancellation shall be disclosed on the face of the rider in clear and conspicuous language.

For purposes of this section, a rider is a legal document that modifies a contract to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

Passed the Senate February 19, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.



## CHAPTER 38

[Senate Bill No. 5069]

## PUBLIC SERVICE COMPANY BUDGETS—COMMISSION OBJECTION PERIOD

AN ACT Relating to public service company budgets; and amending RCW 80.04.310.

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

Sec. 1. Section 80.04.310, chapter 14, Laws of 1961 and RCW 80.04-.310 are each amended to read as follows:

The commission may, both as to original and supplementary budgets, prior to the making or contracting for the expenditure of any item therein, and after notice to the company and a hearing thereon, reject any item of the budget. The commission may require any company to furnish further information, data, or detail as to any proposed item of expenditure.

Failure of the commission to object to any item of expenditure within ~~((sixty))~~ ninety days of the filing of any original budget or within thirty days of the filing of any supplementary budget shall constitute authority to the company to proceed with the making of or contracting for such expenditure, but such authority may be terminated any time by objection made thereto by the commission prior to the making of or contracting for such expenditure.

Examination, investigation, and determination of the budget by the commission shall not bar or estop it from later determining whether any of the expenditures made thereunder are fair, reasonable, and commensurate with the service, material, supplies, or equipment received.

Passed the Senate February 26, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

## CHAPTER 39

[Senate Bill No. 5247]

## STATE BOARD OF EDUCATION—AUTHORITY TO DISAPPROVE TEACHER, ADMINISTRATOR, AND PERSONNEL CERTIFICATION PROGRAMS—REVIEW PROGRAM APPROVAL STANDARDS EVERY FIVE YEARS

AN ACT Relating to the state board of education; and reenacting and amending RCW 28A.04.120.

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

Sec. 1. Section 28A.04.120, chapter 223, Laws of 1969 ex. sess. as last amended by section 3, chapter 149, Laws of 1986 and by section 86, chapter 266, Laws of 1986 and RCW 28A.04.120 are each reenacted and amended to read as follows:

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

~~((3))~~ (4) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.70.005.

~~((4))~~ (5) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.02.201, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

~~((5))~~ (6) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

~~((6))~~ (7) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

~~((7))~~ (8) Prepare with the assistance of the superintendent of public instruction a uniform series of questions, with the proper answers thereto

for use in the correcting thereof, to be used in the examination of persons, as this code may direct, and prescribe rules and regulations for conducting any such examinations.

~~((8))~~ (9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

~~((9))~~ (10) Carry out board powers and duties relating to the organization and reorganization of school districts under chapter 28A.57 RCW.

~~((10))~~ (11) By rule or regulation promulgated upon the advice of the director of community development, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

~~((11))~~ (12) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.

Passed the Senate February 20, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

## CHAPTER 40

[Senate Bill No. 5433]

### HIGHER EDUCATION COORDINATING BOARD—ON-GOING DISCUSSIONS WITH WESTERN STATES CONCERNING INTERSTATE RECOGNITION OF TEACHERS, ADMINISTRATORS, AND STAFF CERTIFICATION

AN ACT Relating to higher education programs leading to the certification of teachers; and adding new sections to chapter 28B.80 RCW.

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

NEW SECTION. Sec. 1. (1) The higher education coordinating board, jointly with the state board of education and the superintendent of public instruction, shall establish formal contact with education officials in Oregon, and other member states of the western interstate commission on higher education, as necessary, for the purpose of entering into ongoing discussions relating to:

(a) Accreditation standards for programs leading to certification of teachers, administrators, and educational staff associates;

(b) Program requirements for the preparation of teachers, administrators, and educational staff associates; and

(c) Definitions of educational staff associates.

(2) The purpose of such discussions shall be to encourage agreements between Washington and Oregon, and Washington and other western regional states, to facilitate interstate recognition of certification programs, standards, and requirements and thus encourage and accommodate interstate student teaching opportunities and reduce barriers for persons receiving certification in one state from being immediately eligible for employment in another state.

NEW SECTION. Sec. 2. In order to comply with the purposes of section 1 of this act, the higher education coordinating board is encouraged to enlist the support and services of the western interstate commission on higher education.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are each added to chapter 28B.80 RCW.

Passed the Senate March 5, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

## CHAPTER 41

[Senate Bill No. 6038]

### KIDNEY DIALYSIS CENTERS—LEGEND DRUGS

AN ACT Relating to the dispensing of legend drugs by kidney dialysis centers; adding a new section to chapter 18.64 RCW; and adding a new section to chapter 69.41 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.64 RCW to read as follows:

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the board pursuant to rule.

NEW SECTION. Sec. 2. A new section is added to chapter 69.41 RCW to read as follows:

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case

or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the board pursuant to rule.

Passed the Senate March 17, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

---

CHAPTER 42

[Substitute Senate Bill No. 5565]

GASOLINE INVENTORY AT RETAIL SERVICE STATIONS

AN ACT Relating to inventory control for certain fuel storage tanks of petroleum products; adding a new section to chapter 19.94 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 leaking underground storage tanks containing petroleum products may pose a significant and widespread problem to human health and the environment, that current inventory procedures are inadequately suited to identify leaking underground storage tanks, and that new measures are needed to properly determine which tanks may be leaking.

NEW SECTION. Sec. 2. A new section is added to chapter 19.94 RCW to read as follows:

Persons delivering gasoline to retail service stations shall supply the station with an invoice which shall include the following information: (1) The gross volume of gasoline and the net volume of gasoline at sixty degrees Fahrenheit; (2) the time and temperature of the gasoline as loaded onto the delivery truck; and (3) the time of delivery to the retail service station.

Passed the Senate March 13, 1987.

Passed the House April 6, 1987.

Approved by the Governor April 13, 1987.

Filed in Office of Secretary of State April 13, 1987.

---

CHAPTER 43

[Engrossed Senate Bill No. 5149]

COURT OF APPEALS—SESSIONS MAY BE HELD IN ANY CITY SO DESIGNATED BY RULE

AN ACT Relating to the court of appeals; and amending RCW 2.06.040.

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

Sec. 1. Section 4, chapter 221, Laws of 1969 ex. sess. as last amended by section 91, chapter 258, Laws of 1984 and RCW 2.06.040 are each amended to read as follows:

The court shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published. Panels in the first division shall be comprised of such judges as the chief judge thereof shall from time to time direct. Judges of the respective divisions may sit in other divisions and causes may be transferred between divisions, as directed by written order of the chief justice. The court may hold sessions in ~~((such of the following))~~ cities as may be designated by rule ~~((Seattle, Everett, Bellingham, Tacoma, Vancouver, Spokane, Yakima, Richland, Wenatchee, and Walla Walla)).~~

No judge of the court shall be entitled to per diem or mileage for services performed at either his legal residence or the headquarters of the division of the court of which he is a member.

The court may establish rules supplementary to and not in conflict with rules of the supreme court.

Passed the Senate February 23, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 44

[Substitute Senate Bill No. 5136]

### PEARL HARBOR SURVIVORS—SPECIAL LICENSE PLATES

AN ACT Relating to motor vehicle license plates; and adding a new section to chapter 46.16 RCW.

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:

(1) A resident of this state may, in addition to the application required by RCW 46.16.040, apply to the department for a set of license plates designed by the department to indicate that the recipient of the plates is a survivor of the Japanese attack on Pearl Harbor if he or she:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(c) Received an honorable discharge from the United States Armed Forces; and

(d) Is certified by a Washington state chapter of the Pearl Harbor survivors association as satisfying the qualifications in (b) of this subsection.

(2) The plates shall be issued upon payment of the regular license fee and furnishing of proof satisfactory to the department that the recipient fulfills the requirements provided by subsection (1) of this section. Only one motor vehicle owned by the applicant may be so licensed at any one time.

(3) If the license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement plates upon request and without charge.

(4) The plate shall remain with the recipient upon transfer or other disposition of the vehicle, and may be used on another motor vehicle registered to the recipient in accordance with the provisions of RCW 46.16.595 for such transfers.

Passed the Senate February 11, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 45

### [Substitute Senate Bill No. 5144] FERTILIZERS AND PESTICIDES

AN ACT Relating to regulation of fertilizers and pesticides; amending RCW 15.54.270, 15.54.272, 15.54.276, 15.54.280, 15.54.320, 15.54.340, 15.54.350, 15.54.370, 15.54.380, 15.54.390, 15.54.400, 15.54.420, 15.54.440, 15.58.150, 17.21.030, 17.21.090, 17.21.100, 17.21.120, 17.21.129, and 17.21.180; adding new sections to chapter 15.54 RCW; adding a new section to chapter 42.17 RCW; creating new sections; repealing RCW 15.54.310, 15.54.360, and 15.54.410; and prescribing penalties.

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

Sec. 1. Section 1, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.270 are each amended to read as follows:

Terms used in this chapter shall have the meaning given to them in ((RCW 15.54.272 through 15.54.302)) this chapter unless where used the context thereof shall clearly indicate to the contrary.

Sec. 2. Section 2, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.272 are each amended to read as follows:

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting

plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It shall not include unmanipulated animal and vegetable manures and other products exempted by the department by rule.

Sec. 3. Section 4, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.276 are each amended to read as follows:

"Bulk fertilizer" means commercial fertilizer distributed in a nonpackage form such as, but not limited to, tote bags, tanks, trailers, spreader trucks, and railcars.

Sec. 4. Section 6, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.280 are each amended to read as follows:

(1) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

- Total nitrogen (N) . . . . . \_\_\_\_percent
- Available phosphoric acid (P<sub>2</sub>O<sub>5</sub>) . . . . . \_\_\_\_percent
- Soluble potash (K<sub>2</sub>O) . . . . . \_\_\_\_percent

The percentage must be stated in whole numbers unless otherwise allowed by the department by rule.

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(2) ~~For unacidulated mineral phosphatic ((materials and basic slag, the guaranteed analysis shall contain both total and available phosphoric acid and the degree of fineness. For bone, tankage, manipulated animal and vegetable manures, and other organic phosphatic materials, the guaranteed analysis shall contain total phosphoric acid))~~ material, basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(3) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as permitted or required by regulation of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(4) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the ~~((minimum total neutralizing power expressed in terms of calcium carbonate;))~~ calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.

(5) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaSO<sub>4</sub> . 2H<sub>2</sub>O) shall be given along with the percentage of total sulfur.



**NEW SECTION.** Sec. 5. "Manipulation" means processed or treated in any manner, including drying to a moisture content of less than thirty percent.

**NEW SECTION.** Sec. 6. "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

**NEW SECTION.** Sec. 7. "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

**NEW SECTION.** Sec. 8. "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.

**NEW SECTION.** Sec. 9. (1) The director shall administer and enforce the provisions of this chapter and any rules adopted under this chapter. All authority and requirements provided for in chapters 34.04 and 42.32 RCW apply to this chapter in the adoption of rules.

(2) The director may adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

- (a) Definitions of terms;
- (b) Determining standards for labeling and registration of fertilizers and agricultural minerals and limes;
- (c) The collection and examination of fertilizers and agricultural mineral and limes;
- (d) Recordkeeping by registrants;
- (e) Regulation of the use and disposal of fertilizers for the protection of ground water and surface water; and
- (f) The safe handling, transportation, storage, display, and distribution of fertilizers.

**NEW SECTION.** Sec. 10. Every person who fails to comply with this chapter, or any rule 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 chapter and may be subject to the penalty provided for in this section.

Sec. 11. Section 20, chapter 22, Laws of 1967 ex. sess. and RCW 15-.54.320 are each amended to read as follows:

(1) Each brand and grade of commercial fertilizer shall be registered by the person whose name appears upon the label, or the person's agent, before being distributed in this state. Companies planning to mix customer-

formula fertilizers shall include the statement "Customer-Formula Grade Mixes" under the column headed GRADES on the brand registration application form. The application for registration shall be submitted to the department on forms furnished by the department, and shall be accompanied by a fee of twenty-five dollars per brand. Upon approval by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year. The application shall include the following information:

- (a) The brand name;
- (b) Declaration of guaranteed analyses of formulations to be sold;
- (c) The name and address of the registrant and the manufacturer; and
- (d) ~~((The sources from which the guaranteed plant nutrients are derived))~~ Any other information required by the department by rule.

A label or labels which shall comply with RCW 15.54.340 shall accompany said application.

(2) A distributor shall not be required to register any brand of commercial fertilizer which is already registered under this chapter by another person if the label does not differ in any respect from that previously registered. However, bulk commercial fertilizer shall be registered by each person distributing such commercial fertilizer.

(3) A distributor shall not be required to register each grade of a customer-formula fertilizer: PROVIDED, That such grade shall be distributed under a registered brand.

(4) If an application for renewal of the brand registration provided for in this section is not filed prior to January of any one year, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal brand registration shall be issued: PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit that he has not distributed this brand subsequent to the expiration of his prior registration.

Sec. 12. Section 22, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.340 are each amended to read as follows:

(1) Any commercial fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (a) The net weight;
- (b) The brand and grade. The grade shall not be required when no primary nutrients are claimed;
- (c) The guaranteed analysis; ~~((and))~~
- (d) The name and address of the registrant, ~~(, or manufacturer, or both)). The name and address of the manufacturer, if different from the registrant, may also be stated; and~~
- (e) Other information as required by the department by rule.

(2) If distributed in bulk, a written or printed statement of the information required by subsection (1) above shall accompany delivery and be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant for a period of six months and shall be available to the department upon request: PROVIDED, That each such delivery shall be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant, or manufacturer, or both; and the name and address of the purchaser.

Sec. 13. Section 23, chapter 22, Laws of 1967 ex. sess. as last amended by section 18, chapter 297, Laws of 1981 and RCW 15.54.350 are each amended to read as follows:

(1) ~~((Each distributor of a commercial fertilizer in this state shall pay to the department))~~ There shall be paid to the department for all commercial fertilizers distributed in this state to nonregistrants an inspection fee of nine cents per ton of lime and eighteen cents per ton of all other commercial fertilizer ~~((sold by such person))~~ distributed during the year beginning July 1st and ending June 30th.

(2) In computing the tonnage on which the inspection fee must be paid, ~~((sales of commercial fertilizers to fertilizer manufacturers, sales))~~ distribution of commercial fertilizers in packages weighing five pounds net or less, and ~~((sales))~~ distribution of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant who distributes to a nonregistrant ~~((dealer or consumer))~~ is responsible for ~~((reporting the tonnage and))~~ paying the inspection fee, unless the ~~((reporting and paying))~~ payment of fees ~~((have))~~ has been made by a prior distributor of the fertilizer.

NEW SECTION. Sec. 14. (1) Every registrant who distributes commercial fertilizer in this state shall file a semiannual report with the department setting forth the number of net tons of each commercial fertilizer so distributed in this state. The reports will cover the following periods: January 1 through June 30 and July 1 through December 31 of each year. The reports shall be due on or before thirty days following the close of the reporting period: PROVIDED, That upon permission of the department, an annual statement under oath may be filed by any person distributing within the state less than one hundred tons for each six-month period during any calendar year, and upon filing such statement, such person shall pay the inspection fee required under RCW 15.54.350. The department may accept

sales records or other records accurately reflecting the tonnage sold and verifying such reports.

(2) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state shall include the inspection fees with the report on the same dates and for the same reporting periods mentioned in subsection (1) of this section.

(3) The department may, upon request, require registrants to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

(4) Inspection fees which are due and have not been remitted to the department by the due date shall have a late-collection fee of ten percent, but not less than five dollars, added to the amount due when payment is finally made. The assessment of this late collection fee shall not prevent the department from taking any other action as provided for in this chapter.

(5) It shall be a misdemeanor for any person to divulge any information provided under this section that would reveal the business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department.

NEW SECTION. Sec. 15. A new section is added to chapter 42.17 RCW to read as follows:

Information provided under section 14 of this act is exempt from disclosure under this chapter.

Sec. 16. Section 25, chapter 22, Laws of 1967 ex. sess. and RCW 15-.54.370 are each amended to read as follows:

(1) It shall be the duty of the department to inspect, sample, make analysis of, and test commercial fertilizers distributed within this state at such time and place and to such an extent as it may deem necessary to determine whether such fertilizers are in compliance with the provisions of this chapter. The department is authorized to stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department is also authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to commercial fertilizers and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources.

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be

guided solely by the official sample as defined in RCW 15.54.300 and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the results of analysis shall be forwarded by the department to the ((distributor)) registrant and to the purchaser, if known. Upon request and within thirty days, the department shall furnish to the ((distributor)) registrant a portion of the sample concerned.

(5) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction.

Sec. 17. Section 26, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.380 are each amended to read as follows:

(1) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any one plant nutrient or in total nutrients, penalty shall be assessed in favor of the department in accordance with the following provisions:

(a) A penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than two percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed up to and including ten percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than three percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed from ten and one-tenth percent to twenty percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than four percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed twenty and one-tenth percent and above.

(b) A penalty of three times the commercial value of the total nutrient deficiency shall be assessed when such deficiency is more than two percent under the calculated total nutrient guarantee.

(c) When a commercial fertilizer is subject to penalty under both (a) and (b) above, only the larger penalty shall be assessed.

(2) All penalties assessed under this section on any one commercial fertilizer, represented by the sample analyzed, shall be paid to the department within three months after the date of notice from the department to the registrant. The department shall deposit the amount of the penalty into the fertilizer, agricultural mineral and lime account.

(3) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsections (1) and (2) above.

(4) The civil penalties payable in subsections (1) and (2) above shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying said civil penalties.

Sec. 18. Section 27, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.390 are each amended to read as follows:

For the purpose of ((initially)) determining the commercial value((s)) to be applied under the provisions of RCW 15.54.380, the department shall determine ((from the registrant's sales invoice the values per pound charged for nitrogen, available phosphoric acid, soluble potash, and other plant nutrients. The values so determined shall be used in determining and assessing penalties)) and publish the values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this state. The values so determined and published shall be used in determining and assessing penalty payments and shall be established by rule.

Sec. 19. Section 28, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.400 are each amended to read as follows:

No superphosphate containing less than eighteen percent of available phosphoric acid(~~(, nor any mixed fertilizer in which the sum of the percentage guarantees for the nitrogen, available phosphoric acid, and soluble potash in the mixture is less than twenty percent, shall))~~ may be sold or offered for sale in this state (~~(except for specialty fertilizers and customer-formula mixes. PROVIDED, That)).~~ Specialty fertilizers, except manipulated animal and vegetable manures, guaranteeing less than five percent total plant food shall contain on the label specific directions for use, and prior to registration, the department may require proof of the efficacy of the product when used as directed.

NEW SECTION. Sec. 20. No person may distribute misbranded commercial fertilizer. A commercial fertilizer shall be deemed to be misbranded:

(1) If its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) If it is distributed under the name of another fertilizer product;

(3) If its labeling bears any reference to registration under this chapter unless such reference is required by rule under this chapter;

(4) If any word, statement, or other information, required by this chapter or rules adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, design, or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(5) If it purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by the department by rule. In adopting such rules the department shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of american plant food control officials.

**NEW SECTION.** Sec. 21. No person may distribute an adulterated commercial fertilizer. A commercial fertilizer shall be deemed to be adulterated:

(1) If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life are not shown upon the label;

(2) If its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) If it contains unwanted viable seed.

Sec. 22. Section 30, chapter 22, Laws of 1967 ex .sess. and RCW 15-.54.420 are each amended to read as follows:

It shall be unlawful for any person to:

(1) Distribute ((α)) an adulterated or misbranded commercial fertilizer;

(2) Fail, refuse, or neglect to place upon or attach to each container of distributed commercial fertilizer a label containing all of the information required by this chapter;

(3) Fail, refuse, or neglect to deliver to a purchaser of bulk commercial fertilizer a statement containing the information required by this chapter; or

(4) Distribute a brand or grade of commercial fertilizer which has not been registered with the department((; ~~or~~

~~(5) Distribute commercial fertilizers containing viable seeds unless serving a desirable purpose and appropriately labeled)).~~

Sec. 23. Section 32, chapter 22, Laws of 1967 ex. sess. and RCW 15-.54.440 are each amended to read as follows:

The department may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer to hold said commercial fertilizer at a designated place when the department ((fnds)) has reasonable cause to believe such fertilizer is being offered or exposed for sale in violation of any of the provisions of this chapter, until this chapter has been complied with and said commercial fertilizer is released by order in writing of the department. The department shall release the commercial fertilizer so withdrawn when the owner or custodian has complied with the provisions of this chapter..

**NEW SECTION.** Sec. 24. The department may cancel the registration of any brand and grade of commercial fertilizer or refuse to register any brand and grade of commercial fertilizer as provided in this chapter, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of any provision of this chapter or any rule adopted thereunder: PROVIDED, That no registration may

be revoked or refused until the registrant has been given the opportunity to appear for a hearing by the department.

Sec. 25. Section 15, chapter 190, Laws of 1971 ex. sess. as amended by section 3, chapter 146, Laws of 1979 and RCW 15.58.150 are each amended to read as follows:

(1) It is unlawful for any person to distribute within the state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(a) Any pesticide which has not been registered pursuant to the provisions of this chapter;

(b) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: PROVIDED, That at the discretion of the director, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product;

(c) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container, and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this chapter and the regulations adopted under this chapter;

(d) Any pesticide including arsenicals, fluorides, fluosilicates, and/or any other white powdered pesticides unless they have been distinctly denatured as to color, taste, odor, or form if so required by regulation;

(e) Any pesticide which is adulterated or misbranded, or any device which is misbranded;

(f) Any pesticide in containers, violating regulations adopted pursuant to RCW 15.58.040(2)(f) or pesticides found in containers which are unsafe due to damage.

(2) It shall be unlawful:

(a) To sell or deliver any restricted use pesticide to any person who is required by law or regulations promulgated under such law to have a permit to use or purchase such restricted use pesticides unless such person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of such restricted use pesticide sold or delivered: PROVIDED, That, subject to conditions established by the director, such permit may be obtained immediately prior to sale or delivery from any person designated by the director;

(b) For any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this chapter or regulations adopted under this chapter, or to add any substance to, or take any substance



from, a pesticide in a manner that may defeat the purpose of this chapter or the regulations adopted thereunder;

(c) For any person to use or cause to be used any pesticide contrary to label directions or to regulations of the director if those regulations differ from or further restrict the label directions: PROVIDED, The compliance to the term "contrary to label directions" is enforced by the director consistent with the intent of this ~~((act))~~ chapter;

(d) For any person to use for his own advantage or to reveal, other than to the director or proper officials or employees of the state, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of RCW 15.58.060;

(e) For any person to make false, misleading, or erroneous statements or reports concerning any pest during or after a structural pest inspection.

Sec. 26. Section 3, chapter 249, Laws of 1961 as amended by section 2, chapter 92, Laws of 1979 and RCW 17.21.030 are each amended to read as follows:

The director shall administer and enforce the provisions of this chapter and rules adopted hereunder.

(1) The director shall adopt rules:

(a) Governing the application and use, or prohibiting the use, or possession for use, of any pesticide;

(b) Governing the time when, and the conditions under which restricted use pesticides shall or shall not be used in different areas, which areas may be prescribed by ~~((him))~~ the director, in the state;

(c) Providing that any or all restricted use pesticides shall be purchased, possessed or used only under permit of the director and under ~~((his))~~ the director's direct supervision in certain areas and/or under certain conditions or in certain quantities of concentrations; however, any person licensed to sell such pesticides may purchase and possess such pesticides without a permit; ~~((and))~~

(d) Providing that all permittees shall keep records as required of licensees under RCW 17.21.100;

(e) Fixing and collecting examination fees; and

(f) Establishing testing procedures, licensing classifications, and requirements for licenses and permits as provided by this chapter.

(2) The director may adopt any other rules necessary to carry out the purpose and provisions of this chapter.

Sec. 27. Section 9, chapter 249, Laws of 1961 as last amended by section 7, chapter 203, Laws of 1986 and RCW 17.21.090 are each amended to read as follows:

The director shall not issue a pesticide applicator's license until the applicant, if he or she is the sole owner of the business, or if there is more

than one owner, the person managing the business, has passed an examination to demonstrate to the director (1) ~~((his))~~ knowledge of how to apply pesticides under the classifications he or she has applied for, manually or with the various apparatuses that he or she may have applied for a license to operate under the provisions of this chapter, and (2) ~~((his))~~ knowledge of the nature and effect of pesticides he or she may apply manually or with such apparatuses under such classifications. The pesticide applicator's license shall expire on December 31 following issuance. The director shall charge an examination fee ~~((of five dollars))~~ established by the director by rule when an examination is necessary before a license may be issued or when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 28. Section 10, chapter 249, Laws of 1961 as amended by section 3, chapter 191, Laws of 1971 ex. sess. and RCW 17.21.100 are each amended to read as follows:

Pesticide applicators licensed under the provisions of this chapter shall keep records on a form prescribed by the director which shall include the following:

- (1) The name of the person for whom the pesticide was applied.
- (2) The location of the land where the pesticide was applied.
- (3) The year, month, day and time the pesticide was applied.
- (4) ~~((The person or firm who supplied the pesticide which was applied.~~
- ~~(5)))~~ The trade name and/or the common name of the pesticide which was applied.

~~((6)))~~ (5) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection does not apply to applications of baits in bait stations and pesticide applications within structures.

~~((7)))~~ (6) Any other reasonable information required by the director.

~~((8)))~~ (7) Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee: PROVIDED, That the director may require the submission of such records within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of such restricted use pesticide.

Sec. 29. Section 12, chapter 249, Laws of 1961 as last amended by section 8, chapter 203, Laws of 1986 and RCW 17.21.120 are each amended to read as follows:

The director shall not issue an operator's license before such applicant has passed an examination to demonstrate to the director (1) ~~((his))~~ the ability to apply pesticides in the classifications ~~((he))~~ the applicant has applied for, manually or with the various apparatuses that he or she may have applied for a license to operate, and (2) ~~((his))~~ knowledge of the nature and

effect of pesticides applied manually or used in such apparatuses under such classifications. The operator's license shall expire on December 31 following issuance. The director shall charge an examination fee ~~((of five dollars))~~ established by the director by rule when an examination is necessary before a license may be issued and when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 30. Section 26, chapter 297, Laws of 1981 and RCW 17.21.129 are each amended to read as follows:

Except as provided in RCW 17.21.203(1), it is unlawful for a person to use or supervise the use of any pesticide which is restricted to use by certified applicators, on small experimental plots for research purposes when no charge is made for the pesticide and its application, without a demonstration and research applicator's license.

Demonstration and research applicators shall be subject to the record-keeping requirements of RCW 17.21.100. The director shall not issue a demonstration and research license until the applicant has passed an examination to demonstrate (1) the applicant's ability to apply pesticides in the classifications the applicant has applied for, and (2) the applicant's knowledge of the nature and effect of pesticides applied manually or used in such apparatuses under such classifications. A license fee of twenty dollars shall be paid before a demonstration and research license may be issued. The director shall charge ~~((a five dollar))~~ an examination fee established by the director by rule for each examination administered on other than a regularly scheduled examination date. The demonstration and research applicator's license shall be valid until revoked or until the director determines that recertification is necessary.

Sec. 31. Section 18, chapter 249, Laws of 1961 as amended by section 11, chapter 177, Laws of 1967 and RCW 17.21.180 are each amended to read as follows:

The applicator's license shall, whenever the licensee's surety bond or insurance policy is reduced below the requirements of RCW 17.21.170, be automatically suspended until such licensee's surety bond or insurance policy again meets the requirements of RCW 17.21.170: PROVIDED, That the director may pick up such licensee's license plates during such period of automatic suspension and return them only at such time as the said licensee has furnished the director with written proof that he or she is in compliance with the provisions of RCW ~~((17.21.120))~~ 17.21.170.

NEW SECTION. Sec. 32. 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. 33. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 34. Sections 5 through 10, 14, 20, 21, and 24 of this act are each added to chapter 15.54 RCW.

**NEW SECTION.** Sec. 35. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.310;

(2) Section 24, chapter 22, Laws of 1967 ex. sess., section 10, chapter 257, Laws of 1975 1st ex. sess., section 3, chapter 154, Laws of 1979 and RCW 15.54.360; and

(3) Section 29, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.410.

Passed the Senate April 7, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 46

[Substitute Senate Bill No. 5581]

### BEER—RETAILERS MAY OFFER SAMPLES

AN ACT Relating to beer retailers; and amending RCW 66.24.360.

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

Sec. 1. Section 23Q added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 41, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.24.360 are each amended to read as follows:

There shall be a beer retailer's license to be designated as class E license to sell pasteurized beer at retail in bottles and original packages, not to be consumed upon the premises where sold, at any store other than the state liquor stores; fee seventy-five dollars per annum for each store: **PROVIDED**, That a holder of a class A or a class B license shall be entitled to the privileges permitted in this section by paying an annual fee of twenty-five dollars for each store. Licensees under this section whose business is primarily the sale of beer and/or wine at retail may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section shall be subject to RCW 66.28.010 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or wholesaler of liquor.

For the purpose of this section, "pasteurized beer" includes, in addition to the usual and customary meaning, bottle conditioned beer which has been fermented partially or completely in the container in which it is sold to the retail customer and which may contain residual active yeast. The bottles and original packages in which such bottle conditioned beer may be sold under this section shall not exceed one hundred seventy ounces in capacity.

Passed the Senate March 13, 1987.

Passed the House April 6, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 47

[Senate Bill No. 5523]

### CREDIT CARD USE BY STATE GOVERNMENT—CONTRACTS TO ADMINISTER

AN ACT Relating to state government; and amending RCW 43.19.185.

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

Sec. 1. Section 1, chapter 45, Laws of 1982 1st ex. sess. and RCW 43.19.185 are each amended to read as follows:

(1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract (~~((with a financial institution or institutions in this state))~~) to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section.

Passed the Senate March 9, 1987.

Passed the April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

CHAPTER 48

[Substitute Senate Bill No. 5763]

SURPLUS SALMON EGGS AND CARCASSES

AN ACT Relating to the department of fisheries; and adding a new section to chapter 75.52 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 75.52 RCW to read as follows:

The department of fisheries may authorize the sale of surplus salmon eggs and carcasses by permitted cooperative projects for the purposes of defraying the expenses of the cooperative project. In no instance shall the department allow a profit to be realized through such sales. The department shall adopt rules to implement this section pursuant to chapter 34.04 RCW.

Passed the Senate March 12, 1987.

Passed the House April 6, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

---

CHAPTER 49

[Senate Bill No. 5138]

TAX DEFERRAL AND CREDIT PROGRAMS—APPLICATIONS, REPORTS, AND OTHER INFORMATION ARE NOT CONFIDENTIAL

AN ACT Relating to the confidentiality of information received under tax deferral and tax credit programs; adding a new section to chapter 82.60 RCW; adding a new section to chapter 82.61 RCW; and adding a new section to chapter 82.62 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 82.60 RCW to read as follows:

Applications, reports, and any other information received by the department under this chapter shall not be confidential and shall be subject to disclosure.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.61 RCW to read as follows:

Applications and any other information received by the department under this chapter shall not be confidential and shall be subject to disclosure.

**NEW SECTION.** Sec. 3. A new section is added to chapter 82.62 RCW to read as follows:

Applications, reports, and any other information received by the department under this chapter shall not be confidential and shall be subject to disclosure.

Passed the Senate March 10, 1987.

Passed the House April 6, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

---

## CHAPTER 50

[Senate Bill No. 5146]

### PORT DISTRICT COMMISSIONERS—LIFE INSURANCE COVERAGE

AN ACT Relating to life insurance coverage 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 81, Laws of 1985 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, life insurance with coverage not to exceed that provided district employees, and business related travel, liability, and errors and omissions 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 Senate March 5, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 51

[Substitute Senate Bill No. 5196]

### INSURANCE—IMMUNITY TO PERSONS FILING REQUIRED INFORMATION

AN ACT Relating to insurance; and adding a new section to chapter 48.01 RCW.

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:

(1) Any person who files reports, or furnishes other information, required under Title 48 RCW, required by the commissioner under authority granted by Title 48 RCW, useful to the commissioner in the administration of Title 48 RCW, or furnished to the National Association of Insurance Commissioners at the request of the commissioner or pursuant to Title 48 RCW, shall be immune from liability in any civil action or suit arising from the filing of any such report or furnishing such information to the commissioner or the National Association of Insurance Commissioners, unless actual malice, fraud, or bad faith is shown.



(2) The commissioner and the National Association of Insurance Commissioners, and the agents and employees of each, are immune from liability in any civil action or suit arising from the publication of any report or bulletin or dissemination of information related to the official activities of the commissioner or the National Association of Insurance Commissioners, unless actual malice, fraud, or bad faith is shown.

(3) The immunity granted by this section is in addition to any common law or statutory privilege or immunity enjoyed by such person, and nothing in this section is intended to abrogate or modify in any way such common law or statutory privilege or immunity.

Passed the Senate February 20, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 52

[Senate Bill No. 5277]

### REFLECTORIZED LICENSE PLATES

AN ACT Relating to reflectORIZED license plates; and amending RCW 46.16.237.

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

Sec. 1. Section 60, chapter 145, Laws of 1967 ex. sess. and RCW 46-16.237 are each amended to read as follows:

All vehicle license number plates issued after January 1, 1968, or such earlier date as the director may prescribe with respect to plates issued in any county, shall be treated with fully reflectORIZED materials designed to increase the visibility and legibility of such plates at night. In addition to all other fees prescribed by law, there shall be paid and collected for each vehicle license number plate treated with such materials, the sum of fifty cents and for each set of two plates, the sum of one dollar: PROVIDED, HOWEVER, One plate is available only to those vehicles that by law require only one plate. Such fees shall be deposited in the motor vehicle fund.

Passed the Senate March 17, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 53

[Substitute House Bill No. 313]

### PARK AND RECREATION DISTRICT COMMISSIONER ELECTIONS

AN ACT Relating to elections for park and recreation district commissioners; and amending RCW 36.69.090.

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

Sec. 1. Section 36.69.090, chapter 4, Laws of 1963 as last amended by section 30, chapter 126, Laws of 1979 ex. sess. and RCW 36.69.090 are each amended to read as follows:

Elections for park and recreation district commissioners shall be held biennially in conjunction with the general election (~~on the first Tuesday after the first Monday of November~~) in each odd-numbered year. Residence anywhere within the district shall qualify an elector for any position on the commission after the initial election. (~~Following the initial election declarations of candidacy for the office of commissioner shall be filed with the county auditor not more than sixty nor less than forty-six days prior to said election. Any candidate may withdraw his declaration at any time to and including the first Friday after the last day for filing a declaration of candidacy. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in a group under the designation of the title of the offices for which they are candidates. There shall be no rotation of names.~~) Elections shall be held in accordance with the provisions of Title 29 RCW dealing with general elections. All commissioners shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. At the first election following the formation of the district, the two candidates receiving the highest number of votes shall serve for ~~((a))~~ terms of ~~((six years, the two candidates receiving the next highest number of votes shall serve for))~~ four years, and the ~~((two))~~ three candidates receiving the next highest number of votes shall serve for two years. Thereafter all commissioners shall be elected for ~~((six))~~ four year terms; PROVIDED, That if there would otherwise be two commissioners elected at the November 1987 general election, the candidate receiving the highest number of votes shall serve a four-year term, and the commissioner receiving the second highest number of votes shall serve a two-year term.

Passed the House February 18, 1987.

Passed the Senate April 1, 1987.

Approved by the Governor April 15, 1987.

Filed in Office of Secretary of State April 15, 1987.

---

## CHAPTER 54

[Substitute Senate Bill No. 5045]

### ELECTIONS—ABSENTEE BALLOTS—VOTE CANVASSING—RECOUNTS

AN ACT Relating to elections; amending RCW 29.30.075, 29.62.020, 29.64.010, 29.64.015, and 29.64.020; and repealing RCW 29.30.360.

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

Sec. 1. Section 29.30.075, chapter 9, Laws of 1965 as last amended by section 56, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.075 are each amended to read as follows:

~~((In counties using absentee paper ballots, at least twenty days before any primary, each))~~ Except where a recount or litigation under RCW 29.04.030 is pending, the county auditor shall have ((prepared)) sufficient ((paper)) absentee ballots ((for use by)) ready to mail to absentee voters of that county at least twenty days before any primary, general election, or special election.

Sec. 2. Section 29.62.020, chapter 9, Laws of 1965 and RCW 29.62.020 are each amended to read as follows:

~~((On))~~ No later than the tenth day after ((each)) a special election or primary ((or as soon as he has received the returns from all the precincts included therein)) and no later than the fifteenth day after a general election, the county auditor shall ((call a meeting of)) convene the county canvassing board ((at his office on a day and hour certain, for the purpose of canvassing the votes cast therein)) to process the absentee ballots and canvass the votes cast at that primary or election. On the tenth day after a special election or a primary and on the fifteenth day after a general election, the canvassing board shall complete the canvass and certify the results. All properly and timely voted absentee ballots which have been received on or before the date on which the primary or election is certified shall be included in the canvass. Meetings of the county canvassing board are public meetings under chapter 42.30 RCW. The county canvassing board shall consist of the county auditor, the chairman of the ((board of)) county ((commissioners)) legislative authority, and the prosecuting attorney or designated representatives of those officials.

At the request of any caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house.

Sec. 3. Section 29.64.010, chapter 9, Laws of 1965 as amended by section 98, chapter 361, Laws of 1977 ex. sess. and RCW 29.64.010 are each amended to read as follows:

An officer of a political party or any person for whom votes were cast in a primary ~~((election for nomination as a candidate for election to an office))~~ who was not declared nominated may file ~~((with the appropriate canvassing board or boards))~~ a written application for a recount of the votes or a portion of the votes cast at ((such)) that primary ((in any precinct)) for all persons for whom votes were cast ((in such precinct for such)) for nomination to that office.

An officer of a political party or any person ~~((who was a candidate))~~ for whom votes were cast at any ~~((general))~~ election ~~((for election to an~~

~~office or position who was not declared elected;)) may file ((with the appropriate canvassing board or boards)) a written application for a recount of the votes or a portion of the votes cast at ((such)) that election ((in any precinct in such county)) for all candidates for election to ((such)) that office ((or position)).~~

Any group of five or more registered voters may file ~~((with the appropriate canvassing board or boards))~~ a written application for a recount of the votes or a portion of the votes cast ~~((at any election, regular or special, in any precinct))~~ upon any question or issue ~~((, provided that the members of such group shall state in such application that they voted on such question or proposition. Such group of electors shall, in such application,))~~. They shall designate one of the members of the group as chairman(;) and shall indicate ((therein)) the voting residence of each member of ((such)) the group. ~~((In the event the recount requested concerns a regular or special district election whereat the precincts were combined and the election results of the individual precincts impossible to determine, the application for the recount shall embrace all ballots cast at such district election.))~~

An application for a recount of the votes cast for a state or local office or on a ballot measure in a jurisdiction that is entirely within one county shall be filed with the county auditor of that county. An application for a recount of the votes cast for a federal office or for any state office or on a ballot measure in a jurisdiction that is not entirely within a single county shall be filed with the secretary of state.

An application for a recount in a ((precinct)) jurisdiction using a vote tally system shall specify whether the recount shall be done manually or by the vote tally system. A recount done by the vote tally system shall use separate and distinct programming from that used in the original count, and shall also provide for a separate and distinct test of the logic and accuracy of ((such)) that program.

~~((AH))~~ An application((s)) for a recount shall be filed within three days, excluding Saturdays ~~((and)),~~ Sundays, and holidays, after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

~~((The provisions of))~~ This chapter ((shall apply)) applies to the recounting of votes cast by paper ballots ((and counted at the polling places)), to the recheck of votes recorded on voting machines, and to the recounting of votes recorded on ballot cards and counted by a vote tally system. ~~((The provisions of this chapter shall neither apply to votes cast by absentee ballot and counted by the canvassing authority, nor to votes cast on voting machines printing election returns. PROVIDED, That this chapter shall apply to votes cast by absentee and counted by the canvassing authority if specific request for such recount is made at the time the application is filed and the additional deposit is made as provided in RCW 29.64.020.))~~

Sec. 4. Section 29.64.015, chapter 9, Laws of 1965 and RCW 29.64.015 are each amended to read as follows:

If the official canvass of all of the returns ~~((of))~~ for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to any office ~~((, as the case may be,))~~ and the number of votes cast for ~~((his))~~ the closest apparently defeated opponent is not more than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall ~~((, of its own motion, make))~~ conduct, or the secretary of state shall direct the appropriate county canvassing boards to conduct, a recount of all votes cast on ~~((such))~~ that position. A mandatory recount shall be conducted in the manner provided by RCW 29.64.020, 29.64.030, and 29.64.040 ~~((; and))~~. No cost of ~~((such))~~ a mandatory recount ~~((shall))~~ may be charged to ~~((either))~~ any candidate ~~((concerned))~~.

Sec. 5. Section 29.64.020, chapter 9, Laws of 1965 as amended by section 99, chapter 361, Laws of 1977 ex. sess. and RCW 29.64.020 are each amended to read as follows:

~~((Each))~~ An application for a recount shall ~~((separately list each precinct as to))~~ state the office for which a recount ~~((of the votes therein))~~ is requested ~~((;))~~ and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application shall, at the same time, deposit with the county canvassing board ~~((the sum of ten dollars))~~ or secretary of state, in cash or by certified check ~~((for each precinct so listed in such application))~~, a sum equal to five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of ~~((charges for the making))~~ any costs of conducting the recount ~~((therein applied for, which))~~. These charges shall be ~~((fixed))~~ determined by the county canvassing board ~~((as provided in))~~ or boards under RCW 29.64.060. ~~((In the event the application for a recount applies to a special or regular district election then the deposit to be made with the canvassing board shall be ten dollars in cash or by certified check for each precinct completely or partially within said district. If at said special or regular district election paper ballots were used and the precincts were combined and the election results of the individual precincts impossible to determine, then the deposit shall be a sum of money equal to the total number of ballots cast at such district election multiplied by the factor of five cents, and if a specific request is made for the recount of absentee ballots, then an additional deposit shall be made in a sum of money equal to the total number of such absentee ballots to be counted multiplied by the factor of five cents.~~

~~If at said special or regular district election voting machines were used and the precincts were combined and the election results of the individual precincts impossible to determine, then the deposit shall be ten dollars for each voting machine used.~~

~~If ballot cards and a vote tally system were used at any precinct as to which a recount is requested, the amount of the deposit required shall depend on whether a manual recount of ballot cards or a recount by the vote tally system is requested. If a manual recount of the ballot cards is requested, the deposit shall be the same as for paper ballots. If a recount by the vote tally system is requested, the deposit shall be five cents for each ballot card.~~

~~Upon)) Promptly after the filing of an application for a recount or the receipt of a request from the secretary of state to conduct a recount, the county canvassing board shall ((promptly fix the)) determine a time ((when)) and ((the)) a place or places at which the recount will be ((made; which)) conducted. This time shall be ((not later)) less than five days after the day upon which ((such)) the application ((is)) was filed with or the request from the secretary of state was received by the county canvassing board. The county auditor shall mail a notice of the time and place ((so fixed)) of the recount to the applicant((. If the application requests a recount of votes cast for a nomination or a candidacy for election, the auditor shall also mail such notice to each)) and, if the recount involves an office, to any person for whom votes were cast for ((such nomination or election: Such)) that office. The notice shall be mailed by ((registered)) certified mail not ((later)) less than two days before the date ((fixed for the commencement)) of the recount. Each person entitled to receive ((such)) notice of the recount may attend ((and)), witness the recount, and ((may)) be accompanied by counsel.~~

~~((In the case of a recount of votes cast upon a question or proposition, a second group of five or more registered voters, who voted upon such question or proposition other than those voters requesting the recount, may file with the canvassing board a written statement to that effect; may designate therein one of their number as chairman of such group and an attorney as their legal counsel, and may request that the persons so designated be permitted to attend and witness the recount. Thereupon the persons so designated)) Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness ((the)) a recount.~~

NEW SECTION. Sec. 6. Section 38, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.360 are each repealed.

Passed the Senate April 7, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 15, 1987.

Filed in Office of Secretary of State April 15, 1987.

## CHAPTER 55

[Substitute House Bill No. 393]

## LIMITED PARTNERSHIPS

AN ACT Relating to limited partnerships; and amending RCW 25.10.010, 25.10.020, 25.10.040, 25.10.050, 25.10.080, 25.10.090, 25.10.100, 25.10.110, 25.10.120, 25.10.130, 25.10.140, 25.10.150, 25.10.160, 25.10.170, 25.10.190, 25.10.200, 25.10.210, 25.10.230, 25.10.240, 25.10.250, 25.10.280, 25.10.290, 25.10.300, 25.10.310, 25.10.330, 25.10.340, 25.10.350, 25.10.370, 25.10.380, 25.10.400, 25.10.420, 25.10.440, 25.10.490, 25.10.510, 25.10.600, 23A.08.050, 23A.08.070, 23A.32.030, 24.03.045, 24.03.047, 24.06.045, and 24.06.047.

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

Sec. 1. Section 1, chapter 51, Laws of 1981 as amended by section 177, chapter 35, Laws of 1982 and RCW 25.10.010 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. Section 2, chapter 51, Laws of 1981 and RCW 25.10.020 are each amended to read as follows:

The name of each limited partnership formed pursuant to this chapter as set forth in its certificate of limited partnership:

(1) Shall contain ~~((without abbreviation))~~ the words "limited partnership" or the abbreviation "L.P.";

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

(3) ~~((May not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its certificate of limited partnership;~~

~~(4))~~ May not be the same as, or deceptively similar to the name of any domestic corporation or limited partnership existing under the laws of this state or any foreign corporation or limited partnership authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this title, or under the provisions of RCW 23A.08.060, or the name of a corporation or limited partnership which has in effect a registration of its corporate or limited partnership name as provided in this title or under the provisions of Title 23A RCW, unless:



~~(a) ((Such other domestic or foreign corporation or limited partnership is about to change its name or to cease to do business, or is being wound up, or such foreign corporation or limited partnership is about to withdraw from doing business in this state; and~~

~~(b)) The written consent of such other domestic or foreign corporation or limited partnership ((to the adoption of its name or a deceptively similar name has been given and is filed with the certificate. PROVIDED, That a deceptively similar name shall not be used if the secretary of state finds that the use of such name shall be against public interest;)) or holder of a reserved or registered name to use the same or deceptively similar name has been filed with the certificate and one or more words or numerals are added or deleted to make the name distinguishable from the other name as determined by the secretary of state; or~~

(b) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the limited partnership to use the name in this state is filed with the certificate;

~~((5)) (4) May not contain the following words or phrases: "Bank", "banking", "banker", "trust", "cooperative"; or any combination of the words "industrial" and "loan"; or any combination of any two or more words "building", "savings", "loan", "home", "association"; or any other words or phrases prohibited by any statute of this state.~~

Sec. 3. Section 4, chapter 51, Laws of 1981 and RCW 25.10.040 are each amended to read as follows:

(1) Each limited partnership shall continuously maintain in this state(:

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

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

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

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

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

Any registered agent may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail one copy thereof to the limited partnership. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

Sec. 4. Section 5, chapter 51, Laws of 1981 and RCW 25.10.050 are each amended to read as follows:

Each limited partnership shall keep at the office referred to in RCW 25.10.040(1) the following:

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

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

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

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

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

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

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

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

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

The books and records are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

Sec. 5. Section 8, chapter 51, Laws of 1981 and RCW 25.10.080 are each amended to read as follows:

~~(1) In order to form a limited partnership ((two or more persons must execute a certificate of limited partnership. The certificate shall be filed in the office of the secretary of state and))~~ a certificate of limited partnership must be executed and duplicate originals filed in the office of the secretary of state. The certificate shall set forth:

~~(a) The name of the limited partnership;~~

~~(b) ((The general character of its business;~~

~~(c)) The address of the office for records and the name and address of the agent for service of process ((required to be maintained by))~~ appointed pursuant to RCW 25.10.040;

~~((d))~~ (c) The name and the geographical and mailing addresses of each general partner ((specifying separately the general partners and limited partners);

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

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

~~(g) Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his partnership interest, and the terms and conditions of the power;~~

~~(h) If agreed upon, the time at which or the events upon the happening of which a partner may terminate his membership in the limited partnership and the amount of, or the method of determining, the distribution to which he may be entitled respecting his partnership interest, and the terms and conditions of the termination and distribution;~~

~~(i) Any right of a partner to receive distributions of property, including cash from the limited partnership;~~

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

~~(k) The time at which and any earlier events upon the happening of which the limited partnership is to be dissolved and its affairs wound up;~~

~~(l) Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner);~~

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

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

(2) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

Sec. 6. Section 9, chapter 51, Laws of 1981 and RCW 25.10.090 are each amended to read as follows:

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

(a) The name of the limited partnership;

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

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

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

~~(a) ((A change in the amount or character of the contribution of any partner, or in any partner's obligation to make a contribution;~~

~~(b))~~ The admission of a new general partner;

~~((c))~~ (b) The withdrawal of a general partner; ~~((or~~

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

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

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

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

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

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

(a) The name of the limited partnership;

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

(c) A statement setting forth all operative provisions of the certificate of limited partnership as theretofore amended together with a statement that the restated articles correctly set forth without change the provisions of the certificate of limited partnership as theretofore amended and that the restated certificate supersedes the original certificate and all amendments thereto.

Sec. 7. Section 10, chapter 51, Laws of 1981 and RCW 25.10.100 are each amended to read as follows:

(1) Upon the dissolution and commencement of winding up of a limited partnership or at any time there are no limited partners, duplicate originals of a certificate of ~~((limited partnership shall be canceled upon the))~~ dissolution ~~((and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation))~~ shall be filed ~~((in the office of))~~ with the secretary of state and set forth:

~~((1))~~ (a) The name of the limited partnership;

~~((2))~~ (b) The date and place of filing of its original certificate of limited partnership;

~~((3))~~ (c) The reason for ~~((filing the certificate of cancellation;~~

~~((4) The effective date, which shall be a date certain, of cancellation if it is not to be effective upon the filing of the certificate))~~ dissolution and commencement of winding up; and

~~((5))~~ (d) Any other information the ~~((general partners))~~ person filing the certificate determines.

(2) A certificate of limited partnership shall be cancelled upon the effective date of a certificate of cancellation. A certificate of cancellation shall be filed upon the completion of winding up the limited partnership. Duplicate originals of a certificate of cancellation shall be filed with the secretary of state and shall set forth:

(a) the name of the limited partnership;

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

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

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

Sec. 8. Section 11, chapter 51, Laws of 1981 and RCW 25.10.110 are each amended to read as follows:

(1) Each certificate required by this article to be filed in the office of the secretary of state shall be executed in the following manner:

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

(b) A certificate of amendment or restatement must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner ~~((or whose contribution is described as having been increased));~~ and

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

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

(3) The execution of a certificate by a ~~((general))~~ partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 9. Section 12, chapter 51, Laws of 1981 and RCW 25.10.120 are each amended to read as follows:

If a person required by RCW 25.10.110 to execute a certificate ~~((of amendment or cancellation))~~ fails or refuses to do so, any other ~~((partner, and any assignee of a partnership interest,))~~ person who is adversely affected by the failure or refusal, may petition any court of competent jurisdiction to direct the ~~((amendment or cancellation))~~ execution. If the court finds that ~~((the amendment or cancellation))~~ it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, ~~((it))~~ the court shall order the secretary of state to record an appropriate certificate ~~((of amendment or cancellation)).~~

Sec. 10. Section 13, chapter 51, Laws of 1981 as amended by section 178, chapter 35, Laws of 1982 and RCW 25.10.130 are each amended to read as follows:

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

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

(b) File one duplicate original; and

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

(2) Upon the filing of a certificate of amendment or restatement, or judicial decree of amendment, in the office of the secretary of state, the certificate of limited partnership shall be amended or restated as set forth therein, and upon the effective date of a certificate of cancellation or a judicial decree thereof, the certificate of limited partnership is canceled.

Sec. 11. Section 14, chapter 51, Laws of 1981 and RCW 25.10.140 are each amended to read as follows:

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

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

(2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under RCW 25.10.120.

Sec. 12. Section 15, chapter 51, Laws of 1981 and RCW 25.10.150 are each amended to read as follows:

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

(2) A restated certificate of limited partnership shall be notice that the prior certificate of limited partnership and all amendments thereto are superseded.

Sec. 13. Section 16, chapter 51, Laws of 1981 and RCW 25.10.160 are each amended to read as follows:

Upon the return by the secretary of state pursuant to RCW 25.10.130 of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate of amendment, restatement, dissolution, or cancellation to each limited partner unless the partnership agreement provides otherwise.

Sec. 14. Section 17, chapter 51, Laws of 1981 and RCW 25.10.170 are each amended to read as follows:

(1) A person becomes a limited partner on the later of:

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

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

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

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

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided in RCW 25.10.420, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

~~((2) In each case under subsection (1) of this section, the person acquiring the partnership interest becomes a limited partner only upon amendment of the certificate of limited partnership reflecting that fact.))~~

Sec. 15. Section 19, chapter 51, Laws of 1981 and RCW 25.10.190 are each amended to read as follows:

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



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

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

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

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

(d) ~~((Proposing, approving, or disapproving an amendment to the partnership agreement; or))~~ Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;

(e) Requesting or attending a meeting of partners;

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

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

(ii) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership ((other than in the ordinary course of its business));

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

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

(v) ~~((The addition, removal, or substitution of general partners))~~ The admission or removal of a limited partner;

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

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

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

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

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

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

(3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers by a limited partner

constitutes participation by him in the control of the business of the limited partnership.

(4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by RCW 25.10.020(2), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

Sec. 16. Section 20, chapter 51, Laws of 1981 as amended by section 1, chapter 302, Laws of 1983 and RCW 25.10.200 are each amended to read as follows:

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

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

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

(2) A person who makes a contribution of the kind described in subsection (1) of this section is liable as a general partner to any third party who transacts business with the enterprise (a) before the person withdraws and an appropriate certificate ~~((or statement))~~ is filed to show withdrawal, or (b) before an appropriate certificate is filed to show ~~((his status as a limited partner and, in the case of an amendment, after expiration of the thirty-day period for filing an amendment relating to the person as a limited partner under RCW 25.10.090))~~ that the person is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

Sec. 17. Section 21, chapter 51, Laws of 1981 and RCW 25.10.210 are each amended to read as follows:

Each limited partner has the right to:

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

(2) Obtain from the general partners from time to time upon reasonable demand (a) true and full information regarding the state of the business and financial condition of the limited partnership, (b) promptly after becoming available, a copy of the limited partnership's federal ~~((state, and local))~~ income tax returns and state business and occupation tax return for each year, and (c) other information regarding the affairs of the limited partnership as is just and reasonable.

Sec. 18. Section 23, chapter 51, Laws of 1981 and RCW 25.10.230 are each amended to read as follows:

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

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

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

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

(4) Unless otherwise provided in writing in the ~~((certificate of limited))~~ partnership agreement, the general partner:

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

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudicated a bankrupt or insolvent;

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

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

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

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

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

(a) His or her death; or

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

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

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

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

(10) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

Sec. 19. Section 24, chapter 51, Laws of 1981 as amended by section 2, chapter 302, Laws of 1983 and RCW 25.10.240 are each amended to read as follows:

(1) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(2) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the limited partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the limited partnership and to the other partners.

Sec. 20. Section 25, chapter 51, Laws of 1981 and RCW 25.10.250 are each amended to read as follows:

A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his or her participation in the partnership as a limited partner.

Sec. 21. Section 28, chapter 51, Laws of 1981 and RCW 25.10.280 are each amended to read as follows:

(1) Except as provided in the ~~((certificate of limited))~~ partnership agreement, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if ~~((he))~~ the partner is unable to perform because of death, disability, or any other reason. If a partner does not make the required contribution of property or services, ~~((he))~~ the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the ~~((certificate of limited))~~ partnership agreement or, if not stated in the

agreement, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the stated contribution that has not been made.

(2) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, or whose claim arises, after the ~~((filing of the certificate of limited partnership))~~ entering into of a partnership agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution.

Sec. 22. Section 29, chapter 51, Laws of 1981 and RCW 25.10.290 are each amended to read as follows:

The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the value, as stated in the ~~((certificate of limited))~~ partnership agreement or, if not stated therein, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

Sec. 23. Section 30, chapter 51, Laws of 1981 and RCW 25.10.300 are each amended to read as follows:

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the value, as stated in the ~~((certificate of limited))~~ partnership agreement or, if not stated therein, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

Sec. 24. Section 31, chapter 51, Laws of 1981 as amended by section 179, chapter 35, Laws of 1982 and RCW 25.10.310 are each amended to read as follows:

Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before ~~((his))~~ the partner's withdrawal from the limited partnership and before the dissolution and winding up thereof~~((:~~

~~((+)))~~ to the extent and at the times or upon the happening of the events specified in the partnership agreement~~((, and~~

~~(2) If any distribution constitutes a return of any part of his contribution under RCW 25.10.380(3), to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership)).~~

Sec. 25. Section 33, chapter 51, Laws of 1981 and RCW 25.10.330 are each amended to read as follows:

A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in ~~((the certificate of limited partnership))~~ and in accordance with the partnership agreement. If the ~~((certificate))~~ partnership agreement does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at that partner's address on the books of the limited partnership at its office in this state.

Sec. 26. Section 34, chapter 51, Laws of 1981 and RCW 25.10.340 are each amended to read as follows:

Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he or she is entitled under the partnership agreement and, if not otherwise provided in the partnership agreement, ~~((he))~~ the partner is entitled to receive, within a reasonable time after withdrawal, the fair value of his or her interest in the limited partnership as of the date of withdrawal based upon his or her right to share in distributions from the limited partnership.

Sec. 27. Section 35, chapter 51, Laws of 1981 and RCW 25.10.350 are each amended to read as follows:

Except as provided in the ~~((certificate of limited))~~ partnership agreement, a partner, regardless of the nature of his or her contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to ~~((him))~~ the partner exceeds a percentage of that asset which is equal to the percentage in which he or she shares in distributions from the limited partnership.

Sec. 28. Section 37, chapter 51, Laws of 1981 and RCW 25.10.370 are each amended to read as follows:

A partner may not receive a distribution from a limited partnership to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the limited partnership assets.

Sec. 29. Section 38, chapter 51, Laws of 1981 and RCW 25.10.380 are each amended to read as follows:

(1) If a partner has received the return of any part of his or her contribution without violation of the partnership agreement or this chapter, ~~((he))~~ the partner is liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the limited partnership.

(2) If a partner has received the return of any part of his or her contribution in violation of the partnership agreement or this chapter, ~~((he))~~ the partner is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully received.

(3) A partner receives a return of his or her contribution to the extent that a distribution to ~~((him))~~ the partner reduces his or her share of the fair value of the net assets of the limited partnership below the value, as set forth in the ~~((certificate of limited))~~ partnership agreement or, if not stated therein, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of ~~((his))~~ the partner's contribution which has not been distributed to ~~((him))~~ the partner.

Sec. 30. Section 40, chapter 51, Laws of 1981 and RCW 25.10.400 are each amended to read as follows:

~~((Except as))~~ (1) Unless otherwise provided in the partnership agreement((:));

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

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

~~((An assignment entitles the assignee to ((receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a partner ceases to be a partner upon assignment of all his partnership interests))~~ share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

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

(2) The partnership agreement may provide that a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited partnership and may also provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates.

Sec. 31. Section 42, chapter 51, Laws of 1981 and RCW 25.10.420 are each amended to read as follows:

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

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

(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his or her liability to the limited partnership under RCW 25.10.140 and 25.10.280.

Sec. 32. Section 44, chapter 51, Laws of 1981 and RCW 25.10.440 are each amended to read as follows:

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

(1) At the time ~~((or upon the happening of events))~~ specified in the certificate of limited partnership;

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

(3) Written consent of all partners;

~~((3))~~ (4) An event of withdrawal of a general partner unless at the time there is at least one other general partner and the ~~((certificate of limited))~~ partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within ninety days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or

~~((4))~~ (5) Entry of a decree of judicial dissolution under RCW 25.10.450.

Sec. 33. Section 49, chapter 51, Laws of 1981 and RCW 25.10.490 are each amended to read as follows:

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



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

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

~~(3) ((The general character of the business it proposes to transact in this state;~~

~~(4))~~ (4) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership ~~((elects to))~~ appoints pursuant to RCW 25.10.040(2) and (3). The agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this state;

~~((5))~~ (4) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if ~~((no agent has been appointed under subsection (4) of this section or, if appointed,))~~ the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

~~((6))~~ (5) The address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or other jurisdiction or, if not so required, of the principal office of the foreign limited partnership;

~~((7) If the certificate of limited partnership filed in the foreign limited partnership's place of organization is not required to include the names and business addresses of the partners, a list of those names and addresses))~~ (6) The name and business address of each general partner;

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

(8) If the foreign limited partnership was organized under laws of a jurisdiction other than another state, a copy of a written partnership agreement, in English language.

Sec. 34. Section 51, chapter 51, Laws of 1981 and RCW 25.10.510 are each amended to read as follows:

A foreign limited partnership may register with the secretary of state under any name, whether or not it is the name under which it is registered in its place of organization, that includes ~~((without abbreviation))~~ the words "limited partnership" or the abbreviation "L.P." and that could be registered by a domestic limited partnership~~((, except that a foreign limited partnership organized under the laws of a jurisdiction other than another state shall register and transact business under a name that includes without~~

~~abbreviation the words "a (reference to the country in which organized) limited partnership").~~

Sec. 35. Section 60, chapter 51, Laws of 1981 and RCW 25.10.600 are each amended to read as follows:

The secretary of state shall adopt ~~((, within one hundred twenty days after the effective date of this act,))~~ rules establishing fees which ~~((may))~~ shall be charged and collected for:

- (1) Filing of a certificate of limited partnership for a domestic or foreign limited partnership;
- (2) Filing of a certificate of cancellation or a certificate of dissolution for a domestic or foreign limited partnership;
- (3) Filing of a certificate of amendment or restatement for a domestic or foreign limited partnership;
- (4) Filing an application to reserve or transfer a limited partnership name;
- (5) Filing any other statement or report(;
- ~~(6) Furnishing a certified copy of any certificate of limited partnership;~~
- ~~(7) Furnishing a certified copy of any other document, instrument, or paper relating to a limited partnership;~~
- ~~(8) Furnishing a certificate, under seal, attesting to the status of a limited partnership;~~
- ~~(9) Furnishing copies of any document, instrument, or paper relating to a limited partnership;~~
- ~~(10) Service of process on the office of secretary of state as agent of a limited partnership;~~
- ~~(11) Such other filings as are provided for by this chapter;~~

~~PROVIDED, That the fees for filing a certificate of limited partnership shall not exceed one hundred dollars and the fees for filing a certificate of cancellation, certificate of amendment, a reservation of name, or other statement shall not exceed twenty-five dollars))~~ authorized or permitted to be filed;

(6) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations registering pursuant to Title 23A RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23A.40.030.

All fees collected by the secretary of state shall be deposited with the state treasurer ~~((and credited to the general fund))~~ pursuant to law.

Sec. 36. Section 8, chapter 53, Laws of 1965 as amended by section 5, chapter 16, Laws of 1979 and RCW 23A.08.050 are each amended to read as follows:

- (1) The corporate name:

(a) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one of such words.

(b) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking or insurance.

(c) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, any domestic or foreign limited partnership on file with the secretary, or a name the exclusive right to which is, at the time, reserved in the manner provided in this title, or the name of a corporation which has in effect a registration of its corporate name as provided in this title, except that this provision shall not apply if the applicant files with the secretary of state either of the following: (i) The written consent of the other corporation, limited partnership, or holder of a reserved or a registered name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (ii) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(2) No corporation formed under this chapter shall include in its corporate name any of the following words or phrases: "Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more words "building," "savings," "loan," "home," "association," "society," "room," "lounge" or any other words or phrases prohibited by any statute of this state.

(3) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although its articles of incorporation may have been approved and a certificate of incorporation issued.

(4) A corporation with which another corporation, domestic or foreign, is merged, or which is formed by the reorganization or consolidation of one or more domestic or foreign corporations or upon a sale, lease, or other disposition to or exchange with a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, may have the same name as that used in this state by any of the corporations involved if the other corporation was engaged under the laws of or is authorized to transact business in this state.

Sec. 37. Section 10, chapter 53, Laws of 1965 as amended by section 2, chapter 117, Laws of 1986 and RCW 23A.08.070 are each amended to read as follows:

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, the name of any domestic or foreign limited partnership on file with the secretary, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state (a) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state a registration fee in the amount of twenty dollars.

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Sec. 38. Section 111, chapter 53, Laws of 1965 as last amended by section 47, chapter 16, Laws of 1979 and RCW 23A.32.030 are each amend to read as follows:

No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(1) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one of such words, or such corporation shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking or insurance.

(3) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, any domestic or foreign limited partnership on file with the secretary, or a name the exclusive right to which is, at the time, reserved in the manner provided in this title, or the name of a corporation which has in effect a registration of its

name as provided in this title, except that this provision shall not apply if the foreign corporation applying for a certificate of authority files with the secretary of state any one of the following:

(a) A resolution of its board of directors adopting a fictitious name for use in transacting business in this state which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state, to the name of a limited partnership on file with the secretary, or to any name reserved or registered as provided in this title; or

(b) The written consent of the other corporation, limited partnership, or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make the name distinguishable from the other name as determined by the secretary of state; or

(c) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the foreign corporation to the use of the name in this state.

Sec. 39. Section 10, chapter 235, Laws of 1967 as last amended by section 6, chapter 240, Laws of 1986 and RCW 24.03.045 are each amended to read as follows:

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, any domestic or foreign limited partnership on file with the secretary, or a limited partnership existing under chapter 25.10 RCW, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following:

(a) The written consent of the other corporation, limited partnership, or holder of a reserved name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund," "society," "foundation," " . . . . . , a nonprofit corporation," or any name of like import.

Sec. 40. Section 78, chapter 35, Laws of 1982 as amended by section 7, chapter 240, Laws of 1986 and RCW 24.03.047 are each amended to read as follows:

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, ((or)) the name of any foreign corporation authorized to transact business in this state, the name of any limited partnership on file with the secretary, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state the applicable registration fee.

The registration shall be effective until the close of the calendar year in which the application for registration is filed.

Sec. 41. Section 9, chapter 120, Laws of 1969 ex. sess. as last amended by section 121, chapter 35, Laws of 1982 and RCW 24.06.045 are each amended to read as follows:

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation existing under any act of this state, or any foreign corporation authorized to transact business or conduct affairs in this state under any act of this state, the name of a domestic or foreign limited partnership on file with the secretary, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation, limited partnership, or holder of a reserved name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section shall not include nor end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", "foundation", ".....", a non-profit mutual corporation", or any name of like import.

Sec. 42. Section 123, chapter 35, Laws of 1982 and RCW 24.06.047 are each amended to read as follows:

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, the name of any domestic or foreign limited partnership on file with the secretary, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state a registration fee in the amount of one dollar for each month, or fraction thereof, between the date of filing the application and December thirty-first of the calendar year in which the application is filed.

The registration shall be effective until the close of the calendar year in which the application for registration is filed.

Passed the House March 16, 1987.

Passed the Senate April 3, 1987.

Approved by the Governor April 15, 1987.

Filed in Office of Secretary of State April 15, 1987.

---

CHAPTER 56

[Substitute Senate Bill No. 5371]  
RESTRICTIVE COVENANTS

AN ACT Relating to restrictive covenants; reenacting and amending RCW 36.18.020; adding a new section to chapter 49.60 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 some real property deeds and other written instruments contain discriminatory covenants and restrictions that are contrary to public policy and are void. The continued existence of these covenants and restrictions is repugnant to many property owners and diminishes the free enjoyment of their property. It is the intent of section 2 of this act to allow property owners to remove all remnants of discrimination from their deeds.

**NEW SECTION.** Sec. 2. A new section is added to chapter 49.60 RCW to read as follows:

If a written instrument contains a provision that is void by reason of RCW 49.60.224, the owner of the property which is subject to the provision may cause the provision to be stricken from the public records by bringing an action in the superior court in the county in which the property is located. The action shall be an in rem, declaratory judgment action whose title shall be the description of the property. The necessary party to the action shall be the owner of the property or any portion thereof.

If the court finds that any provisions of the written instrument are void under RCW 49.60.224, it shall enter an order striking the void provisions from the public records and eliminating the void provisions from the title of the property described in the complaint.

Sec. 3. Section 1, chapter 38, Laws of 1973 as last amended by section 104, chapter 7, Laws of 1985 and by section 1, chapter 24, Laws of 1985 and RCW 36.18.020 are each reenacted and 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 or section 2 of this 1987 act 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 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

Passed the Senate February 26, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 57

[Senate Bill No. 5536]

### SCENIC RIVER SYSTEM—COMMITTEE OF PARTICIPATING AGENCIES MODIFIED—FUNDING MODIFIED

AN ACT Relating to the scenic river system; amending RCW 79.72.020; and repealing RCW 79.72.110.

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

Sec. 1. Section 2, chapter 161, Laws of 1977 ex. sess. as amended by section 371, chapter 7, Laws of 1984 and RCW 79.72.020 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) "Department" means the state parks and recreation commission.

(2) "Committee of participating agencies" or "committee" means a committee composed of the executive head, or the executive's designee, of each of the state departments of ecology, fisheries, game, natural resources, and transportation, the state parks and recreation commission, the interagency committee for outdoor recreation, the Washington state association of counties, and the association of Washington cities. In addition, the governor shall appoint two public members of the committee. Public members of the committee shall be compensated in accordance with RCW 43.03.220 and shall receive reimbursement for their travel expenses as provided in RCW 43.03.050 and RCW 43.03.060.

When a specific river or river segment of the state's scenic river system is being considered by the committee, a representative of each participating local government associated with that river or river segment shall serve as a member of the committee.

(3) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(4) "River" means a flowing body of water or a section, segment, or portion thereof.

(5) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(6) "Scenic easement" means the negotiated right to control the use of land, including the air space above the land, for the purpose of protecting the scenic view throughout the visual corridor.

(7) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater run-off peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(8) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless the rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(9) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. The visual corridor shall not exceed the river area.

**NEW SECTION.** Sec. 2. Section 11, chapter 161, Laws of 1977 *ex. sess.* and RCW 79.72.110 are each repealed.

Passed the Senate April 7, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

---

## CHAPTER 58

[Senate Bill No. 5204]

### PUBLIC HOSPITAL DISTRICT SUPERINTENDENTS

AN ACT Relating to the administration of public hospitals; and amending RCW 70.44-.070, 70.44.080, and 70.44.090.

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

Sec. 1. Section 7, chapter 264, Laws of 1945 as amended by section 16, chapter 84, Laws of 1982 and RCW 70.44.070 are each amended to read as follows:

(1) The public hospital district commission shall appoint a superintendent, who shall be appointed for an indefinite time and be removable at the will of the commission. Appointments and removals shall be by resolution, introduced at a regular meeting and adopted at a subsequent regular

meeting by a majority vote. ~~((He))~~ The superintendent shall receive such compensation as the commission shall fix by resolution.

(2) Where a public hospital district operates more than one hospital, the commission may in its discretion appoint up to one superintendent per hospital and assign among the superintendents the powers and duties set forth in RCW 70.44.080 and 70.44.090 as deemed appropriate by the commission.

Sec. 2. Section 9, chapter 264, Laws of 1945 as amended by section 17, chapter 84, Laws of 1982 and RCW 70.44.080 are each amended to read as follows:

(1) The superintendent shall be the chief administrative officer of the public district hospital and shall have control of administrative functions of the district. ~~((He))~~ The superintendent shall be responsible to the commission for the efficient administration of all affairs of the district. In case of the absence or temporary disability of the superintendent a competent person shall be appointed by the commission. The superintendent shall be entitled to attend all meetings of the commission and its committees and to take part in the discussion of any matters pertaining to the district, but shall have no vote.

(2) Where the commission has appointed more than one superintendent as provided in section 1 of this 1987 act, the commission shall assign among the superintendents the powers set forth in this section as deemed appropriate by the commission.

Sec. 3. Section 11, chapter 264, Laws of 1945 as amended by section 18, chapter 84, Laws of 1982 and RCW 70.44.090 are each amended to read as follows:

(1) The public hospital district superintendent shall have the power, and ~~((it shall be his))~~ duty:

~~((+))~~ (a) To carry out the orders of the commission, and to see that all the laws of the state pertaining to matters within the functions of the district are duly enforced.

~~((2))~~ (b) To keep the commission fully advised as to the financial condition and needs of the district. To prepare, each year, an estimate for the ensuing fiscal year of the probable expenses of the district, and to recommend to the commission what development work should be undertaken, and what extensions and additions, if any, should be made, during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions. To certify to the commission all the bills, allowances and payrolls, including claims due contractors of public works. To recommend to the commission a range of salaries to be paid to district employees.

(2) Where the commission has appointed more than one superintendent as provided in section 1 of this 1987 act, the commission shall assign among

the superintendents the duties set forth in this section as deemed appropriate by the commission.

Passed the Senate February 27, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 59

[Senate Bill No. 5403]

### VETERANS AFFAIRS ADVISORY COMMITTEE

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 63, Laws of 1985 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 ~~((fourteen))~~ fifteen 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, Veterans of World War I, ~~((and))~~ Gold Star Mothers, and the Vietnam Veterans of America, Incorporated. The ~~((ten))~~ eleven 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 March 10, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

CHAPTER 60

[Senate Bill No. 5148]

DEPARTMENT OF SERVICES FOR THE BLIND CONTINUED

AN ACT Relating to the continuance of the department of services for the blind; and repealing RCW 74.18.900.

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

NEW SECTION. Sec. 1. Section 29, chapter 194, Laws of 1983 and RCW 74.18.900 are each repealed.

Passed the Senate February 2, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

CHAPTER 61

[Senate Bill No. 5410]

EMPLOYMENT SECURITY DEPARTMENT APPEALS

AN ACT Relating to appeals to the employment security department; and amending RCW 50.32.020, 50.32.030, 50.32.040, 50.32.050, and 50.32.070.

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

Sec. 1. Section 118, chapter 35, Laws of 1945 as amended by section 10, chapter 215, Laws of 1951 and RCW 50.32.020 are each amended to read as follows:

The applicant or claimant, his or her most recent employing unit or any interested party which the commissioner by regulation prescribes, may file an appeal from any determination or redetermination with the appeal tribunal within ~~((ten))~~ thirty days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to his or her

last known address: PROVIDED, That in the event an appeal with respect to any determination is pending as of the date when a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination. Any appeal from a determination of denial of benefits which is effective for an indefinite period shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from any determination, or redetermination, within the time allowed by the provisions of this section for appeal therefrom, said determination, or redetermination, as the case may be, shall be conclusively deemed to be correct except as hereinbefore provided in respect to reconsideration by the commissioner of any determination.

Sec. 2. Section 119, chapter 35, Laws of 1945 as last amended by section 20, chapter 23, Laws of 1983 1st ex. sess. and RCW 50.32.030 are each amended to read as follows:

When an order and notice of assessment has been served upon or mailed to a delinquent employer, as heretofore provided, such employer may within ~~((ten))~~ thirty days thereafter file a petition in writing with the appeal tribunal, stating that such assessment is unjust or incorrect and requesting a hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the employment security department. If no such petition be filed with the appeal tribunal within said ~~((ten))~~ thirty days, said assessment shall be conclusively deemed to be just and correct: PROVIDED, That in such cases, and in cases where payment of contributions, interest, or penalties has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of a petition on a disputed assessment with the appeal tribunal shall stay the distraint and sale proceeding provided for in this title until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the commissioner to perfect a lien, as provided by this title, upon the property of the employer. The filing of a petition on a disputed assessment shall stay the accrual of interest and penalties on the disputed contributions until a final decision shall have been made thereon.

Within ~~((ten))~~ thirty days after notice of denial of refund or adjustment has been mailed or delivered (whichever is the earlier) to an employer, the employer may file a petition in writing with the appeal tribunal for a hearing thereon: PROVIDED, That this right shall not apply in those cases in which assessments have been appealed from and have become final. The petitioner shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said ~~((ten))~~ thirty days, the determination of the commissioner as stated in said notice shall be final.

Sec. 3. Section 120, chapter 35, Laws of 1945 as last amended by section 10, chapter 35, Laws of 1981 and RCW 50.32.040 are each amended to read as follows:

In any proceeding before an appeal tribunal involving a dispute of an individual's initial determination, all matters covered by such initial determination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this title relating to the individual's right to receive such credit or benefits for the period in question, including but not limited to the question and nature of the claimant's availability for work within the meaning of RCW 50.20.010(3) and 50.20.080, shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal in single claimant cases. The claimant's availability for work shall be determined apart from all other matters.

In any proceeding before an appeal tribunal involving an individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice. This provision supersedes the twenty-day notice provision of RCW 34.04.090 as to such cases.

In any proceeding involving an appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within ~~((ten))~~ thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner.

Sec. 4. Section 121, chapter 35, Laws of 1945 as last amended by section 21, chapter 23, Laws of 1983 1st ex. sess. and RCW 50.32.050 are each amended to read as follows:

In any proceeding before an appeal tribunal involving an appeal from a disputed order and notice of assessment (for contributions, interest, or penalties due) a disputed denial of refund or adjustment (of contributions, interest, or penalties paid) or a disputed experience rating credit, the appeal tribunal, after affording the parties a reasonable opportunity for hearing, shall affirm, modify or set aside the notice of assessment, denial of refund or experience rating credit. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor which shall be deemed to be the final decision on the order and notice of assessment, denial of refund or experience rating credit, as the case may be, unless within ~~((ten))~~



thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner.

Sec. 5. Section 123, chapter 35, Laws of 1945 as last amended by section 5, chapter 228, Laws of 1975 1st ex. sess. and RCW 50.32.070 are each amended to read as follows:

Within (~~ten~~) thirty days from the date of notification or mailing, whichever is the earlier, of any decision of an appeal tribunal, the commissioner on his or her own order may, or upon petition of any interested party shall, take jurisdiction of the proceedings for the purpose of review thereof. Appeal from any decision of an appeal tribunal may be perfected so as to prevent finality of such decision if, within (~~ten~~) thirty days from the date of mailing the appeal tribunal decision, or notification thereof, whichever is the earlier, a petition in writing for review by the commissioner is received by the commissioner or by such representative of the commissioner as the commissioner by regulation shall prescribe. The commissioner may also prevent finality of any decision of an appeal tribunal and take jurisdiction of the proceedings for his or her review thereof by entering an order so providing on his or her own motion and mailing a copy thereof to the interested parties within the same period allowed herein for receipt of a petition for review. The time limit provided herein for the commissioner's assumption of jurisdiction on his or her own motion for review shall be deemed to be jurisdictional.

Passed the Senate March 9, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 62

[Senate Bill No. 5348]

### HULK HAULERS OR SCRAP PROCESSORS—PREREQUISITES TO VEHICLE HULK TRANSPORT MODIFIED

AN ACT Relating to the release of a vehicle interest to a hulk hauler or scrap processor; and amending RCW 46.79.020.

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

Sec. 1. Section 2, chapter 110, Laws of 1971 ex. sess. as last amended by section 3, chapter 142, Laws of 1983 and RCW 46.79.020 are each amended to read as follows:

Any hulk hauler or scrap processor licensed under the provisions of this chapter may:

(1) Notwithstanding any other provision of law, transport any flattened or junk abandoned (~~automobile~~) vehicle hulk whether such hulk is from in

state or out of state, to a scrap processor upon obtaining the certificate of title ((and/or any)) or release of interest from the owner or ((custodian of such title)) an affidavit of sale from the landowner who has complied with RCW 46.55.230. The scrap processor shall forward such document(s) to the department, together with a monthly report of all vehicles acquired from other than a licensed automobile wrecker, and no further identification shall be necessary.

(2) Prepare vehicles and vehicle salvage for transportation and delivery to a scrap processor or vehicle wrecker only by removing the following vehicle parts:

- (a) Gas tanks;
- (b) Vehicle seats containing springs;
- (c) Tires;
- (d) Wheels;
- (e) Scrap batteries;
- (f) Scrap radiators.

Such parts may not be removed if they will be accepted by a scrap processor or wrecker. Such parts may be removed only at a properly zoned location, and all preparation activity, vehicles, and vehicle parts shall be obscured from public view. Storage is limited to two vehicles or the parts thereof which are authorized by this subsection, and any such storage may take place only at a properly zoned location. Any vehicle parts removed under the authority of this subsection shall be lawfully disposed of at or through a public facility or service for waste disposal or by sale to a licensed motor vehicle wrecker.

Passed the Senate March 11, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 63

[Senate Bill No. 5418]

### WASHINGTON STATE PATROL—DEDUCTIONS FROM RETIREMENT ALLOWANCE FOR THE WASHINGTON STATE PATROL MEMORIAL FOUNDATION

AN ACT Relating to the Washington state patrol; and amending RCW 43.43.310.

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

Sec. 1. Section 43.43.310, chapter 8, Laws of 1965 as last amended by section 31, chapter 52, Laws of 1982 1st ex. sess. and RCW 43.43.310 are each amended to read as follows:

(1) The right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or

other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation.

Passed the Senate February 23, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 64

[Senate Bill No. 5080]

### PENSIONS—EXEMPTION FROM EXECUTION, ATTACHMENT, OR SEIZURE

AN ACT Relating to exempt pension money; and amending RCW 6.16.030.

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

Sec. 1. Section 1, page 88, Laws of 1890 and RCW 6.16.030 are each amended to read as follows:

(1) Any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned by him, shall be exempt from execution, attachment or seizure by or under any legal process whatever.

(2) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, or seizure by or under any legal process whatever: PROVIDED, That this subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations

order (as such term is defined in section 206(d) of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. sec. 1056(d) or in section 401(a)(13) of the internal revenue code of 1954, as amended).

(3) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is subject to the provisions of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. secs. 101 through 1461 or that is described in sections 401(a), 403(a), 403(b), 408, or 409 (as in effect before January 1, 1984) of the internal revenue code of 1954, as amended, or both: PROVIDED, That the term "employee benefit plan" shall not include any employee benefit plan that is excluded from the application of the federal employee retirement income security act of 1974, as amended, pursuant to section 4(b)(1) of that act, 29 U.S.C. sec. 10003(b)(1).

Passed the Senate March 18, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 65

[Substitute Senate Bill No. 5106]

### ORGANIZED CRIME ADVISORY BOARD—MEMBERSHIP REVISED

AN ACT Relating to the organized crime advisory board; and amending RCW 43.43.858 and 43.43.860.

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

Sec. 1. Section 5, chapter 202, Laws of 1973 1st ex. sess. as last amended by section 14, chapter 146, Laws of 1980 and RCW 43.43.858 are each amended to read as follows:

There is hereby created the organized crime advisory board of the state of Washington. The board shall consist of thirteen voting and two nonvoting members.

The lieutenant governor shall appoint four members of the senate (~~judiciary committee~~) to the board, no more than two of whom shall be from the same political party.

The governor shall appoint five members to the board. Two members shall be county prosecuting attorneys and shall be appointed from a list of four county prosecutors agreed upon and submitted to the governor by the elected county prosecutors. One member shall be a municipal police chief, and one member shall be a county sheriff, both of whom shall be appointed from a list of three police chiefs and three sheriffs agreed upon and submitted to the governor by the association of sheriffs and police chiefs (RCW 36.28A.010). One member shall be a retired judge of a court of record.

The United States attorneys for the western and eastern districts of Washington shall be requested to serve on the board as nonvoting members and shall not be eligible to serve as chairperson.

The speaker of the house shall appoint four members of the house ((~~judiciary committee~~)) of representatives to the board, no more than two of whom shall be from the same political party.

The members of the board shall be qualified on the basis of knowledge and experience in matters relating to crime prevention and security or with such other abilities as may be expected to contribute to the effective performance of the board's duties. The members of the board shall meet with the chief of the Washington state patrol at least four times a year to perform the duties enumerated in RCW 43.43.862 and to discuss any other matters related to organized crime. Additional meetings of the board may be convened at the call of the chairperson or by a majority of the members. The board shall elect its own chairperson from among its members. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120 as now existing or hereafter amended, and the other members in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

Sec. 2. Section 6, chapter 202, Laws of 1973 1st ex. sess. as amended by section 15, chapter 146, Laws of 1980 and RCW 43.43.860 are each amended to read as follows:

The term of each legislative member shall be two years and shall be conditioned upon such member retaining membership (~~on the committee on which he was serving at the time of appointment and retaining membership~~) in the legislature and in the same political party of which he was a member at the time of appointment.

The term of each nonlegislative member shall be two years and shall be conditioned upon such member retaining the official position from which he was appointed.

Passed the Senate February 18, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

---

## CHAPTER 66

[Senate Bill No. 5062]

### TRAFFIC INFRACTIONS—PROBABLE CAUSE MODIFIED

AN ACT Relating to enforcement of traffic laws and regulations without warrants; amending RCW 46.63.030; and reenacting and amending RCW 10.31.100.

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

Sec. 1. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 3, chapter 267, Laws of 1985 and by section 9, chapter 303, Laws of 1985 and RCW 10.31.100 are each reenacted and 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 ~~((5))~~ (8) 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 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) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.02.095 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Except as specifically provided in subsections (2), (3), ((and)) (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

((7)) (8) 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. 2. Section 3, chapter 136, Laws of 1979 ex. sess. as amended by section 10, chapter 128, Laws of 1980 and RCW 46.63.030 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence ((or));

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed; or

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

Passed the Senate January 28, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

---

CHAPTER 67

[Senate Bill No. 5051]

ENVIRONMENTAL EXCELLENCE AWARDS PROGRAM

AN ACT Relating to environmental excellence awards; and adding a new section to chapter 43.21A RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.21A RCW to read as follows:

(1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are labeled in a manner that helps ensure environmental protection. The awards may be made in the following product categories:

- (a) Paint products;
- (b) Cleaning agents;
- (c) Pesticides;
- (d) Automotive, marine, and related maintenance products; and
- (e) Hobby and recreation products.

(2) Products receiving an environmental excellence award pursuant to this section would be entitled to display a logo or other symbol developed by the department to signify the award.

Passed the Senate April 9, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.



CHAPTER 68

[Senate Bill No. 5415]

RIGHTS OF WAY FOR CITY STREETS WHICH ARE PART OF THE STATE HIGHWAY SYSTEM—VESTING OF TITLE—NONTRANSPORTATION USE

AN ACT Relating to rights of way; and amending RCW 47.24.020.

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

Sec. 1. Section 47.24.020, chapter 13, Laws of 1961 as last amended by section 150, chapter 7, Laws of 1984 and RCW 47.24.020 are each amended to read as follows:

The jurisdiction, control, and duty of the state and city or town with respect to such streets shall be as follows:

(1) The department has no authority to change or establish any grade of any such street without approval of the governing body of such city or town, except with respect to limited access facilities established by the commission;

(2) The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes. However, within incorporated cities and towns the title to a state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over such facility as provided in chapter 47.52 RCW;

(3) The department has authority to prohibit the suspension of signs, banners, or decorations above the portion of such street between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway;

(4) The city or town shall at its own expense maintain all underground facilities in such streets, and has the right to construct such additional underground facilities as may be necessary in such streets;

(5) The city or town has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired either by the city or town itself or at its direction;

(6) The city or town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins, and remove all snow, except that the state shall when necessary plow the snow on the roadway. In cities and towns having a population of fifteen thousand or less according to the latest determination of population by the office of financial management, the state, when necessary for public safety, shall assume, at its expense, responsibility for the stability of the slopes of cuts and fills and the embankments within the right of way to protect the roadway itself. The state shall install, maintain, and operate all illuminating

facilities on any limited access facility, together with its interchanges, located within the corporate limits of any city or town, and shall assume and pay the costs of all such installation, maintenance, and operation incurred after November 1, 1954;

(7) The department has the right to use all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of new streets by the department, the cost of the facilities shall be borne by the state and/or city as may be mutually agreed upon between the department and the governing body of the city or town;

(8) Cities and towns have exclusive right to grant franchises not in conflict with state laws, over, beneath, and upon such streets, but the department is authorized to enforce in an action brought in the name of the state any condition of any franchise which a city or town has granted on such street. No franchise for transportation of passengers in motor vehicles may be granted on such streets without the approval of the department, but the department shall not refuse to approve such franchise unless another street conveniently located and of strength of construction to sustain travel of such vehicles is accessible;

(9) Every franchise or permit granted any person by a city or town for use of any portion of such street by a public utility shall require the grantee or permittee to restore, repair, and replace to its original condition any portion of the street damaged or injured by it;

(10) The city or town has the right to issue overload or overwidth permits for vehicles to operate on such streets or roads subject to regulations printed and distributed to the cities and towns by the department;

(11) Cities and towns shall regulate and enforce all traffic and parking restrictions on such streets, but all regulations adopted by a city or town relating to speed, parking, and traffic control devices on such streets not identical to state law relating thereto are subject to the approval of the department before becoming effective. All regulations pertaining to speed, parking, and traffic control devices relating to such streets heretofore adopted by a city or town not identical with state laws shall become null and void unless approved by the department heretofore or within one year after March 21, 1963;

(12) The department shall erect, control, and maintain at state expense all route markers and directional signs, except street signs, on such streets;

(13) The department shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices for the purpose of regulating both pedestrian and motor vehicular traffic on, entering upon, or leaving state highways in cities and towns having a population of fifteen thousand or less according to the latest determination of population by the office of financial management. Such cities and towns may submit to the department a plan for traffic control signals, signs, and

traffic control devices desired by them, indicating the location, nature of installation, or type thereof, or a proposed amendment to such an existing plan or installation, and the department shall consult with the cities or towns concerning the plan before installing such signals, signs, or devices. Cities and towns having a population in excess of fifteen thousand according to the latest determination of population by the office of financial management shall install, maintain, operate, and control such signals, signs, and devices at their own expense, subject to approval of the department for the installation and type only. For the purpose of this subsection, striping, lane marking, and channelization are considered traffic control devices;

(14) All revenue from parking meters placed on such streets belongs to the city or town;

(15) Rights of way for such streets shall be acquired by either the city or town or by the state as shall be mutually agreed upon. Costs of acquiring rights of way may be at the sole expense of the state or at the expense of the city or town or at the expense of the state and the city or town as may be mutually agreed upon. Title to all such rights of way so acquired ((by a city or town immediately vests)) shall vest in the city or town(~~(Title to all rights of way acquired by the state remains in the state until actually used for construction or other street purpose. Upon completion of the construction, the rights of way actually used for street purposes shall be conveyed to the city or town by deed executed by the secretary and duly acknowledged.))~~): PROVIDED, That no vacation, sale, ((or)) rental, or any other nontransportation use of any unused portion of any such street may be made by the city or town without the prior written approval of the department; and all revenue derived from sale, vacation, ((or)) rental, or any nontransportation use of such rights of way shall be shared by the city or town and the state in the same proportion as the purchase costs were shared;

(16) If any city or town fails to perform any of its obligations as set forth in this section or in any cooperative agreement entered into with the department for the maintenance of a city or town street forming part of the route of a state highway, the department may notify the mayor of the city or town to perform the necessary maintenance within thirty days. If the city or town within the thirty days fails to perform the maintenance or fails to authorize the department to perform the maintenance as provided by RCW 47.24.050, the department may perform the maintenance, the cost of which is to be deducted from any sums in the motor vehicle fund credited or to be credited to the city or town.

Passed the Senate March 9, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 69

[Substitute Senate Bill No. 5417]

FERRY SYSTEM JOINT DEVELOPMENT AGREEMENTS—LEASE  
REQUIREMENTS MODIFIED

AN ACT Relating to ferry system facilities; and amending RCW 47.60.140.

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

Sec. 1. Section 47.60.140, chapter 13, Laws of 1961 as last amended by section 311, chapter 7, Laws of 1984 and RCW 47.60.140 are each amended to read as follows:

(1) The department is empowered to operate such ferry system, including all operations, whether intrastate or international, upon any route or routes, and toll bridges as a revenue-producing and self-liquidating undertaking. The department has full charge of the construction, rehabilitation, rebuilding, enlarging, improving, operation, and maintenance of the ferry system, including toll bridges, approaches, and roadways incidental thereto that may be authorized by the department, including the collection of tolls and other charges for the services and facilities of the undertaking. The department has the exclusive right to enter into leases and contracts for use and occupancy by other parties of the concessions and space located on the ferries, wharves, docks, approaches, and landings, but, except as provided in subsection (2) of this section, no such leases or contracts may be entered into for more than five years, nor without public advertisement for bids as may be prescribed by the department. However, except as provided in subsection (2) of this section, the Colman Dock facilities may be leased for a period not to exceed ten years (~~(, and the department may accept and continue leases and contracts for a period of ten years without advertisement or bid if the leases or contracts were in effect or entered into at the time of the purchase of the Puget Sound ferry system, and any leases or contracts so made are hereby validated)~~).

(2) As part of a joint development agreement under which a public or private developer constructs improvements on ferry system property, the department may lease such property and improvements to such developers for that period of time, not to exceed fifty-five years, or not to exceed thirty years for those areas located within harbor areas, which the department determines is necessary to allow the developer to make reasonable recovery on its initial investment. Any lease entered into as provided for in this subsection that involves state aquatic lands shall conform with the Washington state Constitution and applicable statutory requirements as determined by the department of natural resources. That portion of the lease rate attributable to the state aquatic lands shall be distributed in the same manner as

other lease revenues derived from state aquatic lands as provided in RCW 79.24.580.

Passed the Senate March 19, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

---

## CHAPTER 70

[Engrossed Senate Bill No. 5161]

### STATE PURCHASING—DUTIES OF THE STATE PURCHASING AND MATERIAL CONTROL DIRECTOR REGARDING STATE HOSPITALS AND CERTAIN STATE HEALTH CARE PROGRAMS

AN ACT Relating to state hospital purchasing authority; and amending RCW 43.19.190 and 43.19.1906.

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

Sec. 1. Section 3, chapter 32, Laws of 1969 as last amended by section 1, chapter 103, Laws of 1980 and RCW 43.19.190 are each amended to read as follows:

The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by said legislature: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale

to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services authorized for direct acquisition from vendors by state organizations and filed under the provisions of RCW 39.29.010 through 39.29.030, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935 as now or hereafter amended;

(3) Provide the required staff assistance for the state supply management advisory board through the division of purchasing;

(4) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies: PROVIDED, That acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, as now or hereafter amended, or from policies established by the director after consultation with the state supply management advisory board: PROVIDED FURTHER, That delegation of such authorization to a state agency, including an educational institution, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(5) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(6) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(7) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(8) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(9) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications after receiving the recommendation of the supply management advisory board;

(10) Provide for the maintenance of inventory records of supplies, materials, and other property;

(11) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(12) Publish procedures and guidelines for compliance by all state agencies, including educational institutions, which implement overall state purchasing and material control policies;

(13) Conduct periodic visits to state agencies, including educational institutions, to determine if statutory provisions and supporting purchasing and material control policies are being fully implemented, and based upon such visits, take corrective action to achieve compliance with established purchasing and material control policies under existing statutes when required.

Sec. 2. Section 43.19.1906, chapter 8, Laws of 1965 as last amended by section 1, chapter 342, Laws of 1985 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 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 and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, 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 Senate February 20, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 71

[Senate Bill No. 5067]

### DOMESTIC VIOLENCE PREVENTION ORDERS—COURT JURISDICTION REVISED

AN ACT Relating to domestic violence prevention; and amending RCW 26.50.020.

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



Sec. 1. Section 3, chapter 263, Laws of 1984 as amended by section 1, chapter 303, Laws of 1985 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. The jurisdiction of district ((or)) and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents 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.

Passed the Senate February 23, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

---

## CHAPTER 72

[Substitute Senate Bill No. 5179]

PUBLIC PRINTING—PRIVATE PRINTING DOLLAR THRESHOLD TO BE ADJUSTED EACH BIENNIUM—INSTITUTIONS OF HIGHER EDUCATION AUTHORIZED TO CONTRACT WITH PRIVATE PRINTERS WHEN USING NONSTATE APPROPRIATED FUNDING SOURCES

AN ACT relating to public printing; and amending RCW 43.78.030.

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

Sec. 1. Section 43.78.030, chapter 8, Laws of 1965 as last amended by section 2, chapter 164, Laws of 1982 and RCW 43.78.030 are each amended to read as follows:

The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities(~~(-PROVIDED, That)~~). This section shall not apply to the printing of the supreme court(;) and the court of appeals reports(~~(-PROVIDED FURTHER, That)~~). Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer(~~(-AND PROVIDED FURTHER, That except under RCW 43.19.532;))~~). Any printing and binding of whatever description as may be needed by any institution of higher learning, institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed ((two hundred)) one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of ((said)) the agency so ordering, the saving in time and processing justifies the award to such local private printing concern. Further, where any printing or binding needed by an institution of higher education is to be paid for from research grant or contract funds, short course revenues, or other nonstate appropriated funding source, such printing or binding may be done by any private printing company in the state of Washington, irrespective of the dollar limit specified in this section, when in the judgment of the officer of the institution so ordering, the saving in time or cost justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars.

Passed the Senate April 9, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 73

[Senate Bill No. 5205]

SUPERIOR COURT JUDGES—RETIRED JUDGES WITH CERTAIN PENDING  
CASES MAY SIT AS JUDGES PRO TEMPORE

AN ACT Relating to judges pro tempore; amending RCW 2.08.180; and providing an effective date.

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

Sec. 1. Section 11, page 343, Laws of 1890 as last amended by section 6, chapter 81, Laws of 1971 and RCW 2.08.180 are each amended to read as follows:

A case in the superior court of any county may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the case; and his action in the trial of such cause shall have the same effect as if he were a judge of such court. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

A judge pro tempore shall, before entering upon his duties in any cause, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge pro tempore in the cause wherein . . . . . is plaintiff and . . . . . defendant, according to the best of my ability."

A judge pro tempore who is a practicing attorney and who is not a retired justice of the supreme court or judge of a superior court of the state of Washington, or who is not an active judge of an inferior court of the state of Washington, shall receive a compensation of one-two hundred and fiftieth of the annual salary of a superior court judge for each day engaged in said trial, to be paid in the same manner as the salary of the superior judge. A judge who is an active judge of an inferior court of the state of Washington shall receive no compensation as judge pro tempore. A justice or judge who has retired from the supreme court, court of appeals, or superior court of the state of Washington shall receive compensation as judge pro tempore in the amount of sixty percent of the amount payable to a judge pro tempore under this section.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1988, if the proposed amendment to Article IV, section 7 of the state Constitution, allowing retiring judges to hear pending cases, is validly submitted to and is approved and ratified by the voters at a general election held in November,

1987. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety.

Passed the Senate February 2, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

CHAPTER 74

[Senate Bill No. 5541]

LIQUOR CONTROL BOARD—CONDITIONS OF ANNUAL AUDIT REVISED

AN ACT Relating to annual audit of the liquor control board; and amending RCW 66.08.024.

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

Sec. 1. Section 71, chapter 62, Laws of 1933 ex. sess. as last amended by section 2, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.08.024 are each amended to read as follows:

The state auditor shall audit the books, records, and affairs of the board annually(~~(: PROVIDED, That the total annual cost of such audit shall not exceed the sum of thirty thousand dollars. The board shall pay to the state treasurer for the credit of the state auditor, out of the liquor revolving fund, the sum of thirty thousand dollars a year, or so much thereof as is necessary, to defray the costs of such audits)~~). The board may provide for additional audits by certified public accountants. All such audits shall be public records of the state. The payment of the audits provided for in this section shall be paid as provided in RCW 66.08.026 for other administrative expenses.

Passed the Senate March 9, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

CHAPTER 75

[Senate Bill No. 5227]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVENUE RECOVERY STATUTES CONSOLIDATED

AN ACT Relating to consolidation of statutes regarding revenue recovery for social and health services; amending RCW 10.77.250, 10.82.080, 18.20.050, 18.46.030, 18.46.040, 43.20A.055, 51.32.040, 70.41.100, 70.62.220, 70.62.230, 70.119.100, 71.02.380, 71.02.411, 71.02.412, 71.02.413, 71.02.414, 71.02.415, 71.05.100, 71.12.470, 71.12.490, 72.23.230, 72.33.180, 72.33.650, 72.33.660, 72.33.665, 72.33.670, 72.33.685, 72.33.690, 72.33.695, 72.33.700, 74.04.005, 74.04.300, 74.04.540, 74.04.550, 74.04.570, 74.04.580, 74.04.710, 74.04.720, 74.08.120, 74.08.338, and 74.09.538; adding a new chapter to Title 43 RCW; recodifying

RCW 43.20A.055, 43.20A.435, 43.20A.670, 71.02.320, 71.02.360, 71.02.370, 71.02.380, 71.02.400, 71.02.410, 71.02.411, 71.02.412, 71.02.413, 71.02.414, 71.02.415, 72.33.650, 72.33.655, 72.33.660, 72.33.665, 72.33.670, 72.33.680, 72.33.685, 72.33.690, 72.33.695, 72.33.700, 74.04.007, 74.04.306, 74.04.530, 74.04.540, 74.04.550, 74.04.560, 74.04.570, 74.04.580, 74.04.700, 74.04.710, 74.04.720, 74.04.730, and 74.04.780; and repealing RCW 71.02.310, 71.02.330, 71.02.340, 71.02.350, 71.02.390, and 71.02.417.

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

Sec. 1. Section 25, chapter 117, Laws of 1973 1st ex. sess. as amended by section 1, chapter 245, Laws of 1985 and RCW 10.77.250 are each amended to read as follows:

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 71.02.411 as recodified by this 1987 act.

Sec. 2. Section 1, chapter 201, Laws of 1982 as amended by section 2, chapter 245, Laws of 1985 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:

(a) The department of social and health services shall deduct the overpayment from subsequent assistance payments as provided in (~~chapter 74-04~~) RCW 74.04.700 as recodified by this 1987 act, when the person is receiving public assistance; or

(b) Ordered restitution payments 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 be transmitted to the department of social and health services within forty-five days after receipt by the county.

Sec. 3. Section 5, chapter 253, Laws of 1957 as last amended by section 4, chapter 201, laws of 1982 and RCW 18.20.050 are each amended to read as follows:

Upon receipt of an application for license, if the applicant and the boarding home facilities meet the requirements established under this chapter, the department or the department and the authorized health department jointly, shall issue a license. If there is a failure to comply with the provisions of this chapter or the standards, rules, and regulations promulgated pursuant thereto, the department, or the department and authorized health 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 boarding home for a period to be determined by the department, or the department and authorized health department, but not to

exceed twelve months, which provisional license shall not be subject to renewal. At the time of the application for or renewal of a license or provisional license the licensee shall pay a license fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act. When the license or provisional license is issued jointly by the department and authorized health department, the license fee shall be paid to the authorized health department. 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 twelve months in duration: PROVIDED, That when the annual license renewal date of a previously licensed boarding home is set by the department on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. All applications for renewal of license shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 4. Section 4, chapter 168, Laws of 1951 as amended by section 5, chapter 201, Laws of 1982 and RCW 18.46.030 are each amended to read as follows:

An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with rules and regulations as are lawfully prescribed hereunder. Each application for license or renewal of license shall be accompanied by a license fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act; PROVIDED, That no fee shall be required of charitable or nonprofit or government-operated institutions.

Sec. 5. Section 5, chapter 168, Laws of 1951 as amended by section 6, chapter 201, Laws of 1982 and RCW 18.46.040 are each amended to read as follows:

Upon receipt of an application for a license and the license fee, the licensing agency shall issue a license if the applicant and the maternity home facilities meet the requirements established under this chapter. A license, unless suspended or revoked, shall be renewable annually. Applications for renewal shall be on forms provided by the department and shall be filed in the department not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written

approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 6. Section 2, chapter 201, Laws of 1982 and RCW 43.20A.055 are each amended to read as follows:

~~(1) ((The term "license" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.~~

~~(2))~~ (2)) The secretary shall charge fees to the licensee for obtaining a license. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

~~((3))~~ (2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

~~((4))~~ (3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Sec. 7. Section 13, chapter 2, Laws of 1983 and RCW 51.32.040 are each amended to read as follows:

No money paid or payable under this title shall, except as provided for in RCW 74.04.530 as recodified by this 1987 act or 74.20A.260, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or charge shall be void, unless the transfer is to a financial institution at the request of a worker or other beneficiary and in accordance with RCW 51.32.045 shall be made: PROVIDED, That if any worker suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he or she shall have received payment of his or her award for such permanent partial injury, or if any worker suffers any other injury before he or she shall have received payment of any monthly installment covering any period of time prior to his or her death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: PROVIDED FURTHER, That, if any worker suffers an injury and dies therefrom before he or she shall have received payment of any monthly installment covering time loss for any period of time prior to his or her death, the amount of such monthly payment

shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: PROVIDED FURTHER, That any application for compensation under the foregoing provisos of this section shall be filed with the department or self-insuring employer within one year of the date of death: PROVIDED FURTHER, That if the injured worker resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: PROVIDED FURTHER, That any worker receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible therefor while confined in any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such worker would, but for the provisions of this proviso, otherwise be entitled thereto: PROVIDED FURTHER, That if any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his or her participation in such program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: PROVIDED FURTHER, That if such incarcerated worker has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him or her for himself or herself and his or her beneficiaries had he or she not been so confined. Any lump sum benefits to which the worker would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his or her beneficiaries.

Sec. 8. Section 10, chapter 267, Laws of 1955 as amended by section 9, chapter 201, Laws of 1982 and RCW 70.41.100 are each amended to read as follows:

An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires which may include affirmative evidence of ability to comply with the standards, rules, and regulations as are lawfully prescribed hereunder. An application for renewal of license shall be made to the department upon forms provided by it and submitted thirty days prior to the date of expiration of the license. Each application for a license or renewal thereof by a hospital as defined by this chapter shall be accompanied by a fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act.

Sec. 9. Section 3, chapter 239, Laws of 1971 ex. sess. as amended by section 10, chapter 201, Laws of 1982 and RCW 70.62.220 are each amended to read as follows:



The person operating a transient accommodation as defined in this chapter shall secure each year an annual operating license and shall pay a fee therefor as established by the department under RCW 43.20A.055 as recodified by this 1987 act. The annual licensure period shall run from January 1st through December 31st of each year. The license fee shall be paid to the department prior to the time the license is issued and such license shall be conspicuously displayed in the lobby or office of the facility for which it is issued.

Sec. 10. Section 4, chapter 239, Laws of 1971 ex. sess. as amended by section 11, chapter 201, Laws of 1982 and RCW 70.62.230 are each amended to read as follows:

In addition to the annual license fee, the person operating a transient accommodation shall pay an annual inspection fee for any inspection made during the course of the year(~~{:}~~). Fees for inspection shall be as established by the department under RCW 43.20A.055 as recodified by this 1987 act.

Sec. 11. Section 10, chapter 99, Laws of 1977 ex. sess. as last amended by section 8, chapter 292, Laws of 1983 and RCW 70.119.100 are each amended to read as follows:

The issuance and renewal of a certificate shall be subject to the following conditions:

(1) Except as provided in RCW 70.119.090, a certificate shall be issued if the operator has satisfactorily passed a written examination, has paid the department an application fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act, and has met the requirements specified in the rules and regulations as authorized by this chapter.

(2) The terms for all certificates shall be for one year from the date of issuance. Every certificate shall be renewed annually upon the payment of a fee as established by the department under RCW 43.20A.055 as recodified by this 1987 act and satisfactory evidence is presented to the secretary that the operator has fulfilled the continuing education requirements as prescribed by rule of the department.

(3) The secretary shall notify operators who fail to renew their certificates before the end of the certificate year that their certificates are temporarily valid for two months following the end of the certificate year. Certificates not renewed during the two month period shall be invalid and the secretary shall so notify the holders of such certificates.

(4) An operator who has failed to renew a certificate pursuant to the provisions of this section, may reapply for certification and the secretary may require the operator to meet the requirements established for new applicants.

Sec. 12. Section 71.02.380, chapter 25, Laws of 1959 and RCW 71.02.380 are each amended to read as follows:

Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges (~~((unless an order is obtained pursuant to RCW 71.02.330))~~).

Sec. 13. Section 4, chapter 127, Laws of 1967 ex. sess. as amended by section 64, chapter 292, Laws of 1971 ex. sess. and RCW 71.02.411 are each amended to read as follows:

Any person admitted or committed to a state hospital for the mentally ill (~~((under the provisions of Title 71 RCW or RCW 72.23.070, or chapter 10.76 RCW))~~), and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary (~~((of the department of social and health services))~~), or his designee, in accordance with RCW 71.02.410 as recodified by this 1987 act: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable.

Sec. 14. Section 5, chapter 127, Laws of 1967 ex. sess. as amended by section 126, chapter 141, Laws of 1979 and RCW 71.02.412 are each amended to read as follows:

The department (~~((of social and health services))~~) is authorized to investigate the financial condition of each person liable under the provisions of RCW 71.02.320 and 71.02.410 through (~~((71.02.417))~~) 71.02.415, as recodified by this 1987 act, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 71.02.320 and 71.02.410 through (~~((71.02.417))~~) 71.02.415, as recodified by this 1987 act, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 71.02.410 as recodified by this 1987 act, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 71.02.320 and 71.02.410 through (~~((71.02.417))~~) 71.02.415, as recodified by this 1987 act.

Sec. 15. Section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 3, chapter 245, Laws of 1985 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 charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or 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 not to exceed the costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410 as recodified by this 1987 act, or as otherwise limited by the provisions of RCW 71.02.320 and 71.02.410 through ~~((71.02.417))~~ 71.02.415, as recodified by this 1987 act. 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 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 the secretary's designee within thirty days from the date of 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 conclusions and recommended determination of responsibility. Thereafter, the secretary, or 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. 16. Section 7, chapter 127, Laws of 1967 ex. sess. as amended by section 127, chapter 141, Laws of 1979 and RCW 71.02.414 are each amended to read as follows:

Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary (~~(of social and health services)~~) enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court.

Sec. 17. Section 8, chapter 127, Laws of 1967 ex. sess. and RCW 71.02.415 are each amended to read as follows:

The (~~(director)~~) secretary, or (~~(his)~~) the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the (~~(director)~~) secretary, or (~~(his)~~) the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility.

Sec. 18. Section 15, chapter 142, Laws of 1973 1st ex. sess. as amended by section 4, chapter 24, Laws of 1973 2nd ex. sess. and RCW 71.05.100 are each amended to read as follows:

In addition to the responsibility provided for by RCW 71.02.411 as recodified by this 1987 act, any person, or his estate, or his spouse, or the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department (~~(of social and health services)~~) shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department (~~(of social and health services)~~) shall, pursuant to chapter 34.04 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Such standards shall be applicable to all county mental health administrative boards. Financial responsibility with respect to department services and facilities shall continue to be as provided in (~~chapter~~

~~71.02~~) RCW 71.02.320, 71.02.360, 71.02.370, 71.02.380, and 71.02.410 through 71.02.415, as recodified by this 1987 act.

Sec. 19. Section 71.12.470, chapter 25, Laws of 1959 as amended by section 14, chapter 201, Laws of 1982 and RCW 71.12.470 are each amended to read as follows:

Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The amount of the license fee shall be established by the department under RCW 43.20A.055 as recodified by this 1987 act.

Sec. 20. Section 71.12.490, chapter 25, Laws of 1959 as last amended by section 15, chapter 201, Laws of 1982 and RCW 71.12.490 are each amended to read as follows:

All licenses issued under the provisions of this chapter shall expire on a date to be set by ~~((the))~~ the department of social and health services: PROVIDED, That no license issued pursuant to this chapter shall exceed thirty-six months in duration. Application for renewal of the license, accompanied by the necessary fee as established by the department of social and health services under RCW 43.20A.055 as recodified by this 1987 act, shall be filed with that department, not less than thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled.

Sec. 21. Section 72.23.230, chapter 28, Laws of 1959 as last amended by section 4, chapter 245, Laws of 1985 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 one thousand dollars or a greater sum as established by rules and regulations of the department, the superintendent may apply the excess to reimbursement for state hospitalization and/or outpatient charges of such

patient to the extent of a notice and finding of responsibility issued under RCW 71.02.413 as recodified by this 1987 act; 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. 22. Section 72.33.180, chapter 28, Laws of 1959 as last amended by section 5, chapter 245, Laws of 1985 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 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 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: **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 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 as recodified by this 1987 act shall not commence to run until the appointment of such guardian and the service upon 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 the superintendent: **PROVIDED**, That all interest accruing from, or as a result of the deposit of such moneys in a single fund 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 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. 23. Section 1, chapter 141, Laws of 1967 as amended by section 237, chapter 141, Laws of 1979 and RCW 72.33.650 are each amended to read as follows:

The purpose of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act is to place financial responsibility for cost of care, support and treatment upon those residents of state residential schools who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby.

Sec. 24. Section 3, chapter 141, Laws of 1967 as last amended by section 1, chapter 200, Laws of 1984 and RCW 72.33.660 are each amended to read as follows:

The charges for care, support and treatment as provided in RCW 72.33.655 as recodified by this 1987 act shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the state residential schools for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.04 RCW. The department shall



be charged with the duty of collection of charges incurred under RCW 72.33.650 through 72.33.700 as recodified by this 1987 act, which may be enforced by civil action instituted by the attorney general within or without the state.

Sec. 25. Section 4, chapter 141, Laws of 1967 as amended by section 3, chapter 118, Laws of 1971 ex. sess. and RCW 72.33.665 are each amended to read as follows:

The department (~~(of social and health services)~~) shall investigate and determine the assets of the estates of each resident of a state residential school and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a state residential school as determined by the procedure set forth in RCW 72.33.660 as recodified by this 1987 act: PROVIDED, That the sum as set forth in RCW 72.33.180 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of his estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants.

Sec. 26. Section 5, chapter 141, Laws of 1967 as last amended by section 6, chapter 245, Laws of 1985 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 resident of a state school is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school and the superintendent of the state school. The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 72.33.660 as recodified by this 1987 act, and the responsibility for payment to the department 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 the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state 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 as recodified by this 1987 act, the rules and regulations of the department, and the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 27. Section 8, chapter 141, Laws of 1967 as amended by section 241, chapter 141, Laws of 1979 and RCW 72.33.685 are each amended to read as follows:

The charges for care, support, maintenance and treatment of mentally or physically handicapped persons at state residential schools as provided by RCW 72.33.650 through 72.33.700 as recodified by this 1987 act shall be payable in advance on the first day of each and every month to the department (~~(of social and health services)~~).

Sec. 28. Section 9, chapter 141, Laws of 1967 as amended by section 242, chapter 141, Laws of 1979 and RCW 72.33.690 are each amended to read as follows:

The provisions of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 72.33.650 through 72.33.700 as recodified by this 1987 act for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 72.33.670 as recodified by this 1987 act: PROVIDED, That the estate of any resident of a state residential school shall not be liable for such reimbursement subsequent to ~~((his))~~ the placement of that resident out of the state residential school: PROVIDED FURTHER, That upon the death of any person while a resident in a state residential school his estate shall become liable to the same extent as the resident's liability on the date of death.

Sec. 29. Section 11, chapter 141, Laws of 1967 and RCW 72.33.695 are each amended to read as follows:

The liabilities created by RCW 72.33.650 through 72.33.700 as recodified by this 1987 act shall apply to the care, support and treatment occurring after July 1, 1967.

Sec. 30. Section 12, chapter 141, Laws of 1967 as amended by section 243, chapter 141, Laws of 1979 and RCW 72.33.700 are each amended to read as follows:

Notwithstanding any other provision of RCW 72.33.650 through 72.33.700 as recodified by this 1987 act, the secretary may, if in his discretion any resident of a state residential school can be discharged more rapidly therefrom and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 72.33.655 as recodified by this 1987 act.

Sec. 31. Section 1, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 2, chapter 335, Laws of 1985 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; 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.

(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 (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 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 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, 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 as recodified by this 1987 act.

(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. 32. Section 74.04.300, chapter 26, Laws of 1959 as last amended by section 16, chapter 201, Laws of 1982 and RCW 74.04.300 are each amended to read as follows:

If a recipient receives public assistance and/or food stamps for which he is not eligible, or receives public assistance and/or food stamps in an amount greater than that for which he is eligible, the portion of the payment to which he is not entitled shall be a debt due the state (~~and shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county where the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors~~) recoverable under RCW 74.04.306 and 74.04.700 through 74.04.730, as recodified by this 1987 act, and sections 43 and 44 of this 1987 act. It shall be the duty of recipients of public assistance and/or food stamps to notify the department within twenty days of the receipt or possession of all income or resources not previously declared to the department. The department shall advise applicants for assistance that failure to report as required, failure to reveal resources or income, and false statements will result in recovery by the state of any overpayment and may result in criminal prosecution. (~~When the department determines that the cost of collection is likely to exceed the amount recoverable from any overpayment or the debt is uncollectible, the secretary may waive collection.~~)

~~Debts due the state pursuant to the provisions of this section, may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, order to withhold and deliver, or may be recovered by a civil action instituted by the attorney general.)~~

Sec. 33. Section 2, chapter 102, Laws of 1973 1st ex. sess. as amended by section 8, chapter 245, Laws of 1985 and RCW 74.04.540 are each amended to read as follows:

The lien and notice to withhold and deliver in RCW 74.04.530 as recodified by this 1987 act shall be signed by the secretary or the secretary's

authorized representative and shall 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. 34. Section 3, chapter 102, Laws of 1973 1st ex. sess. as amended by section 9, chapter 245, Laws of 1985 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 as recodified by this 1987 act, shall be the day that it is received by the director of the department of labor and industries, an employee of 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 the recipient's last known address by certified mail, return receipt requested, no later than 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.

Sec. 35. Section 5, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.570 are each amended to read as follows:

Any person feeling himself aggrieved by the action of the department of social and health services in impounding his time loss compensation as provided in RCW 74.04.530 through 74.04.580 as recodified by this 1987 act shall have the right to an administrative hearing, which hearing may be conducted by an examiner designated by the secretary for such purpose.

Any such person who desires a hearing shall, within thirty days after the notice to withhold and deliver has been mailed to or served upon the director of the department of labor and industries and said appellant, file with the secretary a notice of appeal from said action.

The hearings conducted shall be in accordance with chapter 34.04 RCW (Administrative Procedure Act).

Sec. 36. Section 6, chapter 102, Laws of 1973 1st ex. sess. and RCW 74.04.580 are each amended to read as follows:

RCW 74.04.530 through 74.04.580 as recodified by this 1987 act shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or illness occurring prior to July 1, 1972.

Sec. 37. Section 2, chapter 163, Laws of 1981 and RCW 74.04.710 are each amended to read as follows:

After service of a notice of debt for an overpayment (~~as defined in RCW 74.04.300~~) as provided for in (~~this chapter~~) RCW 74.04.700 as recodified by this 1987 act, stating the debt accrued, the secretary may 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 the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 7.33-.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. 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 shall answer the 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. If any such person, firm, corporation, association, political subdivision, or department of the state possesses 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 the 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, 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, subject to the exemptions under RCW 7.33.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves 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 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 on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on 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.

Sec. 38. Section 3, chapter 163, Laws of 1981 and RCW 74.04.720 are each amended to read as follows:

If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in RCW 74.04.710 as recodified by this 1987 act, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under RCW 74.04.710 as recodified by this 1987 act, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is 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.

Sec. 39. Section 74.08.120, chapter 26, Laws of 1959 as last amended by section 15, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.08.120 are each amended to read as follows:

The term "funeral" shall mean the proper preparation, transportation within the local service area defined by the department, and care of the remains of a deceased person with needed facilities and appropriate memorial services. "Burial" includes necessary costs of a lot or cremation and all services related to interment and the customary memorial marking of a grave.

The department is hereby authorized to assume responsibility for payment for the funeral and burial of deceased persons dying without assets sufficient to pay for the minimum standard funeral herein provided: PROVIDED, HOWEVER, That the secretary may furnish funeral assistance for deceased recipients if they leave assets to a surviving spouse and/or to minor children and if the assets are resources permitted to be owned by or

available to an eligible applicant or recipient under RCW 74.04.005, and the department shall thereby have a lien against said assets (~~(valid for six years from the date of filing with the county auditor and such lien claim shall have preference to all other claims except prior secured creditors. If the assets remain exempt, or if no probate is commenced, the lien shall automatically terminate without further action six years after filing)~~) as provided in section 45 of this 1987 act. If the deceased person is survived by a spouse or is a minor child survived by his parent or parents, the department may take into consideration the assets of such surviving spouse, parent, or parents in determining whether or not the department will assume responsibility for the funeral.

The department shall not pay more than cost for a minimum standard service rendered by each vendor. Payments to the funeral director and to the cemetery or crematorium will be made by separate vouchers. The standard of such services and the uniform amounts to be paid shall be determined by the department after giving due consideration to such advice and counsel as it shall obtain from the trade associations of the various vendors and related state departments, agencies, and commissions. Payment made for any funeral or burial service by relatives, friends, or any other third party shall be subtracted from the payment made by the department.

Sec. 40. Section 74.08.338, chapter 26, Laws of 1959 as amended by section 331, chapter 141, Laws of 1979 and RCW 74.08.338 are each amended to read as follows:

When the consideration for a deed executed and delivered by a recipient is not paid, or when the consideration does not approximate the fair cash market value of the property, such deed shall be prima facie fraudulent as to the state and the department may proceed under section 46 of this 1987 act. (~~(The attorney general upon request of the secretary shall file suit to rescind such transaction except as to subsequent bona fide purchasers for value. In the event that it be established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which may have been furnished may be recovered in any proceedings from the recipient or his estate:))~~)

Sec. 41. Section 4, chapter 3, Laws of 1981 2nd ex. sess. and RCW 74.09.538 are each amended to read as follows:

(1) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value after December 1, 1981, to enable an applicant or recipient to qualify for assistance under RCW 74.09.510 or 74.09.700 is guilty of a gross misdemeanor.

(2) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value is liable for a civil penalty (~~(equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to an applicant or~~

~~recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney fees)) as provided in section 47 of this 1987 act.~~

NEW SECTION. Sec. 42. The definitions in this section apply throughout this chapter:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "License" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.

(4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.

(5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute.

NEW SECTION. Sec. 43. Overpayments of public assistance or food stamps under RCW 74.04.300 shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action.

NEW SECTION. Sec. 44. If the department determines that the cost of collection of an overpayment of public assistance or food stamps is likely to exceed the amount recoverable or the debt is uncollectible, the secretary may waive collection.

NEW SECTION. Sec. 45. If the department furnishes funeral assistance for deceased recipients under RCW 74.08.120, the department shall have a lien against those assets left to a surviving spouse or minor children under those conditions defined in RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing.

NEW SECTION. Sec. 46. If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may

request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate.

**NEW SECTION.** Sec. 47. If cash or resources are improperly transferred or assigned under RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney's fees.

**NEW SECTION.** Sec. 48. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on the effective date of this act.

**NEW SECTION.** Sec. 49. RCW 43.20A.055, 43.20A.435, 43.20A-.670, 71.02.320, 71.02.360, 71.02.370, 71.02.380, 71.02.400, 71.02.410, 71.02.411, 71.02.412, 71.02.413, 71.02.414, 71.02.415, 72.33.650, 72.33.655, 72.33.660, 72.33.665, 72.33.670, 72.33.680, 72.33.685, 72.33.690, 72.33-.695, 72.33.700, 74.04.007, 74.04.306, 74.04.530, 74.04.540, 74.04.550, 74-.04.560, 74.04.570, 74.04.580, 74.04.700, 74.04.710, 74.04.720, 74.04.730, and 74.04.780 are recodified. These sections and sections 42 through 47 of this act shall constitute a new chapter in Title 43 RCW, to be designated chapter 43.20B RCW.

**NEW SECTION.** Sec. 50. The following acts or parts of acts are each repealed:

- (1) Section 71.02.310, chapter 25, Laws of 1959 and RCW 71.02.310;
- (2) Section 71.02.330, chapter 25, Laws of 1959 and RCW 71.02.330;
- (3) Section 71.02.340, chapter 25, Laws of 1959 and RCW 71.02.340;
- (4) Section 71.02.350, chapter 25, Laws of 1959 and RCW 71.02.350;
- (5) Section 71.02.390, chapter 25, Laws of 1959, section 5, chapter 67, Laws of 1979 ex. sess. and RCW 71.02.390; and
- (6) Section 10, chapter 127, Laws of 1967 ex. sess. and RCW 71.02-.417.

**NEW SECTION.** Sec. 51. 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 20, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 16, 1987.

Filed in Office of Secretary of State April 16, 1987.

## CHAPTER 76

[Senate Bill No. 5327]

### PERSONS OF DISABILITY—NOTARIES PUBLIC—ACKNOWLEDGEMENTS FROM PERSONS PHYSICALLY UNABLE TO SIGN NAME—EMPLOYMENT SECURITY DEPARTMENT TO REPORT TO LEGISLATURE ON THE DEPARTMENT'S SPECIAL SERVICES

AN ACT Relating to persons of disability; amending RCW 50.12.210 and 42.44.080; and adding a new section to chapter 64.08 RCW.

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

Sec. 1. Section 1, chapter 273, Laws of 1977 ex. sess. and RCW 50.12.210 are each amended to read as follows:

It is the policy of the state of Washington that persons with physical, mental, or sensory handicaps shall be given equal opportunities in employment. The legislature recognizes that handicapped persons have faced unfair discrimination in employment.

For these reasons, the state employment service division of the employment security department shall give particular and special attention service to those persons with physical, mental, or sensory handicaps which substantially limit one or more of their major life functions as defined under P.L. 93-112 and rules promulgated thereunder. Particular and special attention service shall include but not be limited to particular and special attention in counseling, referral, notification of job listings in advance of other persons, and other services of the employment service division.

Nothing in this section shall be construed so as to affect the veteran's preference or any other requirement of the United States department of labor.

The employment security department shall report to the house and senate commerce and labor committees by December 1, 1987, on its accomplishments under this section and on its future plans for implementation of this section. The department shall report to the above mentioned committees every odd-numbered year thereafter on its actions under this section.

The employment security department shall establish rules to implement this section.

NEW SECTION. Sec. 2. A new section is added to chapter 64.08 RCW to read as follows:

Any person who is otherwise competent but is physically unable to sign his or her name or make a mark may make an acknowledgment authorized under this chapter by orally directing the notary public or other authorized officer taking the acknowledgment to sign the person's name on his or her behalf. In taking an acknowledgment under this section, the notary public or other authorized officer shall, in addition to stating his or her name and place of residence, state that the signature in the acknowledgment was obtained under the authority of this section.

Sec. 3. Section 8, chapter 156, Laws of 1985 and RCW 42.44.080 are each amended to read as follows:

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 an acknowledgment authorized by section 2 of this 1987 act from a person physically unable to sign his or her name or make a mark, a notary public shall, in addition to other requirements for taking an acknowledgment, determine and certify from personal knowledge or satisfactory evidence that the person appearing before the notary public is physically unable to sign his or her name or make a mark and is otherwise competent. The notary public shall include in the acknowledgment a statement that the signature in the acknowledgment was obtained under the authority of section 2 of this 1987 act.

(3) 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))~~ (4) 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))~~ (5) 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))~~ (6) 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))~~ (7) 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)) (8) 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)) (9) 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)) (10) A notary public is disqualified from performing a notarial act when the notary is a signer of the document which is to be notarized.

Passed the Senate April 8, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 77

[Senate Bill No. 5381]

### CUSTOM SLAUGHTERING ESTABLISHMENTS OR CUSTOM MEAT FACILITIES—LICENSE REVISIONS—INSPECTIONS

AN ACT Relating to custom slaughtering and meat facilities; amending RCW 16.49.440, 16.49.454, 16.49.610, and 16.49.670; adding new sections to chapter 16.49 RCW; creating a new section; and repealing RCW 16.49.430, 16.49.452, 16.49.600, 16.49.620, 16.49.640, 16.49.650, and 16.49.660.

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

Sec. 1. Section 44, chapter 204, Laws of 1959 as amended by section 5, chapter 415, Laws of 1985 and RCW 16.49.440 are each amended to read as follows:

It shall be unlawful for any person(~~;- firm; or corporation~~) to act as a custom farm slaughterer or to operate a custom slaughtering establishment or custom meat facility without first obtaining a license from the director ~~((of agriculture))~~. The license shall be an annual license and shall expire on June 30th of each year. For custom farm slaughterers, a separate license shall be required for each mobile unit. Each custom slaughtering establishment and custom meat facility shall also require a separate license. Application for a license shall be made on a form prescribed by the director of agriculture and accompanied by a twenty-five dollar annual license fee. The application shall include the full name and address of the applicant. If the applicant is a partnership or corporation, the application shall include the full name and address of each partner or officer. The application shall further state the principal business address of the applicant in the state or elsewhere and the name of a resident of this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director of agriculture.



The license shall be issued by the director upon his satisfaction that the applicant's equipment is properly constructed, has the proper sanitary and mechanical equipment and is maintained in a sanitary manner as required under this chapter and/or rules adopted hereunder. The director of agriculture shall also provide for the periodic inspection of equipment used by licensees to assure compliance with the provisions of this chapter and the rules adopted hereunder.

Sec. 2. Section 2, chapter 91, Laws of 1961 and RCW 16.49.454 are each amended to read as follows:

No person shall operate a custom slaughtering establishment without first establishing the need for such an establishment (~~and obtaining an annual license, expiring on June 30th, from the director and the payment of a twenty-five dollar license fee. If an application for renewal of the license provided for in this section is not filed prior to July 1st of any one year, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued.~~ **PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit that he has not operated such custom slaughtering establishment subsequent to the expiration of his prior license.**

The application shall be on a form prescribed by the director a.d)). In addition to the requirements under RCW 16.49.440, applications to operate custom slaughtering establishments shall contain the following:

- (1) The location of the facility to be used.
- (2) The day or days of intended operation.
- (3) The distance to the closest official establishment (~~(as provided for in this chapter)~~).
- (4) Whether the facility already exists or is to be constructed.
- (5) Any other matters that the director may require.

Upon receipt of such application the director shall (~~consult with the meat inspection advisory board as provided for in RCW 16.49.070 and~~) provide for a hearing to be held in the area where the applicant intends to operate a custom slaughtering establishment. Such hearing shall be subject to the provisions of chapter 34.04 RCW as enacted or hereafter amended concerning contested cases. Upon the director's determination that such a custom slaughtering establishment is necessary in the area applied for and that the applicant has satisfied all other requirements of this chapter relating to custom slaughtering establishments including minimum facility requirements as prescribed by the director, the director shall issue a limited license to such applicant to operate such an establishment. When and if an official establishment is located and operated in the area, the director may deny renewal of the limited license subject to a hearing.

Sec. 3. Section 3, chapter 98, Laws of 1971 ex. sess. as amended by section 7, chapter 415, Laws of 1985 and RCW 16.49.610 are each amended to read as follows:

Inspected and uninspected meat may only be prepared by ~~((any regularly licensed))~~ a custom meat facility under the following conditions:

(1) Inspected meat and the meat and meat food products prepared therefrom shall be separated at all times from uninspected meat and the meat food products prepared therefrom, by a sufficient distance to prevent inspected meat from coming into contact with uninspected meat.

(2) Preparation of inspected meat and uninspected meat shall be done at different times.

(3) No sales of inspected meat, nor the meat food products derived therefrom shall be made to any person other than a household user.

(4) Uninspected meat shall be prepared for the sole use of the owner of said uninspected meat, who shall be a household user.

(5) Inspected meat may be purchased by a custom meat facility for preparation and sale to a household user only.

~~(6) ((Inspected meat and the meat and meat food products prepared therefrom shall not be sold in less than one full quarter or one side of a meat food animal.~~

~~(7))~~ Uninspected meat, as well as the packages and containers containing any meat or meat food products prepared therefrom shall be plainly marked and labeled "not for sale" or ~~((equivalent language))~~ as otherwise prescribed by the director.

~~((8))~~ (7) Any custom meat facility shall comply with sanitation rules and regulations promulgated by the director ~~((of agriculture))~~.

NEW SECTION. Sec. 4. For the purposes of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or the director's designee.

(3) "Custom farm slaughterer" means any person licensed under this chapter who may under such license engage in the business of slaughtering meat food animals only for the consumption of the owner thereof through the use of an approved mobile unit under such conditions as may be prescribed by the director.

(4) "Custom slaughtering establishment" means the facility operated by any person licensed under this chapter who may under such license engage in the business of slaughtering meat food animals only for the consumption of the owner thereof at a fixed location under such conditions as may be prescribed by the director.

(5) "Custom meat facility" means the facility operated by any person licensed under this chapter who may under such license engage in the business of preparing uninspected meat for the sole consumption of the owner of the uninspected meat being prepared. Operators of custom meat facilities

may also prepare inspected meat for household users only under such conditions as may be prescribed by the director and may sell such prepared inspected meat to household users only. Operators of custom meat facilities may also sell prepackaged inspected meat to any person, provided the prepackaged inspected meat is not prepared in any manner by the operator and the operator does not open or alter the original package that the inspected meat was placed in.

(6) "Inspected meat" means the carcasses or parts thereof of meat food animals which have been slaughtered and inspected at establishments subject to inspection under chapter 16.49A RCW or a federal meat inspection act.

(7) "Uninspected meat" means the carcasses or parts thereof of meat food animals which have been slaughtered by the owner thereof, or which have been slaughtered by a custom farm slaughterer.

(8) "Household user" means the ultimate consumer, the members of the consumer's household, and his or her nonpaying guests and employees.

(9) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(10) "Meat food animal" means cattle, swine, sheep, or goats.

(11) "Official establishment" means an establishment operated for the purpose of slaughtering meat food animals for sale or use as human food in compliance with the federal meat inspection act (21 U.S.C. Sec. 71 et seq.).

(12) "Prepared" means canned, salted, rendered, boned, cut up or otherwise manufactured, or processed.

NEW SECTION. Sec. 5. To ensure the sanitary slaughtering of meat food animals and handling of meat and meat food products by licensees under this chapter, the director may adopt such rules as the director finds necessary to protect public health and safety. To ensure the identification of meat food animals slaughtered by licensees and the meat and meat food products handled by licensees, both as to ownership and as to whether the product is uninspected meat or inspected meat, the director may adopt such rules as the director finds necessary. The director may also adopt such other rules as the director finds necessary to carry out this chapter.

NEW SECTION. Sec. 6. Before issuing any license to operate as a custom farm slaughterer, the director shall inspect the applicant's mobile unit and slaughtering equipment and only upon the director's satisfaction that the applicant's mobile unit and equipment is properly constructed, has the proper sanitary and mechanical equipment, and is capable of being maintained in a sanitary manner as required under this chapter and the rules adopted hereunder shall the applicant be issued a license.

NEW SECTION. Sec. 7. Before issuing any license to operate a custom meat facility, the director shall inspect the applicant's premises and

only upon the director's satisfaction that the applicant's facility and equipment is properly constructed, has the proper sanitary and mechanical equipment, and is capable of being maintained in a sanitary manner as required under this chapter and the rules adopted hereunder shall the applicant be issued a license.

NEW SECTION. Sec. 8. To ensure that licensees under this chapter maintain proper sanitary practices and comply with all the provisions of this chapter and the rules adopted hereunder, the director may inspect the mobile unit of any custom farm slaughterer and the premises of any custom slaughtering establishment or custom meat facility at any reasonable time. No person may interfere with the director in the performance of his or her duties under this chapter or the rules adopted hereunder.

NEW SECTION. Sec. 9. It is unlawful for any person to sell, trade, or give away uninspected meat or the meat food products that may be derived therefrom. Any violation of this section by a licensee under this chapter shall be sufficient reason for the revocation of the licensee's license.

NEW SECTION. Sec. 10. The director may investigate any violation or possible violation of this chapter or any rule adopted under this chapter. In the furtherance of any such investigation, the director may issue subpoenas to compel the attendance of witnesses or the production of books or documents anywhere in the state.

Sec. 11. Section 9, chapter 98, Laws of 1971 ex. sess. and RCW 16.49.670 are each amended to read as follows:

~~((RCW 16.49.600 through 16.49.670))~~ The provisions of this chapter relating to custom meat facilities and RCW 16.49A.370 shall in no way supersede or restrict the authority of any county or any city to adopt ordinances which are more restrictive for the handling of meat than those provided for herein.

NEW SECTION. Sec. 12. This act does not affect 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, and does not affect any proceeding instituted under those sections.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) Section 43, chapter 204, Laws of 1959, section 3, chapter 120, Laws of 1967 ex. sess. and RCW 16.49.430;

(2) Section 1, chapter 91, Laws of 1961 and RCW 16.49.452;

(3) Section 2, chapter 98, Laws of 1971 ex. sess. and RCW 16.49.600;

(4) Section 4, chapter 98, Laws of 1971 ex. sess. and RCW 16.49.620;

(5) Section 6, chapter 98, Laws of 1971 ex. sess. and RCW 16.49.640;

(6) Section 7, chapter 98, Laws of 1971 ex. sess. and RCW 16.49.650;

and

(7) Section 8, chapter 98, Laws of 1971 ex. sess. and RCW 16.49.660.

**NEW SECTION.** Sec. 14. Sections 4 through 11 of this act are each added to chapter 16.49 RCW.

Passed the Senate February 20, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 78

[Engrossed Senate Bill No. 5740]

### FERRY SYSTEM EMPLOYEES—EMPLOYER CONTRIBUTIONS TO INSURANCE AND HEALTH CARE PLANS

AN ACT Relating to employer contributions to insurance and health care plans for ferry system employees; amending 47.64.270; 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. The legislature finds that the provisions of RCW 47.64.270 have been subject to misinterpretation. The objective of this act is to clarify the intent of RCW 47.64.270 as originally enacted.

Sec. 2. Section 18, chapter 15, Laws of 1983 and RCW 47.64.270 are each amended to read as follows:

Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state employees' insurance board, under chapter 41.05 RCW. The ferry system management and employee organizations may collectively bargain for other insurance and health care plans, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050, subject to RCW 47.64.180. ~~((However, after July 1, 1984, any amount by which the employer contribution for ferry system employees' and dependents' insurance and health care plans exceeds that provided for other state agencies shall reduce the funds available for compensation purposes, pursuant to RCW 47.64.180:))~~ To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987-89 fiscal biennium or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available

for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset. Compensation shall include all wages and employee benefits.

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 July 1, 1987.

Passed the Senate March 19, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

---

## CHAPTER 79

[Substitute Senate Bill No. 5761]

### ELECTRICAL APPARATUS

AN ACT Relating to the deletion from the Revised Code of Washington of rules 9, 19, and 30, and rule 6 (part), governing the running, placing, erecting, maintaining, or using of electrical apparatus; amending RCW 19.29.010.

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

Sec. 1. Section 1, chapter 130, Laws of 1913 as amended by section 1, chapter 65, Laws of 1965 ex. sess. and RCW 19.29.010 are each amended to read as follows:

It shall be unlawful from and after the passage of this chapter for any officer, agent, or employee of the state of Washington, or of any county, city or other political subdivision thereof, or for any other person, firm or corporation, or its officers, agents or employees, to run, place, erect, maintain, or use any electrical apparatus or construction, except as provided in the rules of this chapter.

Rule 1. No wire or cable, except the neutral, carrying a current of less than seven hundred fifty volts of electricity within the corporate limits of any city or town shall be run, placed, erected, maintained or used on any insulator the center of which is less than thirteen inches from the center line of any pole. And no such wire, except the neutral, shall be run past any pole to which it is not attached at a distance of less than thirteen inches from the center line thereof. This rule shall not apply to any wire or cable where the same is run from under ground and placed vertically on the pole; nor to any wire or cable where the same is attached to the top of the pole; nor to a pole top fixture as between it and the same pole; nor to any wire or cable between the points where the same is made to leave any pole or fixture thereon for the purpose of entering any building or other structure and the point of attachment to such building or structure; nor to any jumper wire or cable carrying a current or connected with a transformer or other appliance on

the same pole; nor to bridle or jumper wires on any pole which are attached to or connected with signal wires on the same pole; nor to any aerial cable as between such cable and any pole upon which it originates or terminates; nor to exclusive telephone or telegraph toll lines; nor to aerial cables containing telephone, telegraph, or signal wires, or wires continuing from same, where the cable is attached to poles on which no wires or cables other than the wires continuing from said cable are maintained, provided, that electric light or power wires or cables are in no case maintained on the same side of the street or highway on which said aerial cable is placed.

Rule 2. No wire or cable used to carry a current of over seven hundred fifty volts of electricity within the incorporate limits of any city or town shall be run, placed, erected, maintained or used on any insulator the center of which is nearer than twenty-four inches to the center line of any pole. And no such wire or cable shall be run past any pole to which it is not attached at a distance of less than twenty-four inches from the center line thereof: PROVIDED, That this shall not apply to any wire or cable where the same is run from under ground and placed vertically on the pole; nor to any wire or cable where the same is attached to the top of the pole; nor to a pole top fixture, as between it and the same pole; nor to any wire or cable between the points where the same is made to leave any pole or fixture thereon for the purpose of entering any building or other structure, and the point of attachment to said building or structure; nor to any jumper wire or cable carrying a current or connected with transformers or other appliances on the same pole: PROVIDED FURTHER, That where said wire or cable is run vertically, it shall be rigidly supported and where possible run on the ends of the cross-arms.

Rule 3. No wire or cable carrying a current of more than seven hundred fifty volts, and less than seventy-five hundred volts of electricity, shall be run, placed, erected, maintained or used within three feet of any wire or cable carrying a current of seven hundred fifty volts or less of electricity; and no wire or cable carrying a current of more than seventy-five hundred volts of electricity shall be run, placed, erected, maintained, or used within seven feet of any wire or cable carrying less than seventy-five hundred volts: PROVIDED, That the foregoing provisions of this paragraph shall not apply to any wire or cable within buildings or other structures; nor where the same are run from under ground and placed vertically upon the pole; nor to any service wire or cable where the same is made to leave any pole or fixture thereon for the purpose of entering any building or other structure, and the point of attachment to said building or structure; nor to any jumper wire or cable carrying a current or connected with a transformer or other appliance on the same pole: PROVIDED, That where run vertically, wires or cables shall be rigidly supported, and where possible run on the ends of the cross-arms: PROVIDED FURTHER, That as between any two wires or cables mentioned in Rules 1, 2 and 3 of this section, only the wires or

cables last in point of time so run, placed, erected or maintained, shall be held to be in violation of the provisions thereof.

Rule 4. No wire or cable used for telephone, telegraph, district messenger, or call bell circuit, fire or burglar alarm, or any other similar system, shall be run, placed, erected, maintained or used on any pole at a distance of less than three feet from any wire or cable carrying a current of over three hundred volts of electricity; and in all cases (except those mentioned in exceptions to Rules 1, 2 and 3) where such wires or cables are run, above or below, or cross over or under electric light or power wires, or a trolley wire, a suitable method of construction, or insulation or protection to prevent contact shall be maintained as between such wire or cable and such electric light, power or trolley wire; and said methods of construction, insulation or protection shall be installed by, or at the expense of the person owning the wire last placed in point of time: PROVIDED, That telephone, telegraph or signal wires or cables operated for private use and not furnishing service to the public, may be placed less than three feet from any line carrying a voltage of less than seven hundred and fifty volts.

Rule 5. Transformers, either single or in bank, that exceed a total capacity of over ten K.W. shall be supported by a double cross-arm, or some fixture equally as strong. No transformer shall be placed, erected, maintained or used on any cross-arm or other appliance on a pole upon which is placed a series electric arc lamp or arc light: PROVIDED, This shall not apply to a span wire supporting a lamp only. All aerial and underground transformers used for low potential distribution shall be subjected to an insulation test in accordance with the standardized rules of the American Institute of Electrical Engineers. In addition to this each transformer shall be tested at rated line voltage prior to each installation and shall have attached to it a tag showing the date on which the test was made, and the name of the person making the test.

Rule 6. (~~No wire or cable carrying more than seventy-five hundred volts of electricity shall be run, placed, erected, maintained or used on curves or corners of greater than fifteen degrees without maintaining guards sufficient to hold said wire or cable in case of breakage of pins or insulators to which the same are attached, except where said wire or cable terminates or dead-ends on curves or corners.~~)

No wire or cable, other than ground wires, used to conduct or carry electricity, shall be placed, run, erected, maintained or used vertically on any pole without causing such wire or cable to be at all times sufficiently insulated the full length thereof to insure the protection of anyone coming in contact with said wire or cable.

Rule 7. The neutral point or wire of all transformer secondaries strung or erected for use in low potential distributing systems shall be grounded in all cases where the normal maximum difference of potential between the ground and any point in the secondary circuit will not exceed one hundred



and fifty volts. When no neutral point or wire is accessible one side of the secondary circuit shall be grounded in the case of single phase transformers, and any one common point in the case of interconnected polyphase bank or banks of transformers. Where the maximum difference of potential between the ground and any point in the secondary circuit will, when grounded, exceed one hundred fifty volts, grounding shall be permitted. Such grounding shall be done in the manner provided in Rule ((33)) 30.

Rule 8. In all cases where a wire or cable larger than No. 14 B.W.G. originates or terminates on insulators attached to any pin or other appliance, said wire or cable shall be attached to at least two insulators: PROVIDED HOWEVER, That this section shall not apply to service wires to buildings; nor to wires run vertically on a pole; nor to wires originating or terminating on strain insulators or circuit breakers; nor to telephone, telegraph or signal wires outside the limits of any incorporated city or town.

Rule 9. ~~((All poles along which shall be run vertically any wire or cable used to conduct or carry a current of over two hundred fifty volts shall be provided with steps, and no steps shall be placed on any pole nearer the ground than seven feet.~~

~~Rule 10:))~~ Fixtures placed or erected for the support of wires on the roofs of buildings shall be of sufficient strength to withstand all strains to which they may be subjected, due to the breaking of all wires on one side thereof, and except where insulated wires or cables are held close to fire walls by straps or rings, shall be of such height and so placed that all of the wires supported by such fixtures shall be at least seven feet above any point of roofs less than one-quarter pitch over which they pass or may be attached, and no roof fixtures or wire shall be so placed that they will interfere with the free passage of persons upon, over, to or from the roofs.

Rule ((11:)) 10. No guy wire or cable shall be placed, run, erected, maintained or used within the incorporate limits of any city or town on any pole or appliance to which is attached any wire or cable used to conduct electricity without causing said guy wire or cable to be efficiently insulated with circuit breakers at all times at a distance of not less than eight feet nor more than ten feet measured along the line of said guy wire or cable from each end thereof: PROVIDED, No circuit breaker shall be required at the lower end of the guy wire or cable where the same is attached to a ground anchor, nor shall any circuit breaker be required where said guy wire or cable runs direct from a grounded messenger wire to a grounded anchor rod.

Rule ((12:)) 11. In all span wires used for the purpose of supporting trolley wires or series arc lamps there shall be at least two circuit breakers, one of which shall at all times be maintained no less than four feet nor more than six feet distant from the trolley wire or series arc lamp, and in cases where the same is supported by a building or metallic pole, the other circuit breaker shall be maintained at the building or at the pole: PROVIDED,

That in span wires which support two or more trolley wires no circuit breaker shall be required in the span wire between any two of the trolley wires: PROVIDED FURTHER, That in span wires supporting trolley wires attached to wooden poles only the circuit breaker adjacent to the trolley wire shall be required.

Rule ((13:)) 12. At all points where in case of a breakdown of trolley span wires, the trolley wire would be liable to drop within seven feet of the ground, there shall be double span wires and hangers placed at such points.

Rule ((14:)) 13. All energized wires or appliances installed inside of any building or vault, for the distribution of electrical energy, shall be sufficiently insulated, or so guarded, located, or arranged as to protect any person from injury.

Rule ((15:)) 14. The secondary circuit of current transformers, the casings of all potential regulators and arc light transformers, all metal frames of all switch boards, metal oil tanks used on oil switches except where the tank is part of the conducting system, all motor and generator frames, the entire frame of the crane and the tracks of all traveling cranes and hoisting devices, shall be thoroughly grounded, as provided in Rule ((33)) 30.

Rule ((16:)) 15. All generators and motors having a potential of more than three hundred volts shall be provided with a suitable insulated platform or mat so arranged as to permit the attendant to stand upon such platform or mat when working upon the live parts of such generators or motors.

Rule ((17:)) 16. Suitable insulated platforms or mats shall be provided for the use of all men while working on any live part of switchboards on which any wire or appliance carries a potential in excess of three hundred volts.

Rule ((18:)) 17. Every generator, motor, transformer, switch or other similar piece of apparatus and device used in the generation, transmission or distribution of electrical energy in stations or substations, shall be either provided with a name plate giving the capacity in volts and amperes, or have this information stamped thereon in such a manner as to be clearly legible.

~~((Rule 19. In all cases there shall be two switches used at the station or substation in each feeder for the transmission of electrical energy at constant potential of seven hundred fifty volts or over, one shall be an oil switch so situated as to insure the safety of the person operating the same, the other shall be a disconnecting switch. PROVIDED, That oil switches shall not be required in direct current feeders.))~~

Rule ((20:)) 18. When lines of seven hundred fifty volts or over are cut out at the station or substation to allow employees to work upon them, they shall be short-circuited and grounded at the station, and shall in addition, if

the line wires are bare, be short-circuited, and where possible grounded at the place where the work is being done.

Rule ((21:)) 19. All switches installed with overload protection devices, and all automatic overload circuit breakers must have the trip coils so adjusted as to afford complete protection against overloads and short circuits, and the same must be so arranged that no pole can be opened manually without opening all the poles, and the trip coils shall be instantly operative upon closing.

Rule ((22:)) 20. All feeders for electric railways must, before leaving the plant or substation, be protected by an approved circuit breaker which will cut off the circuit in case of an accidental ground or short circuit.

Rule ((23:)) 21. There shall be provided in all distributing stations a ground detecting device.

Rule ((24:)) 22. There shall be provided in all stations, plants, and buildings herein specified warning cards printed on red cardboard not less than two and one-quarter by four and one-half inches in size, which shall be attached to all switches opened for the purpose of linemen or other employees working on the wires. The person opening any line switch shall enter upon said card the name of the person ordering the switch opened, the time opened, the time line was reported clear and by whom, and shall sign his own name.

Rule ((25:)) 23. No manhole containing any wire carrying a current of over three hundred volts shall be less than six feet from floor to inside of roof; if circular in shape it shall not be less than six feet in diameter; if square it shall be six feet from wall to wall: PROVIDED HOWEVER, That this paragraph shall not apply to any manhole in which it shall not be required that any person enter to perform work: PROVIDED FURTHER, That the foregoing provisions of this paragraph shall not apply where satisfactory proof shall be submitted to the proper authorities that it is impracticable or physically impossible to comply with this law within the space or location designated by the proper authorities.

Rule ((26:)) 24. All manholes containing any wires or appliances carrying electrical current shall be kept in a sanitary condition, free from stagnant water or seepage or other drainage which is offensive or dangerous to health, either by sewer connection or otherwise, while any person is working in the same.

Rule ((27:)) 25. No manhole shall have an opening to the outer air of less than twenty-six inches in diameter, and the cover of same shall be provided with vent hole or holes equivalent to three square inches in area.

Rule ((28:)) 26. No manhole shall have an opening which is, at the surface of the ground, within a distance of three feet at any point from any rail of any railway or street car track: PROVIDED, That this shall not apply where satisfactory proof shall be submitted to the proper authorities

that it is impracticable or physically impossible to comply with the provisions of this paragraph: PROVIDED, That in complying with the provisions of this rule only the construction last in point of time performed, placed or erected shall be held to be in violation thereof.

Rule ~~((29:))~~ 27. Whenever persons are working in any manhole whose opening to the outer air is less than three feet from the rail of any railway or street car track, a watchman or attendant shall be stationed on the surface at the entrance of such manhole at all times while work is being performed therein.

~~((Rule 30. There shall be provided proper cutout switches on all primary and secondary wires in all manholes where the wires are connected with transformers or other electrical devices therein:))~~

Rule ~~((31:))~~ 28. All persons employed in manholes shall be furnished with insulated platforms so as to protect the workmen while at work in the manholes: PROVIDED, That this paragraph shall not apply to manholes containing only telephone, telegraph or signal wires or cables.

Rule ~~((32:))~~ 29. No work shall be permitted to be done on any live wire, cable or appliance carrying more than seven hundred fifty volts of electricity by less than two competent and experienced persons, who, at all times while performing such work shall be in the same room, chamber, manhole or other place in which, or on the same pole on which, such work is being done: PROVIDED, That in districts where only one competent and experienced person is regularly employed, and a second competent and experienced person cannot be obtained without delay at prevailing rate of pay in said district, such work shall be permitted to be done by one competent and experienced person and a helper who need not be on the same pole on which said work is being done.

No work shall be permitted to be done in any manhole or subway on any live wire, cable or appliance carrying more than three hundred volts of electricity by less than two competent and experienced persons, who at all times while performing such work shall be in the same manhole or subway in which such work is being done.

Rule ~~((33:))~~ 30. The grounding provided for in these rules shall be done in the following manner: By connecting a wire or wires not less than No. 6 B.&S. gauge to a water pipe of a metallic system outside of the meter, if there is one, or to a copper plate one-sixteenth inch thick and not less than three feet by six feet area buried in coke below the permanent moisture level, or to other device equally as efficient. The ground wire or wires of a direct current system of three or more wires shall not be smaller than the neutral wire at the central station, and not smaller than a No. 6 B.&S. gauge elsewhere: PROVIDED, That the maximum cross section area of any ground wire or wires at the central station need not exceed one million circular mils. The ground wires shall be carried in as nearly a straight line as possible, and kinks, coils and short bends shall be avoided: PROVIDED,

That the provisions of this rule shall not apply as to size to ground wires run from instrument transformers or meters.

Passed the Senate March 12, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 80

[Senate Bill No. 5139]

### CIGARETTE TAX STATUTES CONSOLIDATED

AN ACT Relating to the consolidation of the cigarette tax statutes; amending RCW 82-.24.020, 82.24.070, 82.24.260, 82.02.030, and 82.32.265; and repealing RCW 28A.47.440 and 82.24.025.

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

Sec. 1. Section 82.24.020, chapter 15, Laws of 1961 as last amended by section 15, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.24.020 are each amended to read as follows:

(1) There is levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes, in an amount equal to the rate of ~~((eight))~~ eleven and one-half mills per cigarette.

(2) Wholesalers and retailers subject to the payment of this tax may, if they wish, absorb one-half mill per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

(3) For purposes of this chapter ((and RCW 28A.47.440)), "possession" shall mean both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his designee by a person other than the purchaser, constructive possession by the purchaser or his designee, which constructive possession shall be deemed to occur at the location of the cigarettes being so transported or held.

~~((2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section; RCW 82.24.025, and 28A.47.440:))~~

Sec. 2. Section 82.24.070, chapter 15, Laws of 1961 as last amended by section 14, chapter 299, Laws of 1971 ex. sess. and RCW 82.24.070 are each amended to read as follows:

Wholesalers and retailers subject to the provisions of this chapter shall be allowed compensation for their services in affixing the stamps herein required a sum equal to two percent of the first four mills of the value of the stamps purchased or affixed by them, one percent of the next one mill of the

value of the stamps purchased or affixed by them, and one-half of one percent of the next one-half mill of the value of the stamps purchased or affixed by them.

Sec. 3. Section 13, chapter 3, Laws of 1986 and RCW 82.24.260 are each amended to read as follows:

Any retailer who sells or otherwise disposes of any unstamped cigarettes other than (1) a federal instrumentality with respect to sales to authorized military personnel and (2) a federally recognized Indian tribal organization with respect to sales to enrolled members of the tribe shall collect from the buyer or transferee thereof the tax imposed on such buyer or transferee by this chapter (~~(and RCW 28A.47.440)~~) and remit the same to the department after deducting from the tax collected the compensation he would have been entitled to under the provisions of this chapter (~~(and RCW 28A.47.440)~~) if he had affixed stamps to the unstamped cigarettes. Such remittance shall be made at the same time and manner as remittances of the retail sales tax as required under chapters 82.08 and 82.32 RCW. In the event the retailer fails to collect the tax from the buyer or transferee, or fails to remit the same, the retailer shall be personally liable therefor, and shall be subject to the administrative provisions of RCW 82.24.230 with respect to the collection thereof by the department. The provisions of this section shall not relieve the buyer or possessor of unstamped cigarettes from personal liability for the tax imposed by this chapter (~~(and RCW 28A.47.440)~~).

Nothing in this section shall relieve a wholesaler or a retailer from the requirements of affixing stamps pursuant to RCW 82.24.040 and 82.24.050.

Sec. 4. Section 31, chapter 35, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 296, Laws of 1986 and RCW 82.0.030 are each amended to read as follows:

(1) The rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.16.020(2), 82.26.020(2), 82.27.020(5), 82.29A.030(2), 82.44.020(5), and 82.45.060(2) shall be seven percent; and

(2) The rate of the additional taxes under RCW 82.08.150(4) shall be fourteen percent(~~(and~~

~~(3) The rate of the additional taxes under RCW 82.24.020(2) shall be fifteen percent)).~~

Sec. 5. Section 4, chapter 414, Laws of 1985 and RCW 82.32.265 are each amended to read as follows:

(1) The department may retain, by written contract, collection agencies licensed under chapter 19.16 RCW or licensed under the laws of another state or the District of Columbia for the purpose of collecting from

sources outside the state of Washington taxes including interest and penalties thereon imposed under this title and RCW ((~~28A.47.440 and~~)) 84.33.041.

(2) Only accounts represented by tax warrants filed in the superior court of a county in the state as provided by RCW 82.32.210 may be assigned to a collection agency, and no such assignment may be made unless the department has previously notified or has attempted to notify the taxpayer of his or her right to petition for correction of assessment within the time provided and in accordance with the procedures set forth in chapter 82.32 RCW.

(3) Collection agencies assigned accounts for collection under this section shall have only those remedies and powers that would be available to them as assignees of private creditors. However, nothing in this section limits the right to enforce the liability for taxes lawfully imposed under the laws of this state in the courts of another state or the District of Columbia as provided by the laws of such jurisdictions and RCW 4.24.140 and 4.24.150.

(4) The account of the taxpayer shall be credited with the amounts collected by a collection agency before reduction for reasonable collection costs, including attorneys fees, that the department is authorized to negotiate on a contingent fee or other basis.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) Section 28A.47.440, chapter 223, Laws of 1969 ex. sess., section 1, chapter 70, Laws of 1971 ex. sess., section 1, chapter 157, Laws of 1972 ex. sess., section 2, chapter 189, Laws of 1983 and RCW 28A.47.440; and

(2) Section 2, chapter 59, Laws of 1979 ex. sess. and RCW 82.24.025.

---

#### EXPLANATORY NOTE

This act consolidates all sections imposing cigarette taxes into one chapter of the code. In addition, it consolidates three of the four existing tax rates and the surtax rate on cigarettes into a single rate, it consolidates all provisions on compensation of retailers and wholesalers of cigarettes into one section, and it makes the necessary reference changes. This act makes no substantive changes.

Passed the Senate February 18, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 81

[Engrossed Substitute Senate Bill No. 5180]

STATE PURCHASES—COMPETITIVE BID REVISIONS—DOLLAR THRESHOLD  
ADJUSTED EACH BIENNIUM

AN ACT Relating to competitive bids; 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 1, chapter 342, Laws of 1985 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)),~~ or subsequent limits as calculated by the office of financial management: 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, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of ~~((twenty-five hundred dollars and))~~ five thousand dollars, or subsequent limits as calculated by the office of financial management, 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,))~~ or subsequent



limits as calculated by the office of financial management, shall be secured from enough vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. 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. A record of competition for all such purchases from four hundred dollars to ~~((twenty-five hundred dollars or))~~ five thousand dollars, ~~((whichever is applicable;))~~ or subsequent limits as calculated by the office of financial management, 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 or biomedical teaching or research purposes 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; and

(7) Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the five thousand dollar limit specified in subsection (2) of this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by the appropriate federal inflationary index reflecting the rate of inflation for the

previous biennium. Such amounts shall be rounded to the nearest one hundred dollars.

Passed the Senate April 8, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 82

[Substitute Senate Bill No. 5199]

### TAXING DISTRICTS' OFFICIAL BOUNDARIES

AN ACT Relating to taxing district boundary changes; and amending RCW 84.09.030.

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

Sec. 1. Section 84.09.030, chapter 15, Laws of 1961 as last amended by section 9, chapter 203, Laws of 1984 and RCW 84.09.030 are each amended to read as follows:

For the purposes of property taxation and the levy of property taxes the boundaries of counties, cities and all other taxing districts shall be the established official boundaries of such districts existing on the first day of March of the year in which the levy is made, and no such levy shall be made for any taxing district whose boundaries were not duly established on the first day of March of such year: ~~PROVIDED, That ((for the year 1981 only the boundaries of library districts shall be the established official boundaries existing on the first day of October. PROVIDED FURTHER, That for the year 1984 only, boundaries of public hospital districts shall be the established official boundaries existing on the first day of April))~~ boundaries for port districts newly formed by election, with boundaries coterminus with other taxing district boundaries established prior to the first day of March, shall be the established official boundaries existing on the first day of October following formation. In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in such boundaries, is required by law to be filed in the office of the county auditor or other county official, said instrument shall be filed in triplicate. The officer with whom such instrument is filed shall transmit two copies to the county assessor.

Passed the Senate February 23, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 83

[Substitute Senate Bill No. 5466]

## HEALTH MAINTENANCE ORGANIZATION ASSESSMENTS

AN ACT Relating to fees assessed against health maintenance organizations; and amending RCW 48.46.120.

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

Sec. 1. Section 13, chapter 290, Laws of 1975 1st ex. sess. as last amended by section 9, chapter 296, Laws of 1986 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 costs of promulgating rules, and the costs of enforcing the provisions of this chapter. The assessments shall be levied not less frequently than once every twelve months and shall be in an amount expected to fund the examinations, promulgation of rules, and enforcement of the provisions of this chapter, including a reasonable margin for cost variations. The assessments shall be established by rules promulgated by the commissioner but shall not exceed five and one-half cents per month per person entitled to health care services pursuant to a health maintenance agreement, excluding such persons who are not residents of this state: PROVIDED, That the minimum fee shall be one thousand dollars. Assessment receipts shall be deposited in the ((general fund, shall be accounted for separately, and)) insurance commissioner's regulatory account in the state treasury; shall be

used for the ~~((sole))~~ purpose of funding the examinations authorized in subsection (1) of this section, the costs of promulgating rules, and the costs of enforcing the provisions of this chapter; and shall be accounted for jointly with fees from health care service contractors but separately from insurers. Assessment receipts received from health maintenance organizations shall be used to pay a pro rata share of the costs, including overhead, of regulating health care service contractors and health maintenance organizations. Amounts remaining in the separate account at the end of a biennium shall be applied to reduce the assessments in the succeeding biennium.

Passed the Senate February 25, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 84

[Substitute Senate Bill No. 5830]

### ORGAN, TISSUE, AND BONE TRANSPLANTS—EXEMPTING FROM IMPLIED WARRANTY COVERAGE OF THE UNIFORM COMMERCIAL CODE

AN ACT Relating to organ transplants; and amending RCW 70.54.120.

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

Sec. 1. Section 1, chapter 56, Laws of 1971 as amended by section 1, chapter 321, Laws of 1985 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, or of tissues, organs, or bones for the purpose of transplanting them, 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, 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.

Passed the Senate March 19, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 85

[Senate Bill No. 6065]

### COLLECTION AGENCIES—RECORD RETENTION PERIOD REVISED

AN ACT Relating to the preservation of records of collection agencies; and amending RCW 19.16.230.

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

Sec. 1. Section 14, chapter 253, Laws of 1971 ex. sess. as amended by section 3, chapter 20, Laws of 1973 1st ex. sess. and RCW 19.16.230 are each amended to read as follows:

(1) Every licensee required to keep and maintain records pursuant to this section shall establish and maintain a regular active business office in the state of Washington for the purpose of conducting his or its collection agency business. Said office must be open to the public during reasonable stated business hours, and must be managed by a resident of the state of Washington.

(2) Every licensee shall keep a record of all sums collected by him or it and all disbursements made by him or it. All such records shall be kept at the business office referred to in subsection (1) of this section.

(3) Licensees shall maintain and preserve accounting records of collections and payments to customers for a period of (~~six~~) four years from the date of the last entry thereon.

Passed the Senate March 20, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

## CHAPTER 86

[Substitute House Bill No. 385]

### RADIOACTIVE WASTES—ADDITIONAL PORTS OF ENTRY FOR HIGHWAY TRANSPORTATION

AN ACT Relating to legislative approval of additional ports of entry for land transportation of radioactive waste; adding a new section to chapter 46.48 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 46.48 RCW to read as follows:

Any additional ports of entry for highway transportation of radioactive waste materials other than those designated by WAC 446-50-040 as filed on December 11, 1979, must be authorized by the state legislature. This section shall expire when both the Washington state legislature and at least one other eligible state enact an interstate agreement on radioactive materials transportation management.

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 16, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 87

[Substitute Senate Bill No. 5495]

### FOOD FISH AND SHELLFISH PERSONAL USE LICENSES—PUNCHCARDS— STAMPS—REVISIONS

AN ACT Relating to food fish and shellfish; amending RCW 75.25.100, 75.25.110, 75.25.120, 75.25.130, 75.25.140, and 75.25.160; adding new sections to chapter 75.25 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 75.25 RCW to read as follows:

(1) An annual personal use license is required for a person sixteen years of age or older to fish for, take, or possess food fish for personal use from state waters or offshore waters, other than carp and sturgeon in the Columbia river above Chief Joseph Dam. An annual personal use license is valid for the calendar year in which it is issued. The fees for an annual personal use license are three dollars for residents and nine dollars for nonresidents.

(2) A two-consecutive-day combined personal use license and punchcard shall be issued. The fee for the license and punchcard is three dollars for residents and nonresidents.

(3) It is unlawful to fish for or possess food fish without the licenses, punchcards, and stamps required by this chapter.

Sec. 2. Section 11, chapter 327, Laws of 1977 ex. sess. as amended by section 94, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.25.100 are each amended to read as follows:

A salmon (~~((angling license))~~) punchcard is required for a person (~~((sixteen years of age or older, and under seventy years of age;))~~) to take, fish for, or possess anadromous salmon taken for personal use from state waters or offshore waters. A salmon punchcard is not required of a person who has a valid two-consecutive-day combined personal use license and punchcard. The fee for a salmon punchcard is three dollars. A salmon punchcard is valid for a maximum catch of fifteen salmon, after which another punchcard may be purchased. A salmon punchcard is valid only for the calendar year for which it is issued.

Sec. 3. Section 13, chapter 327, Laws of 1977 ex. sess. as amended by section 95, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.25.110 are each amended to read as follows:

(1) (~~Following are the fees for salmon angling licenses:~~

~~(a) Annual resident fresh water and saltwater, three dollars.~~

~~(b) Annual nonresident saltwater, three dollars.~~

~~(c) One day resident fresh water and saltwater, one dollar.~~

~~(d) One day nonresident saltwater, one dollar.~~

~~(e) Annual nonresident fresh water, ten dollars.~~

~~(f) Three consecutive day fresh water nonresident, five dollars.~~

~~(2) An annual license is valid only during the calendar year in which it is issued. An annual license is valid for a maximum catch of thirty salmon after which another annual license may be purchased.~~

~~(3)) A personal use license, salmon punchcard, or two-consecutive-day combined license and punchcard shall be issued without charge to persons under sixteen years of age or seventy years of age and older.~~

(2) Upon application, a person sixty-five years of age or older who is an honorably discharged veteran of the United States armed forces with a service-connected disability and who has been a resident of this state for five years shall be given a ~~((salmon angling))~~ personal use license and salmon punchcard free of charge.

Upon application, a blind person shall be issued a ~~((salmon angling))~~ personal use license and salmon punchcard free of charge.

~~((Salmon angling licenses issued under this subsection are valid for the lifetime of the holder.))~~

Sec. 4. Section 17, chapter 327, Laws of 1977 ex. sess. as last amended by section 1, chapter 174, Laws of 1985 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))~~ punchcard or personal use license is valid if

Oregon recognizes as valid the Washington salmon (~~((angling))~~) punchcard or personal use license in comparable Oregon waters.

If Oregon recognizes as valid the Washington salmon (~~((angling))~~) punchcard, personal use license, or two-consecutive-day combined license and punchcard 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 comparable to the Washington personal use license, punchcard, or two-consecutive-day combined license and punchcard northward to Lead-better Point.

Oregon licenses are not valid for the taking of salmon when angling in concurrent waters of the Columbia river from the Washington shore.

NEW SECTION. Sec. 5. A new section is added to chapter 75.25 RCW to read as follows:

The director may require a single punchcard for sturgeon, lingcod, and halibut when the director determines such is necessary and appropriate to aid in the acquisition of catch, effort, or other resource management information. The fee for a license, stamp, or punchcard under this section shall not exceed three dollars.

Sec. 6. Section 12, chapter 327, Laws of 1977 ex. sess. as last amended by section 7, chapter 80, Laws of 1984 and RCW 75.25.130 are each amended to read as follows:

~~((Salmon angling licenses, Hood Canal shrimp licenses, and razor clam))~~ All licenses, punchcards, and stamps required by this chapter shall be issued only under authority of the director. The director may authorize license dealers to issue the licenses, punchcards, and stamps and collect the license fees. In addition to the license, punchcard, or stamp fee, ((license)) dealers may charge a dealer's fee of ((twenty-five cents for salmon angling licenses and)) fifty cents for each Hood Canal shrimp license((s)), two-consecutive-day combined license and punchcard, personal use license, punchcard, and razor clam license((s)). The dealer's fee may be retained by the license dealer.

The director shall adopt rules for the issuance of ~~((salmon angling))~~ personal use licenses, Hood Canal shrimp licenses, ((and)) razor clam licenses, stamps, and punchcards and for the collection, payment, and handling of license fees and dealers' fees.

Sec. 7. Section 15, chapter 327, Laws of 1977 ex. sess. as last amended by section 8, chapter 80, Laws of 1984 and RCW 75.25.140 are each amended to read as follows:

(1) ~~((Salmon angling))~~ Personal use licenses, Hood Canal shrimp licenses, ((and)) razor clam licenses, stamps, and punchcards are not transferable. Upon request of a fisheries patrol officer or ex officio fisheries patrol



officer, a person digging for or possessing razor clams or fishing for or possessing ~~((salmon))~~ food fish for personal use ~~((or taking or possessing shrimp for personal use in that portion of Hood Canal lying south of the Hood Canal floating bridge))~~ shall exhibit the required license and punchcard and write his or her signature for comparison with the signature on the license. Failure to comply with the request is prima facie evidence that the person does not have a license or punchcard or is not the person named on the license or punchcard.

(2) The razor clam license shall be visible on the licensee while digging for razor clams.

Sec. 8. Section 16, chapter 327, Laws of 1977 ex. sess. as last amended by section 10, chapter 80, Laws of 1984 and RCW 75.25.160 are each amended to read as follows:

A person who violates a provision of this chapter or who knowingly falsifies information required for the issuance of a ~~((salmon angling license;))~~ Hood Canal shrimp license, ~~((or))~~ personal use license, razor clam license, or punchcard is guilty of a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW.

NEW SECTION. Sec. 9. A new section is added to chapter 75.25 RCW to read as follows:

Fees received for personal use licenses, punchcards, and stamps under this chapter shall be deposited in the general fund and shall be appropriated for management, enhancement, research, and enforcement purposes of the shellfish, salmon, and marine fish programs of the department of fisheries.

NEW SECTION. Sec. 10. This act shall take effect on January 1, 1988.

Passed the Senate March 12, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

---

## CHAPTER 88

[Senate Bill No. 5402]

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM—RESTORATION OF WITHDRAWN CONTRIBUTIONS

AN ACT Relating to the restoration of withdrawn contributions under the public employees' retirement system; amending RCW 41.40.150; and declaring an emergency.

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

Sec. 1. Section 16, chapter 274, Laws of 1947 as last amended by section 3, chapter 317, Laws of 1986 and RCW 41.40.150 are each amended to read as follows:

Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.185 or 41.40.190, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions with interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment, be returned to the status, either as an original member or new member which the member held at time of separation.

(3) Any member, except ~~((an))~~ a state elected official, who reentered service and who failed to restore withdrawn contributions, shall now have from April 4, 1986, through June 30, 1987, to restore the contributions, with interest as determined by the director. Local elected officials may restore withdrawn contributions only for the period during which they served as nonelected officials. Local elected officials who have retired in the period from April 4, 1986, through June 30, 1987, may nevertheless restore these contributions through June 30, 1987.

(4) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file.

(5) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(6) (a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.120(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the

member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: **PROVIDED**, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed;

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.120(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: **PROVIDED**, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: **AND PROVIDED FURTHER**, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.120(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(7) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the Washington public employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: **PROVIDED**, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

**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 12, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

---

## CHAPTER 89

[Substitute Senate Bill No. 5858]

### MOBILE HOMES—RETAIL SALES TAX COLLECTION

AN ACT Relating to the collection of retail sales tax on the sale of mobile homes by mobile home dealers or selling agents; adding a new section to chapter 82.08 RCW; prescribing penalties; 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 82.08 RCW to read as follows:

In the collection of the sales tax on mobile homes, the department of revenue may designate the county auditors of the several counties of the state as its collecting agents. Upon such designation, it shall be the duty of each county auditor to collect the tax at the time the mobile home dealer or selling agent applies for a new certificate of ownership for such mobile home in the instance where transfer of ownership was from a mobile home dealer or person deemed a selling agent under RCW 82.04.480, except where the applicant presents a written statement signed by the department of revenue or its duly authorized agent showing that no retail sales tax or use tax is legally due. The term "mobile home" as used in this section means a mobile home as defined in RCW 46.04.302. It shall be the duty of every mobile home dealer or selling agent to declare upon the application for a new certificate of ownership the selling price paid for the mobile home. Any person willfully misrepresenting, or failing or refusing to declare upon the application, such selling price shall be guilty of a gross misdemeanor.

Each county auditor who acts as agent of the department of revenue shall at the time of remitting license fee receipts on motor vehicles subject to the provisions of RCW 82.12.045 pay over and account to the state treasurer for all sales tax revenue collected under this section, after first deducting as his or her collection fee the sum of two dollars for each mobile home upon which the tax has been collected.

Any applicant who has paid sales tax to a county auditor under this section may apply to the department of revenue for refund thereof if he has reason to believe that such tax was not legally due and owing. No refund is allowed unless application therefor is received by the department of revenue

within four years after payment of the tax. Upon receipt of an application for refund the department of revenue shall consider the same and issue its order either granting or denying it and if refund is denied the taxpayer shall have the right of appeal as provided in RCW 82.32.170, 82.32.180, and 82.32.190.

The provisions of this section shall be construed as cumulative of other methods prescribed in chapters 82.04 to 82.32 RCW, inclusive, for the collection of the tax imposed by this chapter. The department of revenue shall have power to adopt such rules as may be necessary to administer the provisions of this section. Any duties required by this section to be performed by the county auditor may be performed by the director of licensing but no collection fee shall be deductible by the director of licensing in remitting sales tax revenue to the state treasurer.

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 17, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 90

[Engrossed Senate Bill No. 5164]

### PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIALS TRANSPORTATION MANAGEMENT

AN ACT Relating to transportation of radioactive materials; 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 Pacific States Agreement on Radioactive Materials Transportation Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the agreement in accordance with its terms.

### PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIALS TRANSPORTATION MANAGE- MENT

#### ARTICLE I—Policy and Purpose

The party states recognize that protection of the health and safety of citizens and the environment, and the most economical transportation of

radioactive materials, can be accomplished through cooperation and coordination among neighboring states. It is the purpose of this agreement to establish a committee comprised of representatives from each party state to further cooperation between the states on emergency response and to coordinate activities by the states to eliminate unnecessary duplication of rules and regulations regarding the transportation and handling of radioactive material.

The party states intend that this agreement facilitate both interstate commerce and protection of public health and the environment. To accomplish this goal, the party states direct the committee to develop model regulatory standards for party states to act upon and direct the committee to coordinate decisions by party states relating to the routing and inspection of shipments of radioactive material.

#### ARTICLE II—Definitions

As used in this agreement:

- (1) "Carrier" includes common, private, and contract carriers.
- (2) "Hazardous material" means a substance or material which has been determined by the United States department of transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.
- (3) "Radioactive material" has the meaning given that term in federal department of transportation regulations found in 49 C.F.R. Sec. 173, and includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, and spent nuclear fuel, as defined in section 2 of the nuclear waste policy act of 1982 (96 Stat. 2202; 42 U.S.C.A. Sec. 10101).
- (4) "Transportation" means the transport by any means of radioactive material destined for or derived from any location, and any loading, unloading, or storage incident to such transport. "Transportation" does not include permanent storage or disposal of the material.

#### ARTICLE III—Regulatory Practices

Section 1. The party states agree to develop model standards, not in conflict with federal law or regulations, for carriers of radioactive material to provide information regarding:

- (1) The amount and kind of material transported;
- (2) The mode of transportation and, to the extent feasible, the route or routes and the time schedule;
- (3) The carrier's compliance with local, state, and federal rules and regulations related to radioactive material transportation;
- (4) The carrier's compliance with federal and state liability insurance requirements.

Section 2. Consistent with federal law or regulations pertaining to transportation of radioactive material, the party states also agree to:

- (1) Develop model uniform procedures for issuing permits to carriers;
- (2) Develop model uniform record-keeping processes that allow access on demand by each state;
- (3) Develop model uniform safety standards for carriers;
- (4) Coordinate routing of shipments of radioactive materials;
- (5) Develop a method for coordinating the party states' emergency response plans to provide for regional emergency response including (a) systems for sharing information essential to radiation control efforts, (b) systems for sharing emergency response personnel, and (c) a method to allocate costs and clarify liability when a party state or its officers request or render emergency response;
- (6) Recommend parking requirements for motor vehicles transporting radioactive materials;
- (7) Coordinate state inspections of carriers; and
- (8) Develop other cooperative arrangements and agreements to enhance safety.

Section 3. The party states also agree to coordinate emergency response training and preparedness drills among the party states, Indian tribes, and affected political subdivisions of the party states, and, if possible, with federal agencies.

Section 4. The party states recognize that the transportation management of hazardous waste and hazardous materials is similar in many respects to that of radioactive materials. The party states, therefore, agree to confer as to transportation management and emergency response for those items where similarities in management exist.

#### ARTICLE IV—Pacific States Radioactive Materials Transportation Committee

Section 1. Each party state shall designate one official of that state to confer with appropriate legislative committees and with other officials of that state responsible for managing transportation of radioactive material and with affected Indian tribes and be responsible for administration of this agreement. The officials so designated shall together comprise the Pacific states radioactive materials transportation committee. The committee shall meet as required to consider and, where necessary, coordinate matters addressed in this agreement. The parties shall inform the committee of existing regulations concerning radioactive materials transportation management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations.

Section 2. The committee may also engage in long-term planning to assure safe and economical management of radioactive material transportation on a continuing basis.

Section 3. To the extent practicable, the committee shall coordinate its activities with those of other organizations.

## ARTICLE V—Eligible Parties and Effective Date

Section 1. The states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming are eligible to become a party to this agreement. As to any eligible party, this agreement shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this agreement by enacting a statute repealing its approval.

Section 2. After the agreement has initially taken effect under section 1 of this article, any eligible party state may become a party to this agreement by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1988, whichever occurs first, unless the agreement has by then been enacted as a statute by that state.

## ARTICLE VI—Severability

If any provision of this agreement, or its application to any person or circumstance, is held to be invalid, all other provisions of this agreement, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this agreement are severable.

**NEW SECTION.** Sec. 2. (1) Section 1 of this act shall constitute a new chapter in Title 43 RCW.

(2) The Washington State designee to the committee shall be appointed by the governor.

Passed the Senate February 11, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 91

[Substitute Senate Bill No. 5329]

**PERSONS OF DISABILITY—STUDY OF STATE POLICIES AND PUBLIC BENEFIT PROGRAMS THAT ACT AS DISINCENTIVES TO WORK**

AN ACT Relating to a study of the delivery of benefits and services to persons of disability; and creating new sections.

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

**NEW SECTION.** Sec. 1. The receipt of many state benefits and services by persons of disability is contingent on satisfying a needs test. For many persons of disability, the application of needs tests can result in a disincentive to work; income from employment can reduce public benefits such



that the person is better off not working. It is the intent of the legislature to remove disincentives to work from all public benefit programs.

**NEW SECTION.** Sec. 2. (1) The department of social and health services shall conduct a study of state policies and public benefit programs for persons of disability administered by state agencies to determine the nature and extent of any disincentives to work contained in those programs. The department shall consult with the institute for public policy of the University of Washington, the employment security department, the department of services for the blind, the department of labor and industries, the governor's committee on disability issues and employment, and the developmental disabilities planning council in the development of the study. The study shall include an implementation plan with steps the department shall take to remove the disincentive to work, including, if necessary, requests for further legislation to carry out the purposes of this act.

(2) The department of social and health services shall complete its study and report to the senate and house commerce and labor committees no later than December 1, 1987.

Passed the Senate April 7, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 92

[Engrossed Senate Bill No. 5822]

### SHORT PLATS

AN ACT Relating to approval of short plats and short subdivisions; and amending RCW 58.17.060.

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

Sec. 1. Section 6, chapter 271, Laws of 1969 ex. sess. as amended by section 3, chapter 134, Laws of 1974 ex. sess. and RCW 58.17.060 are each amended to read as follows:

The legislative body of a city, town, or county shall adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions, or revision thereof. Such regulations shall be adopted by ordinance and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of a short plat for record in the office of the county auditor: **PROVIDED**, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this section shall

prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

Passed the Senate March 16, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 93

[Substitute Senate Bill No. 5594]

### WATER RIGHTS CLAIMS—AMENDMENTS

AN ACT Relating to water rights claims; adding a new section to chapter 90.14 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 90.14 RCW to read as follows:

Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry on the effective date of this section, may submit to the department of ecology for filing, an amendment to such a statement of claim if the submitted amendment is based on:

(1) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

(2) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

(3) The amendment is ministerial in nature.

The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of subsection (1), (2), or (3) of this section have not been satisfied. Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed under this section.

**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 8, 1987.

Passed the House April 6, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 94

[Engrossed Substitute Senate Bill No. 5301]

### DANGEROUS DOGS

AN ACT Relating to dangerous dogs; adding new sections to chapter 16.08 RCW; repealing RCW 9.08.010; 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 16.08 RCW to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 4 of this act.

(1) "Potentially dangerous dog" means any dog that when unprovoked: (a) Inflicts bites on a human or a domestic animal either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

(2) "Dangerous dog" means any dog that according to the records of the appropriate authority, (a) has inflicted severe injury on a human being without provocation on public or private property, (b) has killed a domestic animal without provocation while off the owner's property, or (c) has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(3) "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(4) "Proper enclosure of a dangerous dog" means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.

(5) "Animal control authority" means an entity acting alone or in concert with other local governmental units for enforcement of the animal

control laws of the city, county, and state and the shelter and welfare of animals.

(6) "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

(7) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

NEW SECTION. Sec. 2. A new section is added to chapter 16.08 RCW to read as follows:

(1) It is unlawful for an owner to have a dangerous dog in the state without a certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.

(2) The animal control authority of the city or county in which an owner has a dangerous dog shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control unit sufficient evidence of:

(a) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog;

(b) A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least fifty thousand dollars, payable to any person injured by the vicious dog; or

(c) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW in the amount of at least fifty thousand dollars, insuring the owner for any personal injuries inflicted by the dangerous dog.

(3)(a) If an owner has the dangerous dog in an incorporated area that is serviced by both a city and a county animal control authority, the owner shall obtain a certificate of registration from the city authority;

(b) If an owner has the dangerous dog in an incorporated or unincorporated area served only by a county animal control authority, the owner shall obtain a certificate of registration from the county authority;

(c) If an owner has the dangerous dog in an incorporated or unincorporated area that is not served by an animal control authority, the owner shall obtain a certificate of registration from the office of the local sheriff.

(4) Cities and counties may charge an annual fee, in addition to regular dog licensing fees, to register dangerous dogs.

NEW SECTION. Sec. 3. A new section is added to chapter 16.08 RCW to read as follows:

(1) It is unlawful for an owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

(2) Potentially dangerous dogs shall be regulated only by local, municipal, and county ordinances. Nothing in this section limits restrictions local jurisdictions may place on owners of potentially dangerous dogs.

(3) Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

NEW SECTION. Sec. 4. A new section is added to chapter 16.08 RCW to read as follows:

(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered under section 2 of this act; (b) owner does not secure the liability insurance coverage required under section 2 of this act; (c) dog is not maintained in the proper enclosure; (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

(2) If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall be guilty of a class C felony punishable in accordance with RCW 9A.20.021. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(4) Any person entering a dog in a dog fight is guilty of a class C felony punishable in accordance with RCW 9A.20.021.

NEW SECTION. Sec. 5. Section 286, chapter 249, Laws of 1909 and RCW 9.08.010 are each repealed.

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, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

CHAPTER 95

[Second Substitute Senate Bill No. 5845]

FOREST PRACTICES

AN ACT Relating to forest practices; amending RCW 76.09.010, 76.09.040, 76.09.050, and 76.09.070; adding new sections to chapter 76.09 RCW; repealing RCW 76.09.950; and declaring an emergency.

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

Sec. 1. Section 1, chapter 137, Laws of 1974 ex. sess. and RCW 76-.09.010 are each amended to read as follows:

(1) The legislature hereby finds and declares that the forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.

(2) The legislature further finds and declares it to be in the public interest of this state to create and maintain through the adoption of this chapter a comprehensive state-wide system of laws and forest practices regulations which will achieve the following purposes and policies:

(a) Afford protection to, promote, foster and encourage timber growth, and require such minimum reforestation of commercial tree species on forest lands as will reasonably utilize the timber growing capacity of the soil following current timber harvest;

(b) Afford protection to forest soils and public resources by utilizing all reasonable methods of technology in conducting forest practices;

(c) Recognize both the public and private interest in the profitable growing and harvesting of timber;

(d) Promote efficiency by permitting maximum operating freedom consistent with the other purposes and policies stated herein;

(e) Provide for regulation of forest practices so as to avoid unnecessary duplication in such regulation;

(f) Provide for interagency input and intergovernmental and tribal coordination and cooperation;

(g) Achieve compliance with all applicable requirements of federal and state law with respect to nonpoint sources of water pollution from forest practices; ~~((and))~~

(h) To consider reasonable land use planning goals and concepts contained in local comprehensive plans and zoning regulations; and

(i) Foster cooperation among managers of public resources, forest landowners, Indian tribes and the citizens of the state.

(3) The legislature further finds and declares that it is also in the public interest of the state to encourage forest landowners to undertake corrective and remedial action to reduce the impact of mass earth movements and fluvial processes.

NEW SECTION. Sec. 2. (1) Mass earth movements and fluvial processes can endanger public resources and public safety. In some cases, action can be taken which has a probability of reducing the danger to public resources and public safety. In other cases it may be best to take no action. In order to determine where and what, if any, actions should be taken on forest lands, the department shall develop a program to correct hazardous conditions on identified sites associated with roads and railroad grades constructed on private and public forest lands prior to January 1, 1987. The first priority treatment shall be accorded to those roads and railroad grades constructed before the effective date of the forest practices act of 1974.

(2) This program shall be designed to accomplish the purposes and policies set forth in RCW 76.09.010. For each geographic area studied, the department shall produce a hazard-reduction plan which shall consist of the following elements:

(a) Identification of sites where the department determines that earth movements or fluvial processes pose a significant danger to public resources or public safety: **PROVIDED**, That no liability shall attach to the state of Washington or the department for failure to identify such sites;

(b) Recommendations for the implementation of any appropriate hazard-reduction measures on the identified sites, which minimize interference with natural processes and disturbance to the environment;

(c) Analysis of the costs and benefits of each of the hazard-reduction alternatives, including a no-action alternative.

(3) In developing these plans, it is intended that the department utilize appropriate scientific expertise including a geomorphologist, a forest hydrologist, and a forest engineer.

(4) In developing these plans, the department shall consult with affected tribes, landowners, governmental agencies, and interested parties.

(5) Unless requested by a forest landowner under section 6 of this act, the department shall study geographic areas for participation in the program only to the extent that funds have been appropriated for cost sharing of hazard-reduction measures under section 6 of this act.

**NEW SECTION.** Sec. 3. The forest practices board may, upon request of the department or at its own discretion, appoint an advisory committee consisting of not more than five members qualified by appropriate experience and training to review and comment upon such draft hazard reduction plans prepared by the department as the department submits for review.

If an advisory committee is established, and within ninety days following distribution of a draft plan, the advisory committee shall prepare a written report on each hazard reduction plan submitted to it. The report, which shall be kept on file by the department, shall address each of those elements described in section 2(2) of this act.

Final authority for each plan is vested in the department, and advisory committee comments and decisions shall be advisory only. The exercise by advisory committee members of their authority to review and comment shall not imply or create any liability on their part. Advisory committee members shall be compensated as provided for in RCW 43.03.250 and shall receive reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060.

**NEW SECTION.** Sec. 4. (1) The department shall send a notice to all forest landowners, both public and private, within the geographic area selected for review, stating that the department intends to study the area as part of the hazard-reduction program.

(2) The department shall prepare a proposed plan for each geographic area studied. The department shall provide the proposed plan to affected landowners, Indian tribes, interested parties, and to the advisory committee, if established pursuant to section 3 of this act.

(3) Any aggrieved landowners, agencies, tribes, and other persons who object to any or all of the proposed hazard-reduction plan may, within thirty days of issuance of the plan, request the department in writing to schedule a conference. If so requested, the department shall schedule a conference on a date not more than thirty days after receiving such request.

(4) Within ten days after such a conference, the department shall either amend the proposed plan or respond in writing indicating why the objections were not incorporated into the plan.

(5) Within one hundred twenty days following the issuance of the proposed plan as provided in subsection (2) of this section, the department shall distribute a final hazard-reduction plan designating those sites for which hazard-reduction measures are recommended and those sites where no action is recommended. For each hazard-reduction measure recommended, a description of the work and cost estimate shall be provided.



(6) Any aggrieved landowners, agencies, tribes, and other persons are entitled to appeal the final hazard-reduction plan to the forest practices appeals board if, within thirty days of the issuance of the final plan, the party transmits a notice of appeal to the forest practices appeals board and to the department.

(7) A landowner's failure to object to the recommendations or to appeal the final hazard-reduction plan shall not be deemed an admission that the hazard-reduction recommendations are appropriate.

(8) The department shall provide a copy of the final hazard-reduction plan to the department of ecology and to each affected county.

**NEW SECTION.** Sec. 5. (1) When a forest landowner elects to implement the recommended hazard-reduction measures, the landowner shall notify the department and apply for cost-sharing funds. Upon completion, the department shall inspect the remedial measures undertaken by the forest landowner. If, in the department's opinion, the remedial measures have been properly implemented, the department shall promptly transmit a letter to the landowner stating that the landowner has complied with the hazard-reduction measures.

(2) Forest landowners, public and private, of hazard-reduction sites reviewed by the department and who have complied with the department's recommendations for sites which require action shall not be liable for any personal injuries or property damage, occurring on or off the property reviewed, arising from mass earth movements or fluvial processes associated with the hazard-reduction site reviewed. The limitation on liability contained in this subsection shall also cover personal injuries or property damage arising from mass earth movements or fluvial processes which are associated with those areas disturbed by activities required to acquire site access and to execute the plan when such activities are approved as part of a hazard-reduction plan. Notwithstanding the foregoing provisions of this subsection, a landowner may be liable when the landowner had actual knowledge of a dangerous artificial latent condition on the property that was not disclosed to the department.

(3) The exercise by the department of its authority, duties, and responsibilities provided for developing and implementing the hazard-reduction program and plans shall not imply or create any liability in the state of Washington or the department except that the department may be liable if the department is negligent in making a final hazard-reduction plan or in approving the implementation of specific hazard-reduction measures.

**NEW SECTION.** Sec. 6. (1) Subject to the availability of appropriated funds, the department shall pay fifty percent of the cost of implementing the hazard-reduction program, except as provided in subsection (2) of this section.

(2) In the event department funds described in subsection (1) of this section are not available for all or a portion of a forest landowner's property, the landowner may request application of the hazard-reduction program to the owner's lands, provided the landowner funds one hundred percent of the cost of implementation of the department's recommended actions on his property.

(3) No cost-sharing funds may be made available for sites where the department determines that the hazardous condition results from a violation of then-prevailing standards as established by statute or rule.

**NEW SECTION.** Sec. 7. The legislature hereby finds and declares that riparian ecosystems on forest lands in addition to containing valuable timber resources, provide benefits for wildlife, fish, and water quality. Forest landowners may be required to leave trees standing in riparian areas to benefit public resources. It is recognized that these trees may blow down or fall into streams. This is beneficial to riparian dependent species. The landowner shall not be held liable for damages resulting from the leave trees falling from natural causes in riparian areas.

Sec. 8. Section 4, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.040 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall promulgate forest practices regulations (~~(establishing)~~) pursuant to chapter 34.04 RCW and in accordance with the procedures enumerated in this section and RCW 76.09.200 that:

(a) Establish minimum standards for forest practices (~~(and setting)~~);

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards; and

(c) Set forth necessary administrative provisions (~~(, pursuant to chapter 34.04 RCW and in accordance with the procedures enumerated in this section and RCW 76.09.200)~~).

Forest practices regulations pertaining to water quality protection shall be promulgated individually by the board and by the department of ecology after they have reached agreement with respect thereto. All other forest practices regulations shall be promulgated by the board.

Forest practices regulations shall be administered and enforced by the department except as otherwise provided in this chapter. Such regulations shall be promulgated and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices regulations. In addition to any forest practices regulations relating to water quality protection proposed by the board, the department of ecology shall prepare proposed forest practices regulations relating to water quality protection.

Prior to initiating the rule making process, the proposed regulations shall be submitted for review and comments to the department of fisheries, the department of game, and to the counties of the state. After receipt of the proposed forest practices regulations, the departments of fisheries and game and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed regulations relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed regulations pursuant to chapter 34.04 RCW. At such hearing(s) any county may propose specific forest practices regulations relating to problems existing within such county. The board and the department of ecology may adopt such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

Sec. 9. Section 5, chapter 137, Laws of 1974 ex. sess. as amended by section 2, chapter 200, Laws of 1975 1st ex. sess. and RCW 76.09.050 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource that may be conducted without submitting an application or a notification;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, or being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 75.20.100;

(c) Within "shorelines of the state" as defined in RCW 90.58.030; or

(d) Excluded from Class II by the board;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within (~~fourteen~~) thirty calendar days from the date the department receives the application;

Class IV: Forest practices other than those contained in Class I or II:  
(a) On lands platted after January 1, 1960, (b) on lands being converted to

another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, and/or (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) No Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended: PROVIDED, That any person commencing a forest practice during 1974 may continue such forest practice until April 1, 1975, if such person has submitted an application to the department prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) If a notification or application is delivered in person to the department by the operator or his agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or

the forest practices regulations, and the terms and conditions of any approved applications.

(5) The department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology, game, and fisheries, and to the county in which the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) If the county believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) The department shall not approve portions of applications to which a county objects if:

(a) The department receives written notice from the county of such objections within fourteen business days from the time of transmittal of the application to the county, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960; or

(ii) Being converted to another use.

The department shall either disapprove those portions of such application or appeal the county objections to the appeals board. If the objections related to subparagraphs (b) (i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county objections. Unless the county either consents or has waived its rights under this

subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county objections has expired.

(8) In addition to any rights under the above paragraph, the county may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) Appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.220(9). In such appeals there shall be no presumption of correctness of either the county or the department position.

(10) The department shall, within four business days notify the county of all notifications, approvals, and disapprovals of an application affecting lands within the county, except to the extent the county has waived its right to such notice.

(11) A county may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

Sec. 10. Section 7, chapter 137, Laws of 1974 ex. sess. as last amended by section 1, chapter 173, Laws of 1982 and RCW 76.09.070 are each amended to read as follows:

After the completion of a logging operation, satisfactory reforestation as defined by the rules and regulations promulgated by the board shall be completed within three years: PROVIDED, That: (1) A longer period may be authorized if seed or seedlings are not available(~~(: PROVIDED FURTHER, That)~~); (2) a period of up to five years may be allowed where a natural regeneration plan is approved by the department; and (3) the department may identify low-productivity lands on which it may allow for a period of up to ten years for natural regeneration. Upon the completion of a reforestation operation a report on such operation shall be filed with the department of natural resources. Within twelve months of receipt of such a report the department shall inspect the reforestation operation, and shall determine either that the reforestation operation has been properly completed or that further reforestation and inspection is necessary.

Satisfactory reforestation is the obligation of the owner of the land as defined by forest practices regulations, except the owner of perpetual rights to cut timber owned separately from the land is responsible for satisfactory reforestation. The reforestation obligation shall become the obligation of a new owner if the land or perpetual timber rights are sold or otherwise transferred.

Prior to the sale or transfer of land or perpetual timber rights subject to a reforestation obligation, the seller shall notify the buyer of the existence

and nature of the obligation and the buyer shall sign a notice of reforestation obligation indicating the buyer's knowledge thereof. The notice shall be on a form prepared by the department and shall be sent to the department by the seller at the time of sale or transfer of the land or perpetual timber rights. If the seller fails to notify the buyer about the reforestation obligation, the seller shall pay the buyer's costs related to reforestation, including all legal costs which include reasonable attorneys' fees, incurred by the buyer in enforcing the reforestation obligation against the seller. Failure by the seller to send the required notice to the department at the time of sale shall be prima facie evidence, in an action by the buyer against the seller for costs related to reforestation, that the seller did not notify the buyer of the reforestation obligation prior to sale.

The forest practices regulations may provide alternatives to or limitations on the applicability of reforestation requirements with respect to forest lands being converted in whole or in part to another use which is compatible with timber growing. The forest practices regulations may identify classifications and/or areas of forest land that have the likelihood of future conversion to urban development within a ten year period. The reforestation requirements may be modified or eliminated on such lands: **PROVIDED**, That such identification and/or such conversion to urban development must be consistent with any local or regional land use plans or ordinances.

**NEW SECTION.** Sec. 11. Sections 2 through 7 of this act are each added to chapter 76.09 RCW.

**NEW SECTION.** Sec. 12. Section 1, chapter 118, Laws of 1981 and RCW 76.09.950 are each repealed.

**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 immediately.

Passed the Senate March 13, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

---

## CHAPTER 96

[Senate Bill No. 5712]

### HIGHER EDUCATION TUITION AND FEES—NONRESIDENT STUDENT REDEFINED

AN ACT Relating to tuition and fees at institutions of higher education; and amending RCW 28B.15.012.

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

Sec. 1. Section 2, chapter 273, Laws of 1971 ex. sess. as last amended by section 62, chapter 370, Laws of 1985 and RCW 28B.15.012 are each amended to read as follows:

Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean: (a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational; (b) a dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution; or (c) a student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended. A nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student



leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require.

Passed the Senate April 7, 1987.

Passed the House March 30, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 97

[Substitute Senate Bill No. 5688]

### HIGHER EDUCATION INSTITUTIONS—COMMERCIAL ACTIVITIES REGULATED

AN ACT Relating to commercial activities of institutions of higher education; adding a new chapter to Title 28B RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. The primary mission of institutions of higher education is the creation and dissemination of knowledge. Institutions of higher education must be mindful that in providing goods and services for fees, they may be competing with local private businesses.

It is the intent of the legislature to require institutions of higher education to define the legitimate purposes under which commercial activities may be approved, and to establish a mechanism for review of such activities.

**NEW SECTION.** Sec. 2. For the purposes of this chapter:

(1) "Institutions of higher education" or "institutions" mean those institutions as defined in RCW 28B.10.016(4).

(2) "Commercial activity" means an activity which provides a product or service for a fee which could be obtained from a commercial source.

(3) "Fees" means any fees or charges imposed for goods, services, or facilities.

**NEW SECTION.** Sec. 3. Institutions of higher education in consultation with local business organizations and representatives of the small business community are required to develop:

(1) Comprehensive policies that define the legitimate purposes under which the institutions shall provide goods, services, or facilities that are practically available from private businesses;

(2) A mechanism for reviewing current and proposed commercial activities to ensure that activities are consistent with institutional policies; and

(3) A mechanism for receiving, reviewing, and responding to enquiries from private businesses about commercial activities carried on by institutions of higher education.

**NEW SECTION.** Sec. 4. (1) The following criteria shall be considered in developing policies in regard to providing goods, services, or facilities to persons other than students, faculty, staff, patients, and invited guests:

(a) The goods, services, or facilities represent a resource which is substantially and directly related to the institution's instructional, research, or public service mission, which is not practically available in the private marketplace and for which there is a demand from the external community.

(b) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, overhead, and the price of such items in the private marketplace.

(2) The following criteria shall be considered in developing policies in regard to providing goods, services, or facilities to students, faculty, staff, patients, and invited guests:

(a) The goods, services, or facilities are substantially and directly related to the institution's instructional, research, or public service mission.

(b) Provision of the goods, services, or facilities on campus represents a special convenience to and supports the campus community, or facilitates extracurricular, public service, or on-campus residential life.

(c) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead.

(d) The adequacy of security procedures to ensure that the goods, services, or facilities are provided only to persons who are students, faculty, staff, patients, or invited guests.

**NEW SECTION.** Sec. 5. This chapter shall not apply to the initiation of or changes in academic or vocational programs of instruction in the institutions' regular, extension, evening, or continuing education programs, or the fees therefor, fees for services provided in the practicum aspects of instruction, or research programs, and in extracurricular or residential life programs, including residence halls, food services, athletic and recreational programs, and performing arts programs.

**NEW SECTION.** Sec. 6. The institutions of higher education shall provide a report to the appropriate legislative committees by December 1, 1987, outlining their policies developed under sections 1 through 4 of this act, and outlining the methods and extent of consultation with local business organizations and representatives of the small business community.

**NEW SECTION.** Sec. 7. Sections 1 through 5 of this act shall constitute a new chapter in Title 28B RCW.

Passed the Senate April 9, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 98

[Substitute Senate Bill No. 5047]

### FREE LICENSE PLATES—ELIGIBILITY OF SPOUSES OF DECEASED PRISONERS OF WAR—PROOF OF DISABILITY REVISED

AN ACT Relating to special license plates; amending RCW 73.04.110; and adding a new section to chapter 73.04 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 73.04 RCW to read as follows:

The department shall issue to the surviving spouse of any deceased former prisoner of war described in RCW 73.04.110(2), one set of regular or special license plates for use on a personal passenger vehicle registered to that person.

In order to qualify under this section the surviving spouse must have been married to the deceased former prisoner of war during the period of his or her incarceration. The plates shall be issued without the payment of any license fees or excise tax on the vehicle. Whenever any person who has been issued license plates under this section applies to the department for transfer of the plates to a subsequently acquired motor vehicle, a transfer fee of five dollars shall be charged in addition to all other appropriate fees.

Sec. 2. Section 1, chapter 178, Laws of 1949 as last amended by section 2, chapter 230, Laws of 1983 and RCW 73.04.110 are each amended to read as follows:

Any person who is a veteran as defined in RCW 41.04.005 who submits to the department of licensing satisfactory proof of a service-connected disability rating from the veteran administration or the military service from which the veteran was discharged and:

- (1) Has lost the use of both hands or one foot;
- (2) Was captured and incarcerated for more than twenty-nine days by an enemy of the United States during a period of war with the United States;
- (3) Has become blind in both eyes as the result of military service; or
- (4) Is rated by the veterans administration or the military service from which the veteran was discharged and is receiving service-connected compensation at the one hundred percent rate that is expected to exist for more

than one year;  
 is entitled to regular or special license plates issued by the department of licensing. The special license plates shall bear distinguishing marks, letters, or numerals indicating that the motor vehicle is owned by a disabled veteran or former prisoner of war. This license shall be issued annually for one personal use vehicle without payment of any license fees or excise tax thereon. Whenever any person who has been issued license plates under the provisions of this section applies to the department for transfer of the plates to a subsequently acquired motor vehicle, a transfer fee of five dollars shall be charged in addition to all other appropriate fees. The department may periodically verify the one hundred percent rate as provided in subsection (4) of this section.

Any person who has been issued free motor vehicle license plates under this section prior to July 1, 1983, shall continue to be eligible for the annual free license plates.

For the purposes of this section, "blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW.

Any unauthorized use of a special plate is a gross misdemeanor.

Passed the Senate April 9, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 99

[Substitute Senate Bill No. 5779]

### MOTOR VEHICLE MECHANICAL BREAKDOWN INSURANCE

AN ACT Relating to vehicle mechanical breakdown insurers; adding a new chapter to Title 48 RCW; and providing an effective date.

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

**NEW SECTION.** Sec. 1. (1) "Motor vehicle service contract" or "service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance.

(2) "Motor vehicle service contract provider" or "provider" means a person who issues, makes, provides, sells, or offers to sell a motor vehicle service contract.

(3) "Mechanical breakdown insurance" means a policy, contract, or agreement that undertakes to perform or provide repair or replacement

service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, and that is issued by an insurance company authorized to do business in this state.

(4) "Motor vehicle service contract reimbursement insurance policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by a motor vehicle service contract provider under the terms of motor vehicle service contracts issued by the provider.

(5) "Motor vehicle" means any vehicle subject to registration under chapter 46.16 RCW.

(6) "Service contract holder" means a person who purchases a motor vehicle service contract.

NEW SECTION. Sec. 2. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the provider of the service contract is insured under a motor vehicle service contract reimbursement insurance policy issued by an insurer authorized to do business in this state.

NEW SECTION. Sec. 3. A motor vehicle service contract reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the reimbursement insurance policy conspicuously states that the issuer of the policy shall pay on behalf of the provider all sums which the provider is legally obligated to pay for failure to perform according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

NEW SECTION. Sec. 4. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the service contract reimbursement policy, and unless the contract conspicuously states the name and address of the issuer of the reimbursement policy, the applicable policy number, and the means by which a service contract holder may file a claim under the policy.

NEW SECTION. Sec. 5. This chapter does not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or importer.

NEW SECTION. Sec. 6. Failure to comply with the provisions of this act is an unfair method of competition and an unfair or deceptive act or practice in the conduct of a trade or commerce, as specifically contemplated by RCW 19.86.020, and is a violation of the Consumer Protection Act, chapter 19.86 RCW. Any service contract holder injured as a result of a violation of a provision of this chapter shall be entitled to maintain an action pursuant to chapter 19.86 RCW against the motor vehicle service contract provider and the insurer issuing the applicable motor vehicle service contract reimbursement policy and shall be entitled to all of the rights and

remedies afforded by that chapter. Any successful claimant under this section shall also be entitled to reasonable attorneys' fees.

NEW SECTION. Sec. 7. This act shall apply to all motor vehicle service contracts issued, sold, or offered for sale on or after January 1, 1988.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 48 RCW.

Passed the Senate April 9, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

CHAPTER 100

[Substitute Senate Bill No. 5155]

SCHOOL DISTRICTS—TRANSFER OF TERRITORY AND THE ADJUSTMENT OF EXCESS TAX LEVIES

AN ACT Relating to the transfer of territory from a school district; amending RCW 28A.57.050 and 28A.57.060; and adding a new section to chapter 84.09 RCW.

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

Sec. 1. Section 2, chapter 15, Laws of 1975-'76 2nd ex. sess. as last amended by section 9, chapter 385, Laws of 1985 and RCW 28A.57.050 are each amended to read as follows:

The powers and duties of each regional committee shall be:

(1) To initiate, on its own motion and whenever it deems such action advisable, proposals or alternate proposals for changes in the organization and extent of school districts in the educational service district; to receive, consider, and revise, whenever in its judgment revision is advisable, proposals initiated by petition or presented to the committee by the educational service district superintendent as provided for in this chapter; to prepare and submit to the state board any of the aforesaid proposals that are found by the regional committee to provide for satisfactory improvement in the school district system of the educational service district and state; to prepare and submit with the aforesaid proposals, a map showing the boundaries of existing school districts affected by any proposed change and the boundaries, including a description thereof, of each proposed new school district or of each existing school district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change; and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the then county committee found, after considering the factors listed in RCW 28A.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 and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to provide that territory transferred from a school district by a change in the organization and extent of school districts shall either remain subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district; and (d) to provide that territory transferred to a school district by a change in the organization and extent of school districts shall either be made subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district; and (e) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the regional committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each school district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any school district was incurred; the value, location, and disposition of all improvements located in the school districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.57.190 or 28A.57.200 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or

adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To 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 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 regional committee, which hearing shall be called and conducted in the manner prescribed in subsection (3) of this section.

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

Sec. 2. Section 28A.57.060, chapter 223, Laws of 1969 ex. sess. as amended by section 12, chapter 385, Laws of 1985 and RCW 28A.57.060 are each amended to read as follows:

The powers and duties of the state board with respect to this chapter shall be:

(1) To aid regional committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts.



(2) To receive, file, and examine the proposals and the maps, reports, records, and other materials relating thereto submitted by regional committees and to approve such proposals and so notify the regional committees when said proposals are found to provide for satisfactory improvement in the school district system of the counties and the state and for an equitable adjustment of the assets and liabilities, including bonded indebtedness and excess tax levies as authorized under RCW 28A.52.050(2), of the school districts involved or affected: PROVIDED, That whenever the state board approves a recommendation from a regional committee for the transfer of territory from one school district to another school district, such state board approval must be made not later than March 1 of any given year for implementation the school year immediately following: PROVIDED FURTHER, That whenever such proposals are found by the state board to be unsatisfactory or inequitable, the board shall so notify the regional committee and, upon request, assist the committee in making revisions which revisions shall be resubmitted within sixty days after such notification for reconsideration and approval or disapproval. Implementation of state board-approved transfers of territory from one school district to another school district shall become effective at the commencement of the next school year unless an earlier implementation is agreed upon in writing by the boards of directors of the affected school districts.

**NEW SECTION.** Sec. 3. A new section is added to chapter 84.09 RCW to read as follows:

Each school district affected by a transfer of territory from one school district to another school district under chapter 28A.57 RCW shall retain its preexisting boundaries for the purpose of the collection of excess tax levies authorized under RCW 84.52.053 before the effective date of the transfer, for such tax collection years and for such excess tax levies as the state board of education may approve and order that the transferred territory shall either be subject to or relieved of such excess levies, as the case may be. For the purpose of all other excess tax levies previously authorized under chapter 84.52 RCW and all excess tax levies authorized under RCW 84.52.053 subsequent to the effective date of a transfer of territory, the boundaries of the affected school districts shall be modified to recognize the transfer of territory subject to RCW 84.09.030.

Passed the Senate March 18, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 101

[Substitute Senate Bill No. 5254]

LIQUOR VIOLATIONS—PURCHASES BY MINORS—MISUSE OF  
IDENTIFICATION CARDS

AN ACT Relating to liquor purchases by minors; amending RCW 66.44.291, 66.44.325, and 66.20.200; adding a new section to chapter 66.44 RCW; and prescribing penalties.

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

Sec. 1. Section 2, chapter 49, Laws of 1965 and RCW 66.44.291 are each amended to read as follows:

Every person between the ages of eighteen and twenty, inclusive, who is convicted of a violation of RCW 66.44.290 (~~shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a term of not more than thirty days, or both~~) is guilty of a misdemeanor punishable as provided by RCW 9A-.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community service shall require not fewer than twenty-five hours of such service.

Sec. 2. Section 1, chapter 147, Laws of 1961 and RCW 66.44.325 are each amended to read as follows:

Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain alcoholic beverages shall be guilty of a misdemeanor punishable as provided by RCW 9A-.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community service shall require not fewer than twenty-five hours of such service: PROVIDED, That corroborative testimony of a witness other than the minor shall be a condition precedent to conviction.

NEW SECTION. Sec. 3. A new section is added to chapter 66.44 RCW to read as follows:

No person may forge, alter, counterfeit, otherwise prepare or acquire and supply to a person under the age of twenty-one years a facsimile of any of the officially issued cards of identification that are required for presentation under RCW 66.16.040. A violation of this section is a gross misdemeanor punishable as provided by RCW 9A.20.021 except that a minimum fine of two thousand five hundred dollars shall be imposed.

Sec. 4. Section 5, chapter 67, Laws of 1949 as last amended by section 8, chapter 209, Laws of 1973 1st ex. sess. and RCW 66.20.200 are each amended to read as follows:

It shall be unlawful for the owner of a card of identification to transfer the card to any other person for the purpose of aiding such person to procure alcoholic beverages from any licensee or store employec. Any person

who shall permit his card of identification to be used by another or transfer such card to another for the purpose of aiding such transferee to obtain alcoholic beverages from a licensee or store employee, shall be guilty of a misdemeanor (~~((and upon conviction thereof shall be sentenced to pay a fine of not more than one hundred dollars or imprisonment for not more than thirty days or both))~~) punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community service shall require not fewer than twenty-five hours of such service. Any person not entitled thereto who unlawfully procures or has issued or transferred to him a card of identification, and any person who possesses a card of identification not issued to him, and any person who makes any false statement on any certification card required by RCW 66.20.190, as now or hereafter amended, to be signed by him, shall be guilty of a misdemeanor (~~((and upon conviction thereof shall be sentenced to pay a fine of not more than one hundred dollars or imprisonment for not more than thirty days or both))~~) punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community service shall require not fewer than twenty-five hours of such service.

Passed the Senate April 9, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

---

## CHAPTER 102

[Substitute Senate Bill No. 5288]

### ASSAULT ON VETERANS AFFAIRS DEPARTMENT EMPLOYEES

AN ACT Relating to institutional care employees; and amending RCW 72.01.045.

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

Sec. 1. Section 4, chapter 269, Laws of 1986 and RCW 72.01.045 are each amended to read as follows:

(1) For purposes of this section only, "assault" means an unauthorized touching of an employee by a resident, patient, or juvenile offender resulting in physical injury to the employee.

(2) In recognition of the hazardous nature of employment in state institutions, the legislature hereby provides a supplementary program to reimburse institutional care employees of the department of social and health services and the department of veterans affairs for some of their costs attributable to their being the victims of assault by residents, patients, or juvenile offenders. This program shall be limited to the reimbursement provided in this section.

(3) An employee is only entitled to receive the reimbursement provided in this section if the secretary of social and health services or the director of the department of veterans affairs, or the secretary's or director's designee, finds that each of the following has occurred:

(a) A resident or patient has assaulted the employee and as a result thereof the employee has sustained demonstrated physical injuries which have required the employee to miss days of work;

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment; and

(c) The department of labor and industries has approved the employee's workers' compensation application pursuant to chapter 51.32 RCW.

(4) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(5) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(6) The employee shall not be entitled to the reimbursement provided in subsection (4) of this section for any workday for which the secretary, director, or ~~((secretary's))~~ applicable designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(7) The reimbursement shall only be made for absences which the secretary, director, or ~~((secretary's))~~ applicable designee~~(;)~~ believes are justified.

(8) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

~~((+0))~~ (9) All reimbursement payments required to be made to employees under this section shall be made by the employing department ~~((of social and health services))~~. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

~~((H))~~ (10) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

Passed the Senate March 10, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 103

[Substitute Senate Bill No. 5389]

### NOISE CONTROL

AN ACT Relating to noise control; and amending RCW 70.107.060 and 70.107.050.

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

Sec. 1. Section 6, chapter 183, Laws of 1974 ex. sess. and RCW 70.107.060 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to deny, abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(2) Nothing in this chapter shall deny, abridge or alter any powers, duties and functions relating to noise abatement and control now or hereafter vested in any state agency, nor shall this chapter be construed as granting jurisdiction over the industrial safety and health of employees in work places of the state, as now or hereafter vested in the department of labor and industries.

(3) ~~((No local government shall adopt resolutions, ordinances, rules or regulations concerned with the control of noise which shall be effective prior to adoption of maximum noise levels and the rules adopted by the department pursuant to this chapter or January 31, 1975, whichever occurs sooner. Such resolutions, ordinances, rules, or regulations must be consistent with RCW 70.107.060(4):~~

(4)) Standards and other control measures adopted by the department under this chapter shall be exclusive except as hereinafter provided. A local government may impose limits or control sources differing from those adopted or controlled by the department upon a finding that such requirements are necessitated by special conditions. ~~((No such noise limiting requirements of local government shall be valid unless first approved by the department. If disapproved the local government may appeal the decision to the pollution control hearings board which shall decide the appeal on the basis of the provisions of this chapter, and the applicable regulations, together with such briefs, testimony, and oral argument as the hearings board in its discretion may require. In the determination of whether to grant any~~

~~such approval, the department shall give consideration to the reasonableness and practicability of compliance with particular attention to the situation of stationary sources, the noise producing operations of which are conducted at or near jurisdictional boundaries.))~~ Noise limiting requirements of local government which differ from those adopted or controlled by the department shall be invalid unless first approved by the department. If the department of ecology fails to approve or disapprove standards submitted by local governmental jurisdictions within ninety days of submittal, such standards shall be deemed approved. If disapproved, the local government may appeal the decision to the pollution control hearings board which shall decide the appeal on the basis of the provisions of this chapter, and the applicable regulations, together with such briefs, testimony, and oral argument as the hearings board in its discretion may require. The department determination of whether to grant approval shall depend on the reasonableness and practicability of compliance. Particular attention shall be given to stationary sources located near jurisdictional boundaries, and temporary noise producing operations which may operate across one or more jurisdictional boundaries.

~~((5))~~ (4) In carrying out the rule-making authority provided in this chapter, the department shall follow the procedures of the administrative procedure act, chapter 34.04 RCW, and shall take care that no rules adopted purport to exercise any powers preempted by the United States under federal law.

Sec. 2. Section 5, chapter 183, Laws of 1974 ex. sess. and RCW 70.107.050 are each amended to read as follows:

(1) Any person who violates any rule adopted by the department under this chapter shall be subject to a civil penalty not to exceed one hundred dollars imposed by local government pursuant to this section. An action under this section shall not preclude enforcement of any provisions of the local government noise ordinance. ~~((All violations of this chapter shall be administered pursuant to the provisions of chapter 34.04 RCW, the state administrative procedure act.))~~

Penalties shall become due and payable thirty days from the date of receipt of a notice of penalty unless within such time said notice is appealed in accordance with the administrative procedures of the local government, or if it has no such administrative appeal, to the pollution control hearings board pursuant to the provisions of chapter 43.21B RCW and procedural rules adopted thereunder. In cases in which appeals are timely filed, penalties sustained by the local administrative agency or the pollution control hearings board shall become due and payable on the issuance of said agency or board's final order in the appeal.

(2) Whenever penalties incurred pursuant to this section have become due and payable but remain unpaid, the attorney ~~((general shall, upon request of the director,))~~ for the local government may bring an action ((in

~~the name of the state of Washington,)) in the superior court of ((Thurston county or in)) the county in which the violation occurred for recovery of penalties incurred. In all such actions the procedures and rules of evidence shall be the same as in any other civil action. ((All penalties recovered under this section shall be paid into the state treasury and credited to the general fund:))~~

Passed the Senate April 9, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 104

[Substitute Senate Bill No. 5519]

### BUILDING PERMIT APPLICATIONS—PROPOSED DIVISIONS OF LAND— VESTING OF RIGHTS

AN ACT Relating to vesting of rights; adding a new section to chapter 19.27 RCW; and adding a new section to chapter 58.17 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 19.27 RCW to read as follows:

(1) A valid and fully complete building permit application for a structure, that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use control ordinances in effect on the date of application.

(2) The requirements for a fully completed application shall be defined by local ordinance.

(3) The limitations imposed by this section shall not restrict conditions imposed under chapter 43.21C RCW.

**NEW SECTION.** Sec. 2. A new section is added to chapter 58.17 RCW to read as follows:

(1) A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the appropriate county, city, or town official.

(2) The requirements for a fully completed application shall be defined by local ordinance.

(3) The limitations imposed by this section shall not restrict conditions imposed under chapter 43.21C RCW.

Passed the Senate April 7, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

---

CHAPTER 105

[Substitute Senate Bill No. 5598]

COMMUNITY MENTAL HEALTH SERVICES—GRANT DISTRIBUTION  
FORMULA

AN ACT Relating to the distribution of grants to counties under the community mental health services act; amending RCW 71.24.035; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 4, chapter 204, Laws of 1982 as amended by section 3, chapter 274, Laws of 1986 and RCW 71.24.035 are each amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary may provide for public, client, and licensed service provider participation in developing the state mental health program.

(3) The secretary shall provide for participation in developing the state mental health program for children by including children's representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for mentally ill adults and children. The secretary may also develop a six-year state mental health plan;

(b) Assure that any county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) the chronically mentally ill; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social



skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Consultation and education services; and

(F) Community support services for acutely and chronically mentally ill persons which include: (I) Discharge planning for clients leaving state mental hospitals, other acute care inpatient facilities, inpatient psychiatric facilities for persons under twenty-one years of age, and other children's mental health residential treatment facilities; (II) sufficient contacts with clients, families, schools, or significant others to provide for an effective program of community maintenance; and (III) medication monitoring.

(c) Develop and promulgate rules establishing state minimum standards for the management and delivery of mental health services including, but not limited to:

(i) Licensed service providers;

(ii) County administration;

(iii) Information required to assure accountability of services delivered to the mentally ill; and

(iv) Residential and inpatient services, if a county chooses to provide such optional services;

(d) Assure coordination of services consistent with state minimum standards for individuals who are released from a state hospital into the community to assure a continuum of care;

(e) Assure that the special needs of minorities, the elderly, disabled, and low-income persons are met within the priorities established in subsection (5)(b) of this section;

(f) Establish a standard contract or contracts, consistent with state minimum standards, which shall be used by the counties;

(g) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities and licensed service providers;

(h) Develop and maintain an information system to be used by the state and counties which shall include a tracking method which allows the department to identify mental health clients' participation in any mental health service or public program. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.430, and 71.05.440;

(i) License service providers who meet state minimum standards;

(j) Establish criteria to evaluate the performance of counties in administering mental health programs as established under this chapter. Evaluation of community mental health services shall include all categories of

illnesses treated, all types of treatment given, the number of people treated, and costs related thereto; and

(k) Prior to September 1, 1982, adopt such rules as are necessary to implement this chapter pursuant to chapter 34.04 RCW: PROVIDED, That such rules shall be submitted to the appropriate committees of the legislature for review and comment prior to adoption.

(6) The secretary shall use available resources appropriated specifically for community mental health programs only for programs under RCW 71.24.045.

(7) (a) The department shall ((propose in its biennial budget document the formulas used to distribute available resources to county authorities for the priorities listed in subsection (5)(b) of this section. The formula shall be based on the needs assessment required by RCW 71.24.045(1))) establish a distribution formula that reflects county needs assessments based on the number of persons who are acutely mentally ill, chronically mentally ill, and seriously disturbed as defined in chapter 71.24 RCW. The formula shall take into consideration the impact on counties of demographic factors in counties which result in concentrations of priority populations as defined in chapter 71.24 RCW. These factors shall include the population concentrations resulting from commitments under the involuntary treatment act, chapter 71.05 RCW, to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic factors.

(b) The department shall submit a proposed distribution formula in accordance with this section to the ways and means and human services and corrections committees of the senate and to the ways and means and human services committees of the house of representatives by January 1, 1988. The formula shall also include a projection of the funding allocations that will result for each county, which specifies allocations according to priority populations, including the allocation for services to children.

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, 1987.

Passed the Senate March 17, 1987.

Passed the House April 7, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 106

[Senate Bill No. 5668]

## PUBLIC SERVICE COMPANIES—ISSUANCE OF SECURITIES

AN ACT Relating to securities issued by public service companies; amending RCW 80.08.040; adding a new section to chapter 80.08 RCW; and repealing RCW 80.08.070.

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

Sec. 1. Section 80.08.040, chapter 14, Laws of 1961 and RCW 80.08-.040 are each amended to read as follows:

Except as provided in section 2 of this 1987 act, application for authorization to issue such stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness shall be made to the commission stating the amount, character, terms and purpose of each proposed issue thereof, and stating such other pertinent details as the commission may require.

To enable it to determine whether it will issue such order, the commission may hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts, and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issuance of such stocks or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary.

If a commission or other agency or agencies is empowered by another state to regulate and control the amount and character of securities to be issued by any public service company within such other state, then the commission shall have the power to agree with such commission or other agency or agencies of such other state on the issuance of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness by a public service company owning or operating a public utility both in such state and in this state, and shall have the power to approve such issue jointly with such commission or other agency or agencies and to issue a joint certificate of such approval: PROVIDED, HOWEVER, That no such joint approval shall be required in order to express the consent to and approval of such issue by the state of Washington if said issue is separately approved by the commission.

The public service company making the application may have the decision or order of the commission reviewed in the courts in the same manner and by the same procedure as any other order or decision of the commission, when the public service company shall deem such decision or order to be in any respect or manner improper, unjust or unreasonable.

**NEW SECTION.** Sec. 2. A new section is added to chapter 80.08 RCW to read as follows:

Notwithstanding the provisions of RCW 80.08.040, any order granting a public service company permission for the issuance of securities may be based on reasonable estimates of the final terms of the issuance and may allow the public service company to complete the transaction if the final terms are within a range of conditions, terms, and parameters established by the commission. The range of conditions, terms, and parameters may include such things as a range of time in which the securities may be issued, a range in the maximum amount of the issuance, a range in the amount of the issuance costs, a range in the amount of the interest rate to be paid, and ranges in such other terms and conditions as the commission may deem proper.

**NEW SECTION.** Sec. 3. Section 80.08.070, chapter 14, Laws of 1961 and RCW 80.08.070 are each repealed.

Passed the Senate March 10, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

---

## CHAPTER 107

[Substitute Senate Bill No. 5679]

### UTILITIES AND TRANSPORTATION COMMISSION—CERTAIN INFORMATION FILED WITH THE COMMISSION IS EXEMPT FROM PUBLIC DISCLOSURE

AN ACT Relating to the distribution of information filed with the utilities and transportation commission; reenacting and amending RCW 42.17.310; adding a new section to chapter 80.04 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 80.04 RCW to read as follows:

Records, subject to chapter 42.17 RCW, filed with the commission or the attorney general from any person which contain valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, shall not be subject to inspection or copying under chapter 42.17 RCW: (1) Until notice to the person or persons directly affected has been given; and (2) if, within ten days of the notice, the person has obtained a superior court order protecting the records as confidential. The court shall determine that the records are confidential and not subject to inspection and copying if disclosure would result in private loss, including an unfair competitive disadvantage. When providing information to the commission or the attorney general, a person shall designate which records or portions of records contain valuable commercial information. Nothing in

this section shall prevent the use of protective orders by the commission governing disclosure of proprietary or confidential information in contested proceedings.

Sec. 2. Section 31, chapter 1, Laws of 1973 as last amended by section 7, chapter 276, Laws of 1986 and by section 25, chapter 299, Laws of 1986 and RCW 42.17.310 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: PROVIDED, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: PROVIDED, FURTHER, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under section 1 of this 1987 act that a court has determined are confidential under section 1 of this 1987 act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

**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 March 18, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 108

[Substitute Senate Bill No. 5892]

### LAND SUBDIVISION—BINDING SITE PLAN APPROVAL MODIFIED

AN ACT Relating to the subdivision of land; and amending RCW 58.17.040.

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

Sec. 1. Section 2, chapter 121, Laws of 1983 and RCW 58.17.040 are each amended to read as follows:

The provisions of this chapter shall not apply to:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;
- (3) Divisions made by testamentary provisions, or the laws of descent;
- (4) Divisions of land into lots or tracts classified for industrial or commercial use when the ((governing body of the)) city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations: PROVIDED, That when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed for record in the county auditor's office on each lot, parcel, or tract created pursuant to the binding site plan: PROVIDED FURTHER, That the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot,

parcel, or tract: AND PROVIDED FURTHER, That sale or transfer of such a lot, parcel, or tract in violation of the binding site plan, or without obtaining binding site plan approval, shall be considered a violation of chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in chapter 58.17 RCW;

(5) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when (~~the governing body of~~) the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(6) A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site; and

(7) A division which is made by subjecting a portion of a parcel or tract of land to chapter 64.32 RCW if a city, town, or county has approved a binding site plan for all of such land.

Passed the Senate March 20, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 20, 1987.

Filed in Office of Secretary of State April 20, 1987.

## CHAPTER 109

[Senate Bill No. 5427]

### ECOLOGY PROCEDURES SIMPLIFICATION ACT OF 1987

AN ACT Relating to simplifying and clarifying procedures of the department of ecology, local air pollution control authorities, and the pollution control hearings board; amending RCW 43.21B.240, 43.21B.110, 43.27A.190, 70.105.080, 90.14.130, 90.14.190, 90.48.240, 70.105.095, 90.48.144, 70.94.332, 70.94.431, 90.48.350, 70.95.210, 70.107.050, 86.16.110, 18.104.130, 43.20A.140, 43.21.110, 43.21.140, 43.21.160, 43.21.190, 43.21B.140, 43.27A.020, 43.27A.080, 70.94.030, 70.94.053, 70.94.142, 70.94.143, 70.94.151, 70.94.200, 70.94.331, 70.94.350, 70.94.385, 70.94.390, 70.94.395, 70.94.400, 70.94.420, 70.94.425, 70.94.510, 70.94.405, 70.94.410, 86.16.025, 86.16.027, 86.16.030, 86.16.035, 86.16.040, 86.16.060, 86.16.065, 86.16.067, 86.16.070, 86.16.080, 86.16.090, 86.16.130, 86.16.170, 86.18.030, 86.24.020, 90.03.280, 90.03.320, 90.03.030, 90.03.060, 90.03.070, 90.03.100, 90.03.110, 90.03.120, 90.03.130, 90.03.140, 90.03.160, 90.03.170, 90.03.190, 90.03.200, 90.03.210, 90.03.230, 90.03.240, 90.03.250, 90.03.260, 90.03.270, 90.03.290, 90.03.300, 90.03.310, 90.03.330, 90.03.340, 90.03.350, 90.03.360, 90.03.370, 90.03.380, 90.03.390, 90.03.430, 90.03.440, 90.03.470, 90.03.471, 90.14.150, 90.14.180, 90.14.230, 90.22.010, 90.22.040, 90.24.030, 90.44.035, 90.44.050, 90.44.060, 90.44.070, 90.44.080, 90.44.090, 90.44.100, 90.44.110, 90.44.120, 90.44.130, 90.44.180, 90.44.200, 90.44.220, 90.44.230, 90.44.250, 90.48.020, 90.48.030, 90.48.035, 90.48.037, 90.48.080, 90.48.090, 90.48.095, 90.48.100, 90.48.110, 90.48.120, 90.48.142, 90.48.153, 90.48.156, 90.48.165, 90.48.170, 90.48.180, 90.48.190, 90.48.195, 90.48.200, 90.48.250, 90.48.270, 90.48.280, 90.48.285, 90.48.290, 90.48.320, 90.48.330, 90.48.340, 90.48.343, 90.48.345, 90.48.355, 90.48.360, 90.48.365, 90.50.020, 90.50.030, 90.62.080, and 43.83B.335; reenacting and amending RCW 90.24.060; adding new sections to chapter 43.21B RCW; adding new sections to chapter 90.03 RCW; recodifying RCW 43.83B.335; creating new sections; and repealing RCW 18.104.140, 43.21.100, 43.21.120, 43.21.150, 43.21B.120, 43.21B.200, 43.21B.220, 43.27A.200,



43.27A.210, 70.94.223, 70.94.333, 70.94.334, 90.03.080, 90.03.480, 90.44.215, 90.48.135, and 90.48.210.

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

## PART A GENERAL

**NEW SECTION.** Sec. 1. **PURPOSE.** The purposes of this act are to:

(1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.

(2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.

(3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing.

**NEW SECTION.** Sec. 2. **SHORT TITLE.** This act may be referred to as the "ecology procedures simplification act of 1987."

**NEW SECTION.** Sec. 3. **CONSTRUCTION.** Unless otherwise specifically intended, this act shall not be construed to change existing substantive or procedural law; it should only clarify and standardize existing procedures.

**NEW SECTION.** Sec. 4. **DEFINITIONS.** As used in this chapter, "department" means the department of ecology, and "director" means the director of ecology.

## PART B PENALTIES AND PROCEDURES

**NEW SECTION.** Sec. 5. **PENALTY PROCEDURES.** (1) Any civil penalty provided in RCW 70.94.431, 70.105.080, 70.107.050, 90.03.— (RCW 43.83B.335 as recodified by this act), 90.48.144, and 90.48.350 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 penalty from the department or the local air authority, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department or authority may remit or mitigate the penalty upon whatever terms the department or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it

may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after receipt by the person penalized of the notice imposing the penalty or thirty days after receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) 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 request of the department, 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 the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, and RCW 90.48.350, which shall be credited to the coastal protection fund created by RCW 90.48.390.

**NEW SECTION.** Sec. 6. APPEAL OF ORDERS, PERMITS, AND LICENSES. (1) Any order issued by the department or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, or 90.48.120(2) or any provision enacted after the effective date of this section or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. This is the exclusive means of appeal of such an order.

(2) The department or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to section 7 of this act to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of receipt.

**NEW SECTION.** Sec. 7. STAYS OF ORDERS. (1) A person appealing to the hearings board an order of the department or an authority, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the department or authority demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.04 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board.

NEW SECTION. Sec. 8. SUMMARY PROCEEDINGS. The hearings board shall develop procedures for summary procedures, consistent with the rules of civil procedure for superior court on summary judgment, to decide cases before it. Such procedures may include provisions for determinations without an oral hearing or hearing by telephonic means.

Sec. 9. Section 54, chapter 62, Laws of 1970 ex. sess. and RCW 43-.21B.240 are each amended to read as follows:

DEPARTMENT AND AIR AUTHORITY HEARINGS. (~~Notwithstanding any other powers, duties and functions transferred by the provisions of this act,)~~ The department and air authorities shall ((only)) not have authority to hold public hearings(;) on contested cases pursuant to the administrative procedure act, chapter 34.04 RCW((, with respect to those matters enumerated in sections of this 1970 amendatory act)) . Such hearings shall be held by the pollution control hearings board.

Sec. 10. Section 41, chapter 62, Laws of 1970 ex. sess. and RCW 43-.21B.110 are each amended to read as follows:

POLLUTION CONTROL HEARINGS BOARD JURISDICTION.  
(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department ((and)), the director, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW ((when such decisions concern matters within the jurisdiction of the hearings board as provided in this act or as provided in any future act or law granting the hearings board additional jurisdiction. The hearings board shall also have jurisdiction to hear and decide appeals from any person aggrieved by an order issued by the department or by air pollution control boards or authorities as established pursuant to chapter 70.94 RCW with respect to a violation or violations of this act or of any rule or regulation adopted by the department or of any other law within the jurisdiction of the department:)), or local health departments:

(a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080, 70.107.050, 90.03.— (RCW 43.83B.335 as recodified by this 1987 act), 90.48.144, and 90.48.350.

(b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit, shall be deemed to be an order for purposes of this act. PROVIDED, That).

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Any other decision by the department or an air authority which pursuant to law must be decided as a contested case under chapter 34.04 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94-.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW.

Sec. 11. Section 7, chapter 284, Laws of 1969 ex. sess. and RCW 43-.27A.190 are each amended to read as follows:

WATER RESOURCE ORDERS. Notwithstanding and in addition to any other powers granted to the department of ((water resources)) ecology, whenever it appears to the ((director of the)) department ((of water resources, or to an assistant authorized by the director to issue regulatory orders under this section;)) that a person is violating or is about to violate any of the provisions of the following:

(1) Chapter 90.03 RCW; or

(2) Chapter 90.44 RCW; or

(3) Chapter 86.16 RCW; or

(4) Chapter 43.37 RCW; or

(5) Chapter 43.27A RCW; or

(6) Any other ((chapter or statute the director of the department of water resources is charged with administering)) law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department ((of water resources)) relating to subsections (1) through (6) of this section; the ((director of the)) department ((of water resources, or an authorized assistant;)) may cause a written regulatory order to be served

upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03-.070, by a watermaster, stream patrolman, or other person so authorized by the ~~((director of the))~~ department ~~((of water resources,))~~ shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein~~((, and shall become final unless review thereof is requested as provided in RCW 43.27A.200. This section is supplementary to and shall not lessen any of the regulatory and enforcement powers of the department of water resources))~~. Any person aggrieved by such order may appeal the order pursuant to section 6 of this 1987 act.

Sec. 12. Section 8, chapter 101, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 172, Laws of 1983 and RCW 70.105.080 are each amended to read as follows:

**HAZARDOUS WASTE PENALTIES.** (1) Every person who fails to comply with any provision of this chapter or of the rules adopted thereunder shall be subjected to a penalty in an amount of not more than ten thousand dollars per day for every such violation. Each and every such violation shall be a separate and distinct offense. In case of continuing violation, every day's continuance shall be a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty herein provided.

(2) The penalty provided for in this section 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 department, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper, giving consideration to the degree of hazard associated with the violation, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department of ecology shall have authority to ascertain the facts regarding all such applications in~~

~~such reasonable manner and under such rules as it may deem proper. Any penalty imposed by the provisions of this section shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.~~

~~(3) Any penalty imposed by this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or petition for review by the hearings board is filed. When such an application for remission or mitigation is made, any penalty incurred pursuant to this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application. Any penalty resulting from a decision of the hearings board shall become due and payable thirty days after receipt of the notice setting forth the decision.~~

~~(4) If the amount of any penalty is not paid to the department of ecology 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)) pursuant to the procedures in section 5 of this 1987 act.~~

Sec. 13. Section 13, chapter 233, Laws of 1967 and RCW 90.14.130 are each amended to read as follows:

WATER RESOURCES DECISIONS—RELINQUISHMENT DETERMINATIONS. When it appears to the ~~((supervisor of water resources))~~ department of ecology that a person entitled to the use of water has not beneficially used his water right or some portion thereof, and it appears that said right has or may have reverted to the state because of such nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the ~~((supervisor))~~ department of ecology shall notify such person ~~((to show cause at a hearing before the supervisor why his right or portion thereof should not be declared relinquished))~~ by order: PROVIDED, That where a company, association, district, or the United States has filed a blanket claim under the provisions of RCW 90.14.060 for the total benefits of those served by it, the notice ~~((to show cause))~~ shall be served on such company, association, district or the United States and not upon any of its individual water users who may not have used the water or some portion thereof which they were entitled to use. The ~~((notice))~~ order shall contain~~((, (1) the time and place of the hearing as determined by the supervisor, (2))~~): (1) A description of the water right, including the approximate location of the point of diversion, the general description of the lands or places where such waters were used, the water source, the amount involved, the purpose of use, and the apparent authority upon which the right is based~~((, and (3))~~); (2) a statement that unless sufficient cause be shown on appeal the water right will be declared

relinquished; and (3) a statement that such order may be appealed to the pollution control hearings board. Any person aggrieved by such an order may appeal it to the pollution control hearings board pursuant to section 6 of this 1987 act. ~~((Said notice))~~ The order shall be served by registered or certified mail to the last known address of the person and be posted at ((least sixty days before the hearing and sent to the last known address of said person. The supervisor shall, as soon as practicable after such hearing, make an order determining whether such water right has been relinquished and give notice to said person of the contents thereof in the same manner as in the notice procedure provided for in this section)) the point of division or withdrawal. The order by itself shall not alter the recipient's right to use water, if any.

Sec. 14. Section 19, chapter 233, Laws of 1967 and RCW 90.14.190 are each amended to read as follows:

**WATER RESOURCES DECISIONS—RELINQUISHMENT APPEALS.** Any person feeling aggrieved by any ~~((order))~~ decision of the ~~((supervisor of water resources))~~ department of ecology may have the same reviewed ~~((by the superior court of the county in which the waters under consideration are situated))~~ pursuant to section 6 of this 1987 act. In any such review ((by the courts)), the findings of fact as set forth in the report of the ~~((supervisor of water resources))~~ department of ecology shall be prima facie evidence of the fact of any waiver or relinquishment of a water right or portion thereof. ~~((The court, reviewing any order of the supervisor, may award reasonable attorney's fees to any party injured by an arbitrary, capricious or erroneous order of the supervisor. Such attorney's fees shall be paid by the department of conservation from any funds available therefor.))~~ If the hearings board affirms the decision of the department, a party seeks review in superior court of that hearings board decision pursuant to chapter 34.04 RCW, and the court determines that the party was injured by an arbitrary, capricious, or erroneous order of the department, the court may award reasonable attorneys' fees.

Sec. 15. Section 22, chapter 13, Laws of 1967 and RCW 90.48.240 are each amended to read as follows:

**WATER POLLUTION ORDERS.** Notwithstanding any other provisions of this chapter, whenever it appears to the director that water quality conditions exist which require immediate action to protect the public health or welfare, or that a person required by RCW 90.48.160 to obtain a waste discharge permit prior to discharge is discharging without the same, or that a person conducting an operation which is subject to a permit issued pursuant to RCW 90.48.160 conducts the same in violation of the terms of said permit, causing water quality conditions to exist which require immediate action to protect the public health or welfare, the ~~((commission or))~~ director may issue a written order to the person or persons responsible without prior notice or hearing, directing and affording the person or persons responsible



the alternative of either (1) immediately discontinuing or modifying the discharge into the waters of the state, or (2) appearing before the ~~((commission))~~ department at the time and place specified in said written order for the purpose of ~~((a hearing))~~ providing to the department information pertaining to the violations and conditions alleged in said written order. The responsible person or persons shall be afforded not less than twenty-four hours notice of such ~~((hearing))~~ an information meeting. If following such ~~((hearing a majority of the commission finds))~~ a meeting the department determines that water quality conditions exist which require immediate action as described herein, the ~~((commission))~~ department may issue a written order requiring immediate discontinuance or modification of the discharge into the waters of the state. ~~((The order issued following such hearing is subject to judicial review as provided in RCW 90.48.135 but shall not be stayed pending such judicial review unless the commission so directs, or unless the court finds the commission to have acted capriciously or arbitrarily.))~~ In the event an order is not immediately complied with the attorney general, upon request of the ~~((commission or director))~~ department, shall seek and obtain an order of the superior court of the county in which the violation took place directing compliance with the order of the ~~((commission))~~ department. Such an order is appealable pursuant to section 6 of this 1987 act.

Sec. 16. Section 4, chapter 172, Laws of 1983 and RCW 70.105.095 are each amended to read as follows:

**HAZARDOUS WASTE ORDERS.** (1) Whenever on the basis on any information the department determines that a person has violated or is about to violate any provision of this chapter, the department may issue an order requiring compliance either immediately or within a specified period of time. The order shall be delivered by registered mail or personally to the person against whom the order is directed.

(2) Any person who fails to take corrective action as specified in a compliance order shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance. In addition, the department may suspend or revoke any permits and/or certificates issued under the provisions of this chapter to a person who fails to comply with an order directed against him.

(3) ~~((Any order shall become final unless, no later than thirty days after the order is served, the person or persons named in the order request a public hearing. The request shall be delivered either by registered mail or personally to the department. Upon receiving a request for a hearing, the department shall promptly conduct a public hearing to consider testimony and new information regarding the order. The department may, at its discretion, either modify the order or maintain it unchanged. The order shall become effective immediately after the department reaches a final decision;~~

~~unless the department modifies the order to specify another compliance date:~~

~~(4) Any person directly affected by a compliance order or by any decision of the department regarding a compliance order may appeal the order or decision to the pollution control hearings board in accordance with chapter 43.21B RCW)) Any order may be appealed pursuant to section 6 of this 1987 act.~~

Sec. 17. Section 14, chapter 139, Laws of 1967 ex. sess. as last amended by section 2, chapter 316, Laws of 1985 and RCW 90.48.144 are each amended to read as follows:

**WATER POLLUTION PENALTIES.** 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))~~ 90.48.260 through 90.48.262, 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))~~ 90.48.260 through 90.48.262, 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 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)) pursuant to the procedures set forth in section 5 of this 1987 act.~~

Sec. 18. Section 47, chapter 238, Laws of 1967 and RCW 70.94.332 are each amended to read as follows:

AIR POLLUTION HEARINGS. Whenever the department of ecology has reason to believe that any provision of this chapter or any rule or regulation adopted by ~~((the state board))~~ it or being enforced by ~~((the state board))~~ it under RCW 70.94.410 relating to the control or prevention of air pollution has been violated, it may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the department may require that the alleged violator or violators appear before ~~((the state board or a duly appointed hearing officer for a hearing at a time and place specified in the notice given at least twenty days prior to such hearing and answer))~~ it for the purpose of providing the department information pertaining to the violation or the charges complained of((, or)). In addition to or in place of an order or hearing, the department may initiate action pursuant to RCW 70.94.425, 70.94.430, and 70.94.435.

Sec. 19. Section 53, chapter 168, Laws of 1969 ex. sess. as last amended by section 2, chapter 255, Laws of 1984 and RCW 70.94.431 are each amended to read as follows:

**AIR POLLUTION PENALTIES.** (1) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 RCW or any of the rules and regulations of the department or the board shall incur a civil penalty (~~(in the form of a fine)~~) in an amount not to exceed one thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. For the purposes of this subsection, the maximum daily fine imposed by a local board for violations of standards by a specific emissions unit is one thousand dollars.

(2) Further, the person is subject to a fine of up to five thousand dollars to be levied by the director of the department of ecology if requested by the board of a local authority or if the director determines that the penalty is needed for effective enforcement of this chapter. A local board shall not make such a request until notice of violation and compliance order procedures have been exhausted, if such procedures are applicable. For the purposes of this subsection, the maximum daily fine imposed by the department of ecology for violations of standards by a specific emissions unit is five thousand dollars.

(3) Each 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 same penalty. (~~Except as provided in subsection (4) of this section, the penalty shall become due and payable when the person incurring the same receives a notice in writing from the director or his designee or the control officer of the authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the hearings board as provided for in chapter 43.21B RCW. When a request is made for a hearing, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid to the department or the board within thirty days after it becomes due and payable, and a request for a hearing has not been made, the attorney general, upon the request of the director or his designee, or the attorney for the local authority, upon request of the board or control officer, shall bring an action to recover such penalty in the superior court of the county in which the violation occurred:)) The penalties provided in this section shall be imposed pursuant to section 5 of this 1987 act.~~

(4) All penalties recovered under this section by the (~~state board~~) department shall be paid into the state treasury and credited to the general fund or, if recovered by the authority, fifty percent shall be paid into the

treasury of the authority and credited to its funds and fifty percent shall be distributed to the cities, towns and counties within the authority, on a pro rata basis, as each contributes to support the authority pursuant to RCW 70.94.093. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed under subsection (2) of this section shall be reduced by the amount of the payment. Notwithstanding any other provisions of this chapter, no penalty may be levied for the violation of any opacity standard in an amount exceeding four hundred dollars per day.

~~((4) If a penalty is levied under subsection (2) of this section, the director or the director's authorized delegate may, upon written application therefor received within fifteen days after the 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 in this section upon such terms as the director in the director's discretion deems proper, and may ascertain the facts upon all such applications in such manner and under such regulations as the director deems proper. The mitigation shall not affect or reduce the penalty imposed by the local board. Any person incurring any penalty under this section may appeal the same to the hearings board as provided in chapter 43.21B RCW. 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, appeals shall be filed within thirty days of receipt of notice from the director or the director's authorized delegate setting forth the disposition of the application. Any penalty imposed under this section 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 under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from the disposition. Whenever an appeal of any penalty incurred under this section 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 the violator may do business, to recover the penalty. In all such actions the procedure and rules of evidence shall be the same as for an ordinary civil action except as otherwise provided in this chapter.))~~

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

~~((In all actions brought in the superior court for the recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in an ordinary civil action:))~~

Sec. 20. Section 7, chapter 133, Laws of 1969 ex. sess. as last amended by section 7, chapter 316, Laws of 1985 and RCW 90.48.350 are each amended to read as follows:

**OIL POLLUTION PENALTIES.** 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))~~ be imposed pursuant to section 5 of this 1987 act.

Sec. 21. Section 21, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.210 are each amended to read as follows:

**SOLID WASTE PERMIT APPEALS.** Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste disposal site, it shall, upon request of the applicant or holder of the permit, grant a hearing on such denial or suspension within thirty days after the request therefor is made. Notice of the hearing shall be given all interested parties including the county or city having jurisdiction over the site and the department (~~(of environmental quality)~~). Within thirty days after the hearing, the health officer shall notify the applicant or the holder of the permit in writing of his determination and the reasons therefor. Any party aggrieved by such determination may appeal to the (~~(department of environmental quality)~~) pollution control hearings board by filing with the (~~(director)~~) hearings board a notice of appeal within thirty days after receipt of notice of the determination of the health officer. The (~~(department)~~) hearings board shall hold a hearing in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended.

*\*Sec. 22. Section 5, chapter 183, Laws of 1974 ex. sess. and RCW 70.107.050 are each amended to read as follows:*

**NOISE POLLUTION PENALTIES.** (1) *Any person who violates any rule adopted by the department under this chapter shall be subject to a civil penalty not to exceed one hundred dollars. (~~All violations of this chapter shall be administered pursuant to the provisions of chapter 34.04 RCW, the state administrative procedure act:~~*

~~*Penalties shall become due and payable thirty days from the date of receipt of a notice of penalty unless within such time said notice is appealed to the pollution control hearings board pursuant to the provisions of chapter 43.21B RCW and procedural rules adopted thereunder. In cases in which appeals are timely filed, penalties sustained by the pollution control hearings board shall become due and payable on the issuance of said board's final order in the appeal.*~~

~~*(2) Whenever penalties incurred pursuant to this section have become due and payable but remain unpaid, the attorney general shall, upon request of the director, bring an action in the name of the state of Washington, in the superior court of Thurston county or in the county in which the violation occurred for recovery of penalties incurred. In all such actions the procedures and rules of evidence shall be the same as in any other civil action. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.) This penalty shall be imposed pursuant to section 5 of this 1987 act.*~~

*\*Sec. 22 was vetoed, see message at end of chapter.*

Sec. 23. Section 17, chapter 159, Laws of 1935 and RCW 86.16.110 are each amended to read as follows:

**FLOOD CONTROL ZONE PERMITS.** Any person, association or corporation, public, municipal or private, feeling aggrieved at any order,

decision, or determination of the ~~((state supervisor of flood control made))~~ department or director pursuant to this chapter, affecting his interest, may have the same reviewed ~~((by a proceeding for that purpose, in the nature of an appeal, initiated in the superior court of the county in which the matter affected, or a portion thereof is situated. The proceedings in every such appeal shall be heard and tried by the court and shall be informal and summary, but full opportunity to be heard and present evidence shall be had before judgment is pronounced. No such appeal shall be entertained unless notice of appeal containing a statement of the substance of the order, decision, or determination complained of and the manner in which the same injuriously affects the appellant's interests, shall have been served personally upon the state supervisor of flood control, or by registered mail, at his office at the state capitol, within twenty days following the rendition of the order, decision or determination appealed from and communication thereof in writing to the person affected thereby. No bond shall be required except a stay is desired and an appeal shall not be a stay, unless within five days following the service of notice of appeal a bond shall be filed in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court. Costs shall be paid as in civil cases brought in the superior court, and the practice in civil cases shall apply. Appeal shall lie from the judgment of the superior court as in other civil cases. In all court proceedings under or pursuant to this section the decision of the state supervisor of flood control shall be prima facie correct. The attorney general shall be the legal advisor of the state supervisor of flood control and shall represent him in all proceedings whenever so requested))~~ pursuant to section 6 of this 1987 act.

Sec. 24. Section 13, chapter 212, Laws of 1971 ex. sess. and RCW 18-.104.130 are each amended to read as follows:

WELL DRILLERS LICENSE APPEALS. Any person who feels aggrieved by an order of the department including the granting, denial, revocation, or suspension of a license issued by the department pursuant to this chapter shall be entitled to ~~((a hearing before the pollution control hearings board upon request. No such request shall be entertained unless it contains the following:~~

- ~~(1) Requestor's name and address;~~
- ~~(2) The date of the order for which the request for review is taken;~~
- ~~(3) A statement of the substance of the order complained of;~~
- ~~(4) Clear, separate and concise statements of each and every error which the requestor alleges to have been committed by the department;~~
- ~~(5) Clear and concise statement of facts upon which the requestor relies to sustain his statements of error;~~
- ~~(6) A statement setting forth the relief sought.~~

~~The request shall be delivered to said pollution control hearings board's office in Olympia, Washington, either personally or by registered mail,~~



~~within thirty days following the rendition of the order sought to be reviewed. All orders issued by the department as to which a hearing has been requested shall be stayed pending the completion of the hearing process and the issuance of a final order by the pollution control hearings board with the exception of regulatory orders issued pursuant to RCW 18.104.060. Any final order shall be subject to judicial review in accordance with chapter 43.21B RCW.~~

~~The issuance of a regulatory order hereunder, the granting or denial of a license hereunder and the revocation or suspension of a license pursuant to RCW 18.104.110 shall be deemed to be orders for the purposes of this section)) an appeal pursuant to section 6 of this 1987 act.~~

### PART C CORRECTION OF REFERENCES

Sec. 25. Section 12, chapter 18, Laws of 1970 ex. sess. and RCW 43.20A.140 are each amended to read as follows:

Where feasible, the department and the state board of health shall consult with the ~~((water pollution control commission and the state air pollution control board, or their successors;))~~ department of ecology in order that, to the fullest extent possible, agencies concerned with the preservation of life and health and agencies concerned with protection of the environment may integrate their efforts and endorse policies in common.

Sec. 26. Section 43.21.110, chapter 8, Laws of 1965 and RCW 43.21.110 are each amended to read as follows:

The ~~((director of conservation, through the division of reclamation;))~~ department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to the reclamation and development of arid, swamp, overflow, and logged-off lands in the state and such other duties as may be prescribed by law.

Sec. 27. Section 43.21.140, chapter 8, Laws of 1965 as amended by section 1, chapter 53, Laws of 1967 and RCW 43.21.140 are each amended to read as follows:

The ~~((director of conservation, through the division of water resources;))~~ director of ecology may create within his department a fund to be known as the "basic data fund."

Into such fund shall be deposited all moneys contributed by persons for stream flow, ground water and water quality data or other hydrographic information furnished by the department in cooperation with the United States geological survey, and the fund shall be expended on a matching basis with the United States geological survey for the purpose of obtaining additional basic information needed for an intelligent inventory of water resources in the state.

Disbursements from the basic data fund shall be on vouchers approved by the ~~((supervisor of water resources))~~ department and the district engineer of the United States geological survey.

Sec. 28. Section 43.21.160, chapter 8, Laws of 1965 and RCW 43.21.160 are each amended to read as follows:

The ~~((director of conservation, through the division of flood control,))~~ department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to flood control.

Sec. 29. Section 43.21.190, chapter 8, Laws of 1965 and RCW 43.21.190 are each amended to read as follows:

The ~~((director))~~ department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the ~~((director))~~ department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The ~~((director))~~ department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan.

Sec. 30. Section 44, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B.140 are each amended to read as follows:

In all appeals over which the hearings board has jurisdiction ~~((under RCW 43.21B.110 and 43.21B.120))~~, a party taking an appeal may elect either a formal or an informal hearing, such election to be made according to rules of practice and procedure to be promulgated by the hearings board: PROVIDED, That nothing herein shall be construed to modify the provisions of RCW 43.21B.190 and 43.21B.200. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.

Sec. 31. Section 2, chapter 242, Laws of 1967 and RCW 43.27A.020 are each amended to read as follows:

As used in this chapter, and unless the context indicates otherwise, words and phrase shall mean:

"Department" means the department of ~~((water resources))~~ ecology;

"Director" means the director of ~~((the department of water resources))~~ ecology;

"State agency" and "state agencies" mean any branch, department or unit of state government, however designated or constituted;

"Water resources" means all waters above, upon, or beneath the surface of the earth, located within the state and over which the state has sole or concurrent jurisdiction.

"Beneficial use" means, but its meaning shall not be limited to: Domestic water supplies; irrigation; fish, shellfish, game, and other aquatic life; recreation; industrial water supplies; generation of hydroelectric power; and navigation.

~~(("Council" means the water resources advisory council.))~~

Sec. 32. Section 8, chapter 242, Laws of 1967 as amended by section 104, chapter 3, Laws of 1983 and RCW 43.27A.080 are each amended to read as follows:

The department shall exercise the powers, duties and functions of the following state agencies or division of state agencies, and public officials, and all their powers, duties and functions are transferred to the department of ~~((water resources))~~ ecology:

- (1) The division of reclamation of the department of conservation;
- (2) The division of water resources of the department of conservation;
- (3) The division of flood control of the department of conservation;
- (4) The division of power resources of the department of conservation;
- (5) The Columbia basin commission;
- (6) The weather modification board;

All other powers, duties or functions now vested in the department of conservation or the director thereof are transferred to the department of ~~((water resources))~~ ecology, except those powers which are expressly transferred to some other agency of the state by this chapter. The director in exercising the powers, duties and functions of the Columbia basin commission as set forth in chapter 43.49 RCW may create and maintain in the department a Columbia basin division.

Sec. 33. Section 3, chapter 232, Laws of 1957 as last amended by section 119, chapter 141, Laws of 1979 and RCW 70.94.030 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 shall have the following meanings:

- (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

(3) "Person" means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

(4) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(5) "Board" means the board of directors of an authority.

(6) "Control officer" means the air pollution control officer of any authority.

(7) (~~"State board" means the state air pollution control board, or any department or agency which by law shall succeed to its powers, duties and functions:~~

~~(8))~~ (8) "Emission" means a release into the outdoor atmosphere of air contaminants.

~~((9))~~ (9) "Department" means the state department of ~~((social and health services))~~ ecology.

~~((10))~~ (10) "Ambient air" means the surrounding outside air.

~~((11))~~ (11) "Multicounty authority" means an authority which consists of two or more counties.

~~((12))~~ (12) "Emission standard" means a limitation on the release of a contaminant or multiple contaminants into the ambient air.

~~((13))~~ (13) "Air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

~~((14))~~ (14) "Air quality objective" means the concentration and exposure time of a contaminant or multiple contaminants in the ambient air below which undesirable effects will not occur.

Sec. 34. Section 4, chapter 238, Laws of 1967 as amended by section 120, chapter 141, Laws of 1979 and RCW 70.94.053 are each amended to read as follows:

(1) In each county of the state there is hereby created an air pollution control authority, which shall bear the name of the county within which it is located. The boundaries of each authority shall be coextensive with the boundaries of the county within which it is located. An authority shall include all incorporated and unincorporated areas of the county within which it is located.

(2) All authorities which are presently or may hereafter be within counties of the first class, class A or class AA, are hereby designated as activated authorities and shall carry out the duties and exercise the powers

provided in this chapter. Those authorities hereby activated which encompass contiguous counties located in one or the other of the two major areas determined in RCW 70.94.011 are declared to be and directed to function as a multicounty authority.

(3) Except as provided in RCW 70.94.232, all other air pollution control authorities are hereby designated as inactive authorities.

(4) The boards of those authorities designated as activated authorities by this chapter shall be comprised of such appointees and/or county commissioners or other officers as is provided in RCW 70.94.100. The first meeting of the boards of those authorities designated as activated authorities by this chapter shall be on or before sixty days after June 8, 1967.

(5) The ~~((state board and the department of social and health services are))~~ department is directed to conduct the necessary evaluations and delineate appropriate air pollution regions throughout the state, taking into consideration:

(a) The natural climatic and topographic features affecting the potential for buildup of air contaminant concentrations.

(b) The degree of urbanization and industrialization and the existence of activities which are likely to cause air pollution.

(c) The county boundaries as related to the air pollution regions and the practicality of administering air pollution control programs.

The ~~((state board and the department are))~~ department is directed to report to the 1969 and succeeding legislative sessions with respect to the further need for activating or combining air pollution control authorities.

Sec. 35. Section 26, chapter 238, Laws of 1967 as amended by section 17, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.142 are each amended to read as follows:

In connection with the subpoena powers given in RCW 70.94.141(2):

(1) In any hearing held under RCW 70.94.181(~~(;)~~) and 70.94.221 (~~(and 70.94.333)~~), the board or the ~~((state board))~~ department, and their authorized agents:

(a) Shall issue a subpoena upon the request of any party and, to the extent required by rule or regulation, upon a statement or showing of general relevance and reasonable scope of the evidence sought;

(b) May issue a subpoena upon their own motion.

(2) The subpoena powers given in RCW 70.94.141(2) shall be state-wide in effect.

(3) Witnesses appearing under the compulsion of a subpoena in a hearing before the board or the ~~((state board))~~ department shall be paid the same fees and mileage that are provided for witnesses in the courts of this state. Such fees and mileage, and the cost of duplicating records required to be produced by subpoena issued upon the motion of the board or ~~((state board))~~ department, shall be paid by the board or ~~((state board))~~ department. Such fees and mileage, and the cost of producing records required to

be produced by subpoena issued upon the request of a party, shall be paid by that party.

(4) If an individual fails to obey the subpoena, or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of the hearing, the board or (~~state board~~) department shall file its written report thereof and proof of service of its subpoena, in any court of competent jurisdiction in the county where the examination, hearing or investigation is being conducted. Thereupon, the court shall forthwith cause the individual to be brought before it and, upon being satisfied that the subpoena is within the jurisdiction of the board or (~~state board~~) department and otherwise in accordance with law, shall punish him as if the failure or refusal related to a subpoena from or testimony in that court.

(5) The (~~state board~~) department may make such rules and regulations as to the issuance of its own subpoenas as are not inconsistent with the provisions of this chapter.

Sec. 36. Section 27, chapter 238, Laws of 1967 as amended by section 18, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.143 are each amended to read as follows:

Any authority exercising the powers and duties prescribed in this chapter may make application for, receive, administer, and expend any federal aid, under federal legislation from any agency of the federal government, for the prevention and control of air pollution or the development and administration of programs related to air pollution control and prevention, as permitted by RCW 70.94.141(12): PROVIDED, That any such application shall be submitted to and approved by the (~~state board~~) department. The (~~state board~~) department shall adopt rules and regulations establishing standards for such approval and shall approve any such application, if it is consistent with this chapter, and any other applicable requirements of law.

Sec. 37. Section 28, chapter 238, Laws of 1967 as last amended by section 2, chapter 88, Laws of 1984 and RCW 70.94.151 are each amended to read as follows:

(1) The board of any activated authority or the (~~state board~~) department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the ~~((state board))~~ department or board of the authority, require registration and reporting shall register therewith and make reports containing information as may be required by such ~~((state board))~~ department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The ~~((state board))~~ department or board may require that such registration be accompanied by a fee and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the ~~((state board))~~ department shall preclude a further registration with any other board or the ~~((state board))~~ department.

Sec. 38. Section 20, chapter 232, Laws of 1957 as last amended by section 121, chapter 141, Laws of 1979 and RCW 70.94.200 are each amended to read as follows:

For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, a control officer, the ~~((secretary of social and health services))~~ department, or their duly authorized representatives, shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to any control officer, the ~~((secretary of social and health services))~~ department, or their duly authorized representatives, who requests entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection.

Sec. 39. Section 46, chapter 238, Laws of 1967 as last amended by section 4, chapter 372, Laws of 1985 and RCW 70.94.331 are each amended to read as follows:

(1) The ~~((state board))~~ department shall have all the powers as provided in RCW 70.94.141.

(2) The ~~((state board))~~ department, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapter ~~((42.32))~~ 42.30 RCW and chapter 34.04 RCW shall:

(a) Adopt rules and regulations establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, but in no event may less stringent standards be enacted by an authority without the prior approval of the ~~((state board))~~ department after public hearing and due notice to interested parties;

(c) Adopt by rule and regulation air quality standards and emission standards for the control or prohibition of emissions to the outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter.

(3) The air quality standards and emission standards may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonable foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The ~~((state board))~~ department is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The ~~((state board))~~ department is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

(6) The ~~((state board))~~ department shall enforce the air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The ~~((state board))~~ department shall encourage local units of government to handle air pollution problems within their respective jurisdictions; and, on a cooperative basis provide technical and consultative assistance therefor.

(8) The ~~((state board))~~ department shall have the power to require the addition to or deletion of a county from an existing authority in order to



carry out the purposes of this chapter: PROVIDED, HOWEVER, That no such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.04 RCW.

Sec. 40. Section 6, chapter 188, Laws of 1961 as last amended by section 122, chapter 141, Laws of 1979 and RCW 70.94.350 are each amended to read as follows:

The (~~secretary of social and health services~~) department is authorized to contract for or otherwise agree to the use of personnel of municipal corporations or other agencies or private persons; and the (~~secretary of social and health services~~) department is further authorized to reimburse such municipal corporations or agencies for the employment of such personnel. Merit system regulations or standards for the employment of personnel may be waived for personnel hired under contract as provided for in this section. The (~~secretary of social and health services~~) department shall provide, within available appropriations, for the scientific, technical, legal, administrative, and other necessary services and facilities for performing the (~~functioning of the state board~~) functions under this chapter. (~~The necessary staff, services, and facilities shall be administered through an appropriate organizational unit of the department of social and health services under the direction of the executive director of the state board.~~)

Sec. 41. Section 51, chapter 238, Laws of 1967 as amended by section 37, chapter 163, Laws of 1969 ex. sess. and RCW 70.94.385 are each amended to read as follows:

(1) Any authority may apply to the (~~state board~~) department for state financial aid. The (~~state board~~) department shall by rule and regulation establish the ratio of state funds to the local funds taking into consideration available federal and state funds. Any such aid shall be expended from the general fund from such appropriations as the legislature may provide for this purpose: PROVIDED, That federal funds shall be utilized to the maximum unless otherwise approved by the (~~state board~~) department: PROVIDED FURTHER, That the ratio of state funds to local funds of the previous year shall not be changed without a public hearing held by the (~~state board~~) department.

(2) Before any such application is approved and financial aid is given or approved by the (~~state board~~) department, the authority shall demonstrate to the satisfaction of the (~~state board~~) department that it is fulfilling the requirements of RCW 70.94.380, or, if the (~~state board~~) department has not adopted ambient air quality standards and objectives as permitted by RCW 70.94.331, the authority shall demonstrate to the satisfaction of the (~~state board~~) department that it is acting in good faith and doing all that is possible and reasonable to control and prevent air pollution within its jurisdictional boundaries and to carry out the purposes of this chapter.

(3) The ~~((state board))~~ department shall adopt rules and regulations requiring the submission of such information by each authority including the submission of its proposed budget and a description of its program in support of the application for state financial aid as necessary to enable the ~~((state board))~~ department to determine the need for state aid.

Sec. 42. Section 52, chapter 238, Laws of 1967 as amended by section 38, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.390 are each amended to read as follows:

The ~~((state board))~~ department may, at any time and on its own motion, hold a hearing to determine if the activation of an authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist in any area of the state. Notice of such hearing shall be conducted in accordance with chapter ~~((42.32))~~ 42.30 RCW and chapter 34.04 RCW. If at such hearing the ~~((state board))~~ department finds that air pollution exists or is likely to occur in a particular area, and that the purposes of this chapter and the public interest will be best served by the activation of an authority it shall designate the boundaries of such area and set forth in a report to the appropriate county or counties recommendations for the activation of an authority: PROVIDED, That if at such hearing the ~~((state board))~~ department determines that the activation of an authority is not practical or feasible for the reason that a local or regional air pollution control program cannot be successfully established or operated due to unusual circumstances and conditions, but that the control and/or prevention of air pollution is necessary for the purposes of this chapter and the public interest, it may assume jurisdiction and so declare by order. Such order shall designate the geographic area in which, and the effective date upon which, the ~~((state board))~~ department will exercise jurisdiction for the control and/or prevention of air pollution. The ~~((state board))~~ department shall exercise its powers and duties in the same manner as if it had assumed authority under RCW 70.94.410.

All expenses incurred by the ~~((state board))~~ department in the control and prevention of air pollution in any county pursuant to the provisions of RCW 70.94.390 and 70.94.410 shall constitute a claim against such county. The ~~((state board))~~ department shall certify the expenses to the auditor of the county, who promptly shall issue his warrant on the county treasurer payable out of the current expense fund of the county. In the event that the amount in the current expense fund of the county is not adequate to meet the expenses incurred by the ~~((state board))~~ department, the ~~((state board))~~ department shall certify to the state treasurer that they have a prior claim on any money in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer as provided in RCW 82.08.170. In the event that the amount in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer is not adequate to meet the expenses incurred by the ~~((state board))~~ department, the ~~((state board))~~

department shall certify to the state treasurer that they have a prior claim on any excess funds from the liquor revolving fund that are to be distributed to that county as provided in RCW 66.08.190 through 66.08.220. All moneys that are collected as provided in this section shall be placed in the general fund in the account of the ~~((state air pollution control board))~~ office of air programs of the department.

Sec. 43. Section 53, chapter 238, Laws of 1967 as amended by section 39, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.395 are each amended to read as follows:

If the ~~((state board))~~ department finds, after public hearing upon due notice to all interested parties, that the emissions from a particular type or class of air contaminant source should be regulated on a state-wide basis in the public interest and for the protection of the welfare of the citizens of the state, it may adopt and enforce rules and regulations to control and/or prevent the emission of air contaminants from such source: PROVIDED, That an authority may, after public hearing and a finding by the board of a need for more stringent rules and regulations than those adopted by the ~~((state board))~~ department under this section, propose the adoption of such rules and regulations by the ~~((state board))~~ department for the control of emissions from the particular type or class or air contaminant source within the geographical area of the authority. The ~~((state board))~~ department shall hold a public hearing and shall adopt the proposed rules and regulations within the area of the requesting authority, unless it finds that the proposed rules and regulations are inconsistent with the rules and regulations adopted by the ~~((state board))~~ department under this section: PROVIDED, FURTHER, That when such standards are adopted by the ~~((state board))~~ department it shall delegate to the authority all powers necessary for their enforcement at the request of the authority: PROVIDED, That the ~~((state board))~~ department may delegate the responsibility for the enforcement of such rules and regulations to any authority which it deems capable of enforcing such regulations: PROVIDED FURTHER, That if after public hearing the ~~((state board))~~ department finds that the regulation on a state-wide basis of a particular type of class of air contaminant source is no longer required for the public interest and the protection of the welfare of the citizens of the state, the ~~((state board))~~ department may relinquish exclusive jurisdiction over such source.

Sec. 44. Section 54, chapter 238, Laws of 1967 as amended by section 40, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.400 are each amended to read as follows:

If, at the end of ninety days after the ~~((state board))~~ department issues a report as provided for in RCW 70.94.390, to appropriate county or counties recommending the activation of an authority such county or counties have not performed those actions recommended by the ~~((state board))~~ department, and the ~~((state board))~~ department is still of the opinion that the

activation of an authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist, then the ~~((state board))~~ department may, at its discretion, issue an order activating an authority. Such order, a certified copy of which shall be filed with the secretary of state, shall specify the participating county or counties and the effective date by which the authority shall begin to function and exercise its powers. Any authority activated by order of the ~~((state board))~~ department shall choose the members of its board as provided in RCW 70.94.100 and begin to function in the same manner as if it had been activated by resolutions of the county or counties included within its boundaries. The ~~((state board))~~ department may, upon due notice to all interested parties, conduct a hearing in accordance with chapter ~~((42.32))~~ 42.30 RCW and chapter 34.04 RCW within six months after the order was issued to review such order and to ascertain if such order is being carried out in good faith. At such time the ~~((state board))~~ department may amend any such order issued if it is determined by the ~~((state board))~~ department that such order is being carried out in bad faith or the ~~((state board))~~ department may take the appropriate action as is provided in RCW 70.94.410.

Sec. 45. Section 55, chapter 238, Laws of 1967 as amended by section 41, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.405 are each amended to read as follows:

At any time after an authority has been activated for no less than one year, the ~~((state board))~~ department may, on its own motion, conduct a hearing held in accordance with chapter ~~((42.32))~~ 42.30 RCW and chapter 34.04 RCW, as now or hereafter amended to determine whether or not the air pollution prevention and control program of such authority is being carried out in good faith and is as effective as possible under the circumstances ~~((: PROVIDED, That no such hearing shall be held within one year of June 8, 1967))~~. If at such hearing the ~~((board))~~ department finds that such authority is not carrying out its air pollution control or prevention program in good faith, or is not doing all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction, it shall set forth in a report to the appropriate authority: (1) Its recommendations as to how air pollution prevention and/or control might be more effectively accomplished; and (2) guidelines which will assist the authority in carrying out the recommendations of the ~~((state board))~~ department.

Sec. 46. Section 56, chapter 238, Laws of 1967 as amended by section 42, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.410 are each amended to read as follows:

(1) If, after thirty days from the time that the ~~((state board))~~ department issues a report or order to an authority under RCW 70.94.400 and 70.94.405, such authority has not taken any action which indicates that it is attempting in good faith to implement the recommendations or actions of

the ~~((state board))~~ department as set forth in the report or order, the ~~((state board))~~ department may, by order, declare as null and void any or all ordinances, resolutions, rules or regulations of such authority relating to the control and/or prevention of air pollution, and at such time the ~~((state board))~~ department shall become the sole body with authority to make and enforce rules and regulations ~~((to))~~ for the control and/or prevention of air pollution within the geographical area of such authority. In this connection the ~~((state board))~~ department may assume all those powers which are given to it by law to effectuate the purposes of this chapter. The ~~((state board))~~ department may, by order, continue in effect and enforce those provisions of the ordinances, resolutions, or rules and regulations of such authority which are not less stringent than those requirements which the ~~((state board))~~ department may have found applicable to the area under RCW 70.94.331 until such time as the ~~((board))~~ department adopts its own rules and regulations. Any rules and regulations promulgated ~~((and any enforcement action, as provided in RCW 70.94.333, taken))~~ by the ~~((state board))~~ department shall be subject to the provisions of chapter 34.04 RCW as it now appears or may hereinafter be amended ~~((and subject to RCW 70.94.425 and 70.94.435 to the extent that they are not inconsistent with chapter 34.04 RCW))~~. Any enforcement actions shall be subject to section 5 or 6 of this 1987 act.

(2) No provision of this chapter is intended to prohibit any authority from reestablishing its air pollution control program which meets with the approval of the ~~((state board))~~ department and which complies with the purposes of this chapter and with applicable rules and regulations and orders of the ~~((state board))~~ department.

(3) Nothing in this chapter shall prevent the ~~((state board))~~ department from withdrawing the exercise of its jurisdiction over an authority upon its own motion: PROVIDED, That the ~~((state board))~~ department has found at a hearing held in accordance with chapter ~~((42.32))~~ 42.30 RCW and chapter 34.04 RCW as now or hereafter amended, that the air pollution prevention and control program of such authority will be carried out in good faith or that such program will do all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction. Upon the withdrawal of the ~~((state board))~~ department, the ~~((state board))~~ department shall prescribe certain recommendations as to how air pollution prevention and/or control is to be effectively accomplished and guidelines which will assist the authority in carrying out the recommendations of the ~~((state board))~~ department.

Sec. 47. Section 58, chapter 238, Laws of 1967 as amended by section 44, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.420 are each amended to read as follows:

(1) It is declared to be the intent of the legislature of the state of Washington that any state department or agency having jurisdiction over

any building, installation, or other property shall cooperate with the ((state board)) department and with air pollution control agencies in preventing and/or controlling the pollution of the air in any area insofar as the discharge of the matter from or by such building, installation, or other property may cause or contribute to pollution of the air in such area. Such state department or agency shall comply with the provisions of this chapter and with any ordinance, resolution, rule or regulation issued hereunder in the same manner as any other person subject to such laws, rules or regulations.

(2) In addition to its other powers and duties prescribed by law, the ((state board)) department may establish classes of potential pollution sources for which any state department or agency having jurisdiction over any building, installation, or other property, which is not located within the geographical boundaries of any authority which has an air pollution control and/or prevention program in effect, shall, before discharging any matter into the air, obtain a permit from the ((state board)) department for such discharge, such permits to be issued for a specified period of time to be determined by the ((state board)) department and subject to revocation if the ((state board)) department finds that such discharge is endangering the health and welfare of any persons. Such permits may also be required for any such building, installation, or other property which is located within the geographical boundaries of any authority which has an air pollution control and prevention program in effect if the standards set by the ((state board)) department for state departments and agencies are more stringent than those of the authority. In connection with the issuance of any permits under this section, there shall be submitted to the ((state board)) department such plans, specifications, and other information as it deems relevant thereto and under such other conditions as it may prescribe.

Sec. 48. Section 60, chapter 238, Laws of 1967 and RCW 70.94.425 are each amended to read as follows:

Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation or order issued thereunder, the governing body or board or the ((state board)) department, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

Sec. 49. Section 45, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.510 are each amended to read as follows:

It is declared to be the policy of the state of Washington through the ((state air pollution control board)) department of ecology to cooperate with the federal government in order to insure the coordination of the provisions of the federal and state clean air acts, and the ((state air pollution control

board)) department is authorized and directed to implement and enforce the provisions of this chapter in carrying out this policy as follows:

(1) To accept and administer grants from the federal government for carrying out the provisions of this chapter.

(2) To take all action necessary to secure to the state the benefits of the federal clean air act.

Sec. 50. Section 6, chapter 159, Laws of 1935 as amended by section 1, chapter 85, Laws of 1939 and RCW 86.16.025 are each amended to read as follows:

With respect to such features as may affect flood conditions, the ~~((state supervisor of flood control))~~ department shall have authority to examine, approve or reject designs and plans for any structure or works, public or private, to be erected or built or to be reconstructed or modified upon the banks or in or over the channel or over and across the flood plain or floodway of any stream or body of water in this state.

Sec. 51. Section 9, chapter 159, Laws of 1935 and RCW 86.16.027 are each amended to read as follows:

The ~~((state supervisor of flood control))~~ department shall ~~((have authority and it shall be his duty to establish and))~~ promulgate rules and regulations governing the administration of this chapter.

Sec. 52. Section 5, chapter 159, Laws of 1935 and RCW 86.16.030 are each amended to read as follows:

The ~~((state supervisor of flood control))~~ director shall have authority to appoint and employ such assistants, professional, clerical and other services and to purchase such equipment, materials and supplies, as shall be necessary for the performance of his duties under this chapter.

Sec. 53. Section 8, chapter 159, Laws of 1935 and RCW 86.16.035 are each amended to read as follows:

~~((Said state supervisor))~~ The department shall have supervision and control over all dams and obstructions in streams, and may make reasonable regulations with respect thereto concerning the flow of water which he deems necessary for the protection to life and property below such works from flood waters.

Sec. 54. Section 11, chapter 159, Laws of 1935 and RCW 86.16.040 are each amended to read as follows:

As soon as funds are available for the purpose the ~~((state supervisor of flood control))~~ department shall undertake and conduct a careful study of the flood control needs of the state. In so doing ~~((he))~~ it shall consult, consider and utilize any available data and records gathered by ~~((the state planning council, all))~~ state departments and by other agencies, state or local, and it shall be the duty of all such agencies to cooperate with the ~~((supervisor))~~ department in furnishing ~~((him))~~ it all available data and

records. The ~~((supervisor))~~ department shall also make such field investigations and surveys as ~~((he))~~ it shall deem necessary to carry out the provisions of this chapter.

Sec. 55. Section 13, chapter 159, Laws of 1935 and RCW 86.16.060 are each amended to read as follows:

The ~~((state supervisor of flood control))~~ department shall have authority and it shall be ~~((his))~~ its duty as soon as sufficient data are available for the purpose, to establish any area of the state subject to flood damages, beginning with such area as ~~((he))~~ it shall select, into a flood control zone, in accordance with the objects of this chapter.

Sec. 56. Section 14, chapter 159, Laws of 1935 and RCW 86.16.065 are each amended to read as follows:

The boundaries and area of any established flood control zone may be altered and revised from time to time by the ~~((state supervisor of flood control))~~ department under such general rules and regulations as may be prescribed under the provisions of this chapter.

Sec. 57. Section 15, chapter 159, Laws of 1935 as amended by section 86, chapter 469, Laws of 1985 and RCW 86.16.067 are each amended to read as follows:

No flood control zone shall be established, altered or revised without notice previously given by the ~~((state supervisor of flood control))~~ department to the owners of the lands included in such zone or in any alteration or revision thereof by previous publication of the notice once a week for three consecutive weeks in a newspaper of general circulation in the county where the lands or the greater portion thereof are situated, and selected by the ~~((state supervisor))~~ department, stating briefly a general description in terms of government sections, townships and ranges, of the lands within the zone or alteration or revision thereof, and the general objects of the establishment or alteration or revision of the zone and the day, hour and place where written objections may be submitted and heard.

Sec. 58. Section 16, chapter 159, Laws of 1935 and RCW 86.16.070 are each amended to read as follows:

Notice of the establishment, alteration or revision of a flood control zone given substantially in the manner above prescribed, shall be construed to be sufficient notice thereof. Upon the establishment, alteration or revision of a flood control zone after such notice and hearing, the ~~((state supervisor of flood control))~~ department shall make and enter a written order thereof and file the same ~~((in his office))~~ with the department and the same shall be final and conclusive, unless an appeal therefrom be had within the time and in the manner provided in this chapter.

Sec. 59. Section 10, chapter 159, Laws of 1935 and RCW 86.16.080 are each amended to read as follows:



No person, firm, association or corporation, public, municipal or private, shall have the authority or the right hereafter to construct, reconstruct, or modify any structure or works affecting flood waters within any flood control zone, established under the provisions of this chapter, or to operate or maintain any such structure or work hereafter constructed, reconstructed or modified without a written permit from the ~~((state supervisor of flood control))~~ department applied for and issued in accordance with such general rules and regulations as shall be established and promulgated for the purpose under the provisions of this chapter: PROVIDED, HOWEVER, That whenever, in cases of emergency, flood waters shall threaten to or shall endanger lives or damage property, or it shall be necessary to repair, reconstruct, or restore property damaged by such flood waters, in order that such property may be used immediately for the purpose or purposes thereof used, no permit shall be required.

Sec. 60. Section 7, chapter 159, Laws of 1935 as amended by section 2, chapter 85, Laws of 1939 and RCW 86.16.090 are each amended to read as follows:

Any existing structures or works hereafter reconstructed or modified and their operation or maintenance, and any structures or works hereafter constructed, operated or maintained in violation of any order or orders of the ~~((state supervisor of flood control))~~ department, issued under the provisions of this chapter, shall be presumed to be a public nuisance and may be abated in the manner provided by law, and it shall be the duty of the prosecuting attorney of the county wherein such structures or works, or the major portion thereof, are situated to institute abatement proceedings against the owner or owners of such structures or works, whenever he is requested to do so by the ~~((state supervisor of flood control))~~ department.

Sec. 61. Section 18, chapter 159, Laws of 1935 and RCW 86.16.130 are each amended to read as follows:

Nothing in this chapter contained shall be construed to alter, abridge or enlarge any power or duty of the ~~((state supervisor of flood control))~~ department conferred or imposed by any other statute now or hereafter enacted.

Sec. 62. Section 3, chapter 75, Laws of 1973 and RCW 86.16.170 are each amended to read as follows:

For purposes of this chapter:

- (1) "~~((supervisor of flood control)) shall mean~~" Department means the department of ecology<sup>(1)</sup>; and
- (2) "Director" means the director of ecology.

Sec. 63. Section 3, chapter 136, Laws of 1967 ex. sess. as amended by section 12, chapter 32, Laws of 1980 and RCW 86.18.030 are each amended to read as follows:

Funds shall be expended and contributions made to a political subdivision of the state from flood control appropriations only after:

(1) The project for which the funds are to be used has been approved by the ~~((state supervisor of flood control))~~ department of ecology in accordance with the regulatory provisions of chapter 86.16 RCW.

(2) Engineering studies and plans have been made and filed with the county engineer of the county in which the project is located, or the county engineers of all counties in which the project is located, if it is located in more than one county.

(3) The estimate of cost of acquisition of necessary lands, rights of way and construction of the project or improvements, together with adequate supporting data have been completed and filed with the ~~((state supervisor of flood control))~~ department of ecology.

(4) A comprehensive plan for the area involved has been completed and filed with the ~~((state supervisor of flood control))~~ department.

(5) The political subdivision desiring a contribution has made an application for a contribution to the ~~((state supervisor of flood control))~~ department showing the estimated cost of the project and the requested contribution.

(6) Federal funds are available for contribution for payment of a portion of the cost of the project.

The director of ~~((the department of water resources))~~ ecology is authorized to determine when these conditions have been met and to request the proper warrant for the state's contribution. Contributions to a political subdivision for a specific project shall not exceed fifty percent of the cost of acquisition of necessary lands and rights of way, and construction of the project or works of improvement.

Sec. 64. Section 2, chapter 163, Laws of 1935 and RCW 86.24.020 are each amended to read as follows:

The ~~((state director of conservation))~~ department of ecology, in cooperation with ~~((the secretary of war, acting through))~~ the corps of engineers of the United States army, and any other agencies of the United States, and in cooperation with any official, agency or institution of the state and any flood control district created under the laws of the state, and any county, or any counties acting jointly pursuant to RCW 86.13.010 through 86.13.090, shall act for the state in the formulation of plans for the control of floods in the several flood areas of the state, and shall consider the extent to which the state should participate therein with the United States and/or any flood control district, or county, or counties so acting jointly. In case of federal participation, the plan of development and the surveys, plans and specifications for such flood control projects shall be in accordance with the federal requirements therefor.

**NEW SECTION.** Sec. 65. A new section is added to chapter 90.03 RCW to read as follows:

As used in this chapter:

- (1) "Department" means the department of ecology;
- (2) "Director" means the director of ecology; and
- (3) "Person" means any firm, association, water users' association, corporation, irrigation district, or municipal corporation, as well as an individual.

Sec. 66. Section 30, chapter 117, Laws of 1917 as last amended by section 1, chapter 275, Laws of 1953 and RCW 90.03.280 are each amended to read as follows:

Upon receipt of a proper application, the ((supervisor)) department shall instruct the applicant to publish notice thereof in a form and within a time prescribed by him in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use is to be made, and in such other newspapers as he may direct, once a week for two consecutive weeks. Upon receipt by the ((supervisor)) department of an application ((he)) it shall send notice thereof containing pertinent information to the director of fisheries and the director of game.

Sec. 67. Section 33, chapter 117, Laws of 1917 and RCW 90.03.320 are each amended to read as follows:

Actual construction work shall be commenced on any project for which permit has been granted within such reasonable time as shall be prescribed by the ((supervisor of water resources)) department, and shall thereafter be prosecuted with diligence and completed within the time prescribed by the ((supervisor)) department. The ((supervisor)) department, in fixing the time for the commencement of the work, or for the completion thereof and the application of the water to the beneficial use prescribed in the permit, shall take into consideration the cost and magnitude of the project and the engineering and physical features to be encountered, and shall allow such time as shall be reasonable and just under the conditions then existing, having due regard for the public welfare and public interests affected: and, for good cause shown, ((he)) it shall extend the time or times fixed as aforesaid, and shall grant such further period or periods as may be reasonably necessary, having due regard to the good faith of the applicant and the public interests affected. If the terms of the permit or extension thereof, are not complied with the ((supervisor)) department shall give notice by registered mail that such permit will be canceled unless the holders thereof shall show cause within sixty days why the same should not be so canceled. If cause be not shown, said permit shall be canceled.

Sec. 68. Section 3, chapter 117, Laws of 1917 and RCW 90.03.030 are each amended to read as follows:

Any person may convey any water which he may have a right to use along any of the natural streams or lakes of this state, but not so as to raise the water thereof above ordinary highwater mark, without making just

compensation to persons injured thereby; but due allowance shall be made for evaporation and seepage, the amount of such seepage to be determined by the ~~((supervisor of water resources))~~ department, upon the application of any person interested.

Sec. 69. Section 9, chapter 117, Laws of 1917 as last amended by section 1, chapter 80, Laws of 1967 and RCW 90.03.060 are each amended to read as follows:

Water masters shall be appointed by the ~~((supervisor of water resources))~~ department whenever ~~((he))~~ it shall find the interests of the state or of the water users to require them. The districts for or in which the water masters serve shall be designated water master districts, which shall be fixed from time to time by the ~~((supervisor))~~ department, as required, and they shall be subject to revision as to boundaries or to complete abandonment as local conditions may indicate to be expedient, the spirit of this provision being that no district shall be created or continued where the need for the same does not exist. Water masters shall be supervised by the ~~((supervisor of water resources))~~ department, shall be compensated for services from funds of the department ~~((of conservation, division of water resources))~~, and shall be technically qualified to the extent of understanding the elementary principals of hydraulics and irrigation, and of being able to make water measurements in streams and in open and closed conduits of all characters, by the usual methods employed for that purpose. Counties and municipal and public corporations of the state are authorized to contribute moneys to the department ~~((of conservation))~~ to be used as compensation to water masters in carrying out their duties. All such moneys received by the department ~~((of conservation))~~ shall be used exclusively for said purpose.

Sec. 70. Section 10, chapter 117, Laws of 1917 as amended by section 2, chapter 80, Laws of 1967 and RCW 90.03.070 are each amended to read as follows:

It shall be the duty of the water master, acting under the direction of the ~~((supervisor of water resources))~~ department, to divide in whole or in part, the water supply of his district among the several water conduits and reservoirs using said supply, according to the right and priority of each, respectively. He shall divide, regulate and control the use of water within his district by such regulation of headgates, conduits and reservoirs as shall be necessary to prevent the use of water in excess of the amount to which the owner of the right is lawfully entitled. Whenever, in the pursuance of his duties, the water master regulates a headgate of a water conduit or the controlling works of a reservoir, he shall attach to such headgate or controlling works a written notice, properly dated and signed, stating that such headgate or controlling works has been properly regulated and is wholly under his control and such notice shall be a legal notice to all parties. In

addition to dividing the available waters and supervising the stream patrolmen in his district, he shall enforce such rules and regulations as the (~~supervisor~~) department shall from time to time prescribe.

The county or counties in which water master districts are created shall deputize the water masters appointed hereunder, and may without charge provide to each water master suitable office space, supplies, equipment and clerical assistance as are necessary to the water master in the performance of his duties.

Sec. 71. Section 13, chapter 117, Laws of 1917 and RCW 90.03.100 are each amended to read as follows:

It shall be the duty of the prosecuting attorney of any county to appear for or on behalf of the (~~supervisor of water resources or his deputy~~) department or any water master, upon request of any such officer in any case which may arise in the performance of the official duties of any such officer within the jurisdiction of said prosecuting attorney.

Sec. 72. Section 14, chapter 117, Laws of 1917 and RCW 90.03.110 are each amended to read as follows:

Upon the filing of a petition with the (~~supervisor of water resources~~) department by one or more persons claiming the right to divert any waters within the state or when, after investigation, in the judgment of the (~~supervisor~~) department, the interest of the public will be subserved by a determination of the rights thereto, it shall be the duty of the (~~supervisor~~) department to prepare a statement of the facts, together with a plan or map of the locality under investigation, and file such statement and plan or map in the superior court of the county in which said water is situated, or, in case such water flows or is situated in more than one county, in the county which the (~~supervisor~~) department shall determine to be the most convenient to the parties interested therein. Such statement shall contain substantially the following matter, to wit:

- (1) The names of all known persons claiming the right to divert said water, the right to the diversion of which is sought to be determined, and
- (2) A brief statement of the facts in relation to such water, and the necessity for a determination of the rights thereto.

Sec. 73. Section 15, chapter 117, Laws of 1917 as amended by section 1, chapter 357, Laws of 1977 ex. sess. and RCW 90.03.120 are each amended to read as follows:

Upon the filing of the statement and map as provided in RCW 90.03.110 the judge of such superior court shall make an order directing summons to be issued, and fixing the return day thereof, which shall be not less than sixty nor more than ninety days, after the making of such order: PROVIDED, That for good cause, the court, at the request of the (~~supervisor~~) department, may modify said time period. A summons shall thereupon be issued out of said superior court, signed and attested by the clerk

thereof, in the name of the state of Washington, as plaintiff, against all known persons claiming the right to divert the water involved and also all persons unknown claiming the right to divert the water involved, which said summons shall contain a brief statement of the objects and purpose of the proceedings and shall require the defendants to appear on the return day thereof, and make and file a statement of claim to, or interest in, the water involved and a statement that unless they appear at the time and place fixed and assert such right, judgment will be entered determining their rights according to the evidence: PROVIDED, HOWEVER, That any persons claiming the right to the use of water by virtue of a contract with claimant to the right to divert the same, shall not be necessary parties to the proceeding.

Sec. 74. Section 16, chapter 117, Laws of 1917 as last amended by section 2, chapter 216, Laws of 1979 ex. sess. and RCW 90.03.130 are each amended to read as follows:

Service of said summons shall be made in the same manner and with the same force and effect as service of summons in civil actions commenced in the superior courts of the state: PROVIDED, That for good cause, the court, at the request of the ((supervisor)) department, as an alternative to personal service, may authorize service of summons to be made by certified mail, with return receipt signed by defendant, a spouse of a defendant, or another person authorized to accept service. If the defendants, or either of them, cannot be found within the state of Washington, of which the return of the sheriff of the county in which the proceeding is pending shall be prima facie evidence, upon the filing of an affidavit by the ((supervisor of water resources)) department, or ((his)) its attorney, in conformity with the statute relative to the service of summons by publication in civil actions, such service may be made by publication in a newspaper of general circulation in the county in which such proceeding is pending, and also publication of said summons in a newspaper of general circulation in each county in which any portion of the water is situated, once a week for six consecutive weeks (six publications). In cases where personal service can be had, such summons shall be served at least twenty days before the return day thereof. The summons by publication shall state that statements of claim must be filed within twenty day, after the last publication or before the return date, whichever is later.

Personal service of summons may be made by department of ecology employees for actions pertaining to water rights.

Sec. 75. Section 17, chapter 117, Laws of 1917 as amended by section 2, chapter 122, Laws of 1929 and RCW 90.03.140 are each amended to read as follows:

On or before the return day of such summons, each defendant shall file in the office of the clerk of said court a statement, and therewith a copy

thereof for the ~~((supervisor of water resources))~~ department, containing substantially the following~~((, to wit))~~:

- (1) The name and post office address of defendant.
- (2) The full nature of the right, or use, on which the claim is based.
- (3) The time of initiation of such right and commencement of such use.
- (4) The date of beginning and completion of construction.
- (5) The dimensions and capacity of all ditches existing at the time of making said statement.
- (6) The amount of land under irrigation and the maximum quantity of water used thereon prior to the date of said statement and if for power, or other purposes, the maximum quantity of water used prior to date of said statement.
- (7) The legal description of the land upon which said water has been, or may be, put to beneficial use, and the legal description of the subdivision of land on which the point of diversion is located.

Such statement shall be verified on oath by the defendant, and in the discretion of the court may be amended.

Sec. 76. Section 19, chapter 117, Laws of 1917 and RCW 90.03.160 are each amended to read as follows:

Upon the completion of the service of summons as hereinbefore provided, the superior court in which said proceeding is pending shall make an order referring said proceeding to the ~~((supervisor of water resources))~~ department to take testimony~~((, by himself or))~~ by ~~((his))~~ its duly authorized ~~((deputy))~~ designee, as referee, and ~~((he or his said deputy))~~ the designee shall report to and file with the superior court of the county in which such cause is pending a transcript of such testimony for adjudication thereon by such court.

Sec. 77. Section 20, chapter 117, Laws of 1917 and RCW 90.03.170 are each amended to read as follows:

Thereupon the ~~((supervisor of water resources))~~ department shall fix a time and place for such hearing and serve written notice thereof upon all persons who have appeared in said proceeding, their agents or attorneys. Notice of such hearing shall be served at least ten days before the time fixed therefor. Such hearings may be adjourned from time to time and place to place. The ~~((supervisor or his))~~ duly authorized ~~((deputy))~~ designee shall have authority to subpoena witnesses and administer oaths in the same manner and with the same powers as referees in civil actions. The fees and mileage of witnesses shall be advanced by the party at whose instance they are called as in civil actions. A final decree adjudicating rights or priorities, entered in any case decided prior to ~~((taking effect of this act))~~ June 6, 1917, shall be conclusive among the parties thereto and the extent of use so determined shall be prima facie evidence of rights to the amount of water and priorities so fixed as against any person not a party to said decree.

Sec. 78. Section 22, chapter 117, Laws of 1917 and RCW 90.03.190 are each amended to read as follows:

Upon the completion of the taking of testimony it shall be the duty of the (~~((supervisor of water resources))~~) department's designee to prepare and file with the clerk of the superior court where such proceeding is pending, a transcript of the testimony taken at such hearing, in triplicate, together with all papers and exhibits offered and received in evidence and not already a part of the record. He shall also make and file in said court a full and complete report as in other cases of reference in the superior court. Two of said transcripts shall be for the use of the parties as the court may direct. The court shall set a time for the hearing and the (~~((supervisor))~~) designee shall thereupon prepare a notice designating a time for the hearing of said report and serve a copy thereof, together with a copy of his report, on all persons, their agents or attorneys who have appeared in such proceeding. Such service shall be made not less than twenty days before the time for said hearing, either personally or by registered mail, and an affidavit of such service filed with the clerk.

Sec. 79. Section 23, chapter 117, Laws of 1917 as amended by section 176, chapter 81, Laws of 1971 and RCW 90.03.200 are each amended to read as follows:

Upon the filing of the evidence and the report of the (~~((supervisor of water resources))~~) department, any interested party may, on or before five days prior to the date of said hearing, file exceptions to such report in writing and such exception shall set forth the grounds therefor and a copy thereof shall be served personally or by registered mail upon all parties who have appeared in the proceeding. If no exceptions be filed, the court shall enter a decree determining the rights of the parties according to the evidence and the report of the (~~((supervisor))~~) department, whether such parties have appeared therein or not. If exceptions are filed the action shall proceed as in case of reference of a suit in equity and the court may in its discretion take further evidence or, if necessary, remand the case for such further evidence to be taken by the (~~((supervisor))~~) department's designee, and may require further report by him. Costs, not including taxable attorneys fees, may be allowed or not; if allowed, may be apportioned among the parties in the discretion of the court. Appeal may be taken to the supreme court or the court of appeals from such decree in the same manner as in other cases in equity, except that notice of appeal must be both served and filed within sixty days from the entry thereof.

Sec. 80. Section 1, chapter 103, Laws of 1921 and RCW 90.03.210 are each amended to read as follows:

During the pendency of such adjudication proceedings prior to judgment or upon appeal to the supreme court of the state or other appellate court, the stream or other water involved shall be regulated or partially regulated according to the schedule of rights specified in (~~((said supervisor of~~



~~water resources<sup>4</sup>)~~ the department's report upon an order of the court authorizing such regulation: PROVIDED, Any interested party may file a bond and obtain an order staying the regulation of said stream as to him, ~~((in the same manner as provided in RCW 90.03.080;))~~ in which case the court shall make such order regarding the regulation of the stream or other water as he may deem just. The bond shall be filed within five days following the service of notice of appeal in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court.

Sec. 81. Section 25, chapter 117, Laws of 1917 and RCW 90.03.230 are each amended to read as follows:

The clerk of the superior court, immediately upon the entry of any decree by the superior court, shall transmit a certified copy thereof to the ~~((supervisor of water resources))~~ director, who shall immediately enter the same upon the records of ~~((his office))~~ the department.

Sec. 82. Section 26, chapter 117, Laws of 1917 and RCW 90.03.240 are each amended to read as follows:

Upon the final determination of the rights to the diversion of water it shall be the duty of the ~~((supervisor of water resources))~~ department to issue to each person entitled to the diversion of water by such determination, a certificate under his official seal, setting forth the name and post office address of such person; the priority and purpose of the right; the period during which said right may be exercised, the point of diversion and the place of use; the land to which said water right is appurtenant and when applicable the maximum quantity of water allowed.

Sec. 83. Section 27, chapter 117, Laws of 1917 and RCW 90.03.250 are each amended to read as follows:

Any person, municipal corporation, firm, irrigation district, association, corporation or water users' association hereafter desiring to appropriate water for a beneficial use shall make an application to the ~~((supervisor of water resources))~~ department for a permit to make such appropriation, and shall not use or divert such waters until he has received a permit from ~~((such supervisor))~~ the department as in this chapter provided. The construction of any ditch, canal or works, or performing any work in connection with said construction or appropriation, or the use of any waters, shall not be an appropriation of such water nor an act for the purpose of appropriating water unless a permit to make said appropriation has first been granted by the ~~((supervisor))~~ department: PROVIDED, That a temporary permit may be granted upon a proper showing made to the ~~((supervisor))~~ department to be valid only during the pendency of such application for a permit unless sooner revoked by ~~((said supervisor))~~ the department: PROVIDED,

FURTHER, That nothing in this chapter contained shall be deemed to affect RCW 90.40.010 through 90.40.080 except that the notice and certificate therein provided for in RCW 90.40.030 shall be addressed to the ~~((supervisor of water resources after the passage of this act))~~ department, and the ~~((supervisor))~~ department shall exercise the powers and perform the duties prescribed by RCW 90.40.030.

Sec. 84. Section 28, chapter 117, Laws of 1917 and RCW 90.03.260 are each amended to read as follows:

Each application for permit to appropriate water shall set forth the name and post office address of the applicant, the source of water supply, the nature and amount of the proposed use, the time during which water will be required each year, the location and description of the proposed ditch, canal, or other work, the time within which the completion of the construction and the time for the complete application of the water to the proposed use. If for agricultural purposes, it shall give the legal subdivision of the land and the acreage to be irrigated, as near as may be, and the amount of water expressed in acre feet to be supplied per season. If for power purposes, it shall give the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the uses to which the power is to be applied. If for construction of a reservoir, it shall give the height of the dam, the capacity of the reservoir, and the uses to be made of the impounded waters. If for municipal water supply, it shall give the present population to be served, and, as near as may be, the future requirement of the municipality. If for mining purposes, it shall give the nature of the mines to be served and the method of supplying and utilizing the water; also their location by legal subdivisions. All applications shall be accompanied by such maps and drawings, in duplicate, and such other data, as may be required by the ~~((supervisor of water resources))~~ department, and such accompanying data shall be considered as a part of the application.

Sec. 85. Section 29, chapter 117, Laws of 1917 and RCW 90.03.270 are each amended to read as follows:

Upon receipt of an application it shall be the duty of the ~~((supervisor of water resources))~~ department to make an endorsement thereon of the date of its receipt, and to keep a record of same. If upon examination, the application is found to be defective, it shall be returned to the applicant for correction or completion, and the date and the reasons for the return thereof shall be endorsed thereon and made a record in his office. No application shall lose its priority of filing on account of such defects, provided acceptable maps, drawings and such data as is required by the ~~((supervisor))~~ department shall be filed ~~((in the office of the supervisor))~~ with the department within such reasonable time as ~~((he))~~ it shall require.

Sec. 86. Section 31, chapter 117, Laws of 1917 as last amended by section 1, chapter 133, Laws of 1947 and RCW 90.03.290 are each amended to read as follows:

When an application complying with the provisions of this chapter and with the rules and regulations of the ~~((supervisor of water resources))~~ department has been filed, the same shall be placed on record ~~((in the office of the supervisor))~~ with the department, and it shall be ~~((his))~~ its duty to investigate the application, and determine what water, if any, is available for appropriation, and find and determine to what beneficial use or uses it can be applied. If it is proposed to appropriate water for irrigation purposes, the ~~((supervisor))~~ department shall investigate, determine and find what lands are capable of irrigation by means of water found available for appropriation. If it is proposed to appropriate water for the purpose of power development, the ~~((supervisor))~~ department shall investigate, determine and find whether the proposed development is likely to prove detrimental to the public interest, having in mind the highest feasible use of the waters belonging to the public. If the application does not contain, and the applicant does not promptly furnish sufficient information on which to base such findings, the ~~((supervisor))~~ department may issue a preliminary permit, for a period of not to exceed three years, requiring the applicant to make such surveys, investigations, studies, and progress reports, as in the opinion of the ~~((supervisor))~~ department may be necessary. If the applicant fails to comply with the conditions of the preliminary permit, it and the application or applications on which it is based shall be automatically canceled and the applicant so notified. If the holder of a preliminary permit shall, before its expiration, file with the ~~((supervisor))~~ department a verified report of expenditures made and work done under the preliminary permit, which, in the opinion of the ~~((supervisor))~~ department, establishes the good faith, intent and ability of the applicant to carry on the proposed development, the preliminary permit may, with the approval of the governor, be extended, but not to exceed a maximum period of five years from the date of the issuance of the preliminary permit. The ~~((supervisor))~~ department shall make and file as part of the record in the matter, written findings of fact concerning all things investigated, and if ~~((he))~~ it shall find that there is water available for appropriation for a beneficial use, and the appropriation thereof as proposed in the application will not impair existing rights or be detrimental to the public welfare, ~~((he))~~ it shall issue a permit stating the amount of water to which the applicant shall be entitled and the beneficial use or uses to which it may be applied: PROVIDED, That where the water applied for is to be used for irrigation purposes, it shall become appurtenant only to such land as may be reclaimed thereby to the full extent of the soil for agricultural purposes. But where there is no unappropriated water in the proposed source of supply, or where the proposed use conflicts with existing rights, or threatens to prove detrimental to the public interest, having due regard to the highest feasible

development of the use of the waters belonging to the public, it shall be duty of the ~~((supervisor))~~ department to reject such application and to refuse to issue the permit asked for. If the permit is refused because of conflict with existing rights and such applicant shall acquire same by purchase or condemnation under RCW 90.03.040, ~~((said-supervisor))~~ the department may thereupon grant such permit. Any application may be approved for a less amount of water than that applied for, if there exists substantial reason therefor, and in any event shall not be approved for more water than can be applied to beneficial use for the purposes named in the application. In determining whether or not a permit shall issue upon any application, it shall be the duty of the ~~((supervisor))~~ department to investigate all facts relevant and material to the application. After the ~~((supervisor))~~ department approves said application in whole or in part and before any permit shall be issued thereon to the applicant, such applicant shall pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the event a permit is issued by the ~~((supervisor))~~ department upon any application, it shall be ~~((his))~~ its duty to notify both the director of fisheries and the director of game of such issuance.

Sec. 87. Section 3, chapter 103, Laws of 1921 and RCW 90.03.300 are each amended to read as follows:

No permit for the appropriation of water shall be denied because of the fact that the point of diversion described in the application for such permit, or any portion of the works in such application described and to be constructed for the purpose of storing, conserving, diverting or distributing such water, or because the place of intended use or the lands to be irrigated by means of such water, or any part thereof, may be situated in some other state or nation, but in all such cases where either the point of diversion or any of such works or the place of intended use, or the lands, or part of the lands, to be irrigated by means of such water, are situated within the state of Washington, the permit shall issue as in other cases: PROVIDED, HOWEVER, That the ~~((supervisor of water resources))~~ department may in ~~((his))~~ its discretion, decline to issue a permit where the point of diversion described in the application is within the state of Washington but the place of beneficial use in some other state or nation, unless under the laws of such state or nation water may be lawfully diverted within such state or nation for beneficial use in the state of Washington.

Sec. 88. Section 32, chapter 117, Laws of 1917 and RCW 90.03.310 are each amended to read as follows:

Any permit to appropriate water may be assigned subject to the conditions of the permit, but no such assignment shall be binding or valid unless filed for record ~~((in the office of the supervisor of water resources))~~ with the department. Any application for permits to appropriate water prior to permit issuing, may be assigned by the applicant, but no such assignment shall

be valid or binding unless the written consent of the ~~((supervisor))~~ department is first obtained thereto, and unless such assignment is filed for record ~~((in the office of the supervisor))~~ with the department.

Sec. 89. Section 34, chapter 117, Laws of 1917 as amended by section 5, chapter 122, Laws of 1929 and RCW 90.03.330 are each amended to read as follows:

Upon a showing satisfactory to the ~~((supervisor of water resources))~~ department that any appropriation has been perfected in accordance with the provisions of this chapter, it shall be the duty of ~~((such supervisor))~~ the department to issue to the applicant a certificate stating such facts in a form to be prescribed by him, and such certificate shall thereupon be recorded ~~((in his office))~~ with the department. Any original water right certificate issued, as provided by this chapter, shall be recorded ~~((in his office))~~ with the department and thereafter, at the expense of the party receiving the same, be by ~~((such supervisor))~~ the department transmitted to the county auditor of the county or counties where the distributing system or any part thereof is located, and be recorded in the office of such county auditor, and thereafter be transmitted to the owner thereof.

Sec. 90. Section 35, chapter 117, Laws of 1917 and RCW 90.03.340 are each amended to read as follows:

The right acquired by appropriation shall relate back to the date of filing of the original application ~~((in the office of the supervisor of water resources))~~ with the department.

Sec. 91. Section 36, chapter 117, Laws of 1917 as last amended by section 1, chapter 362, Laws of 1955 and RCW 90.03.350 are each amended to read as follows:

Any person, corporation or association intending to construct or modify any dam or controlling works for the storage of ten acre feet or more of water, shall before beginning said construction or modification, submit plans and specifications of the same to the ~~((supervisor))~~ department for ~~((his))~~ examination and approval as to its safety. Such plans and specifications shall be submitted in duplicate, one copy of which shall be retained as a public record, by the ~~((supervisor))~~ department, and the other returned with ~~((his))~~ its approval or rejection endorsed thereon. No such dam or controlling works shall be constructed or modified until the same or any modification thereof shall have been approved as to its safety by the ~~((supervisor))~~ department. Any such dam or controlling works constructed or modified in any manner other than in accordance with plans and specifications approved by the ~~((supervisor))~~ department or which shall not be maintained in accordance with the order of the ~~((supervisor))~~ department shall be presumed to be a public nuisance and may be abated in the manner provided by law, and it shall be the duty of the attorney general or prosecuting attorney of the county wherein such dam or controlling works, or the major portion

thereof, is situated to institute abatement proceedings against the owner or owners of such dam or controlling works, whenever he is requested to do so by the ~~((supervisor))~~ department.

Sec. 92. Section 37, chapter 117, Laws of 1917 and RCW 90.03.360 are each amended to read as follows:

The owner or owners of any ditch or canal shall maintain, to the satisfaction of the ~~((supervisor of water resources))~~ department, substantial controlling works, and a measuring device at the point where the water is diverted, and these shall be so constructed as to permit of accurate measurement and practical regulation of the flow of water diverted into said ditch or canal. Every owner or manager of a reservoir for the storage of water shall construct and maintain, when required by the ~~((supervisor))~~ department, any measuring device necessary to ascertain the natural flow into and out of said reservoir.

Sec. 93. Section 38, chapter 117, Laws of 1917 and RCW 90.03.370 are each amended to read as follows:

All applications for reservoir permits shall be subject to the provisions of RCW 90.03.250 through 90.03.320. But the party or parties proposing to apply to a beneficial use the water stored in any such reservoir shall also file an application for a permit, to be known as the secondary permit, which shall be in compliance with the provisions of RCW 90.03.250 through 90.03.320. Such secondary application shall refer to such reservoir as its source of water supply and shall show documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in said reservoir to impound enough water for the purposes set forth in said application. When the beneficial use has been completed and perfected under the secondary permit, the ~~((supervisor of water resources))~~ department shall take the proof of the water users under such permit and the final certificate of appropriation shall refer to both the ditch and works described in the secondary permit and the reservoir described in the primary permit.

Sec. 94. Section 39, chapter 117, Laws of 1917 as amended by section 6, chapter 122, Laws of 1929 and RCW 90.03.380 are each amended to read as follows:

The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the same is used: PROVIDED, HOWEVER, That said right may be transferred to another or to others and become appurtenant to any other land or place of use without loss of priority of right theretofore established if such change can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights. Before any transfer of such right to use water or change of the

point of diversion of water or change of purpose of use can be made, any person having an interest in the transfer or change, shall file a written application therefor with the ~~((supervisor of water resources))~~ department, and said application shall not be granted until notice of said application shall be published as provided in RCW 90.03.280. If it shall appear that such transfer or such change may be made without injury or detriment to existing rights, the ~~((supervisor))~~ department shall issue to the applicant a certificate in duplicate granting the right for such transfer or for such change of point of diversion or of use. The certificate so issued shall be filed and be made a record ~~((in the office of the supervisor))~~ with the department and the duplicate certificate issued to the applicant may be filed with the county auditor in like manner and with the same effect as provided in the original certificate or permit to divert water.

Sec. 95. Section 7, chapter 122, Laws of 1929 and RCW 90.03.390 are each amended to read as follows:

RCW 90.03.380 shall not be construed to prevent water users from making a seasonal or temporary change of point of diversion or place of use of water when such change can be made without detriment to existing rights, but in no case shall such change be made without the permission of the water master of the district in which such proposed change is located, or of the ~~((supervisor of water resources))~~ department. Nor shall RCW 90.03-.380 be construed to prevent rotation in the use of water for bringing about a more economical use of the available supply. Water users owning lands to which water rights are attached may rotate in the use of water to which they are collectively entitled, or an individual water user having lands to which are attached water rights of a different priority, may in like manner rotate in use when such rotation can be made without detriment to other existing water rights, and has the approval of the water master or ~~((supervisor))~~ department.

Sec. 96. Section 3, chapter 71, Laws of 1919 and RCW 90.03.430 are each amended to read as follows:

In all cases where irrigating ditches are owned by two or more persons and one or more of such persons shall fail or neglect to do his, her or their proportionate share of the work necessary for the proper maintenance and operation of such ditch or ditches or to construct suitable headgates or measuring devices at the points where water is diverted from the main ditch, such owner or owners desiring the performance of such work as is reasonably necessary to maintain the ditch, may, after having given ten days' written notice to such owner or owners who have failed to perform his, her or their proportionate share of such work, necessary for the operation and maintenance of said ditch or ditches, perform his, her or their share of such work, and recover therefor from such person or persons so failing to perform his, her or their share of such work in any court having jurisdiction of the matter the expense or value of such work or labor so performed:

PROVIDED, That no improvement involving an expenditure in excess of one hundred dollars shall be made without the written approval of the ((~~supervisor of water resources~~)) department having first been obtained.

Sec. 97. Section 4, chapter 71, Laws of 1919 and RCW 90.03.440 are each amended to read as follows:

When two or more persons, joint owners in an irrigation ditch or reservoir, not incorporated, or their lessees, are unable to agree relative to the division or distribution of water received through their ditch or from their reservoir, and where there is no disagreement as to the ownership of said water, it shall be lawful for any such owner or owners, his or their lessee or lessees, or either of them, to apply to the ((~~supervisor of water resources~~)) department, in writing, setting forth such fact and giving such information as shall enable the ((~~supervisor~~)) department to estimate the probable expense of such service, asking the ((~~supervisor~~)) department to appoint some suitable person to take charge of such ditch or reservoir for the purpose of making a just division or distribution of the water from the same to the parties entitled to the use thereof. The ((~~supervisor~~)) department shall upon the receipt of such application notify the applicant of the probable expense of such division and upon receipt of certified check for said amount, ((~~he~~)) the department shall appoint a suitable person to make such division. The person so appointed shall take exclusive charge of such ditch or reservoir for the purpose of dividing the water therefrom in accordance with the established rights of the diverters therefrom, and continue the said work until the necessity therefor shall cease to exist. The expense of such investigation and division shall be a charge upon all of the co-owners and the person advancing the payment to the ((~~supervisor~~)) department shall be entitled to recover in any court of competent jurisdiction from his co-owners their proportionate share of the expense.

Sec. 98. Section 44, chapter 117, Laws of 1917 as last amended by section 1, chapter 160, Laws of 1965 ex. sess. and RCW 90.03.470 are each amended to read as follows:

The following fees shall be collected by the ((~~supervisor~~)) department in advance:

(1) For the examination of an application for permit to appropriate water or on application to change point of diversion, withdrawal, purpose or place of use, a minimum of ten dollars, to be paid with the application. For each second foot between one and five hundred second feet, two dollars per second foot; for each second foot between five hundred and two thousand second feet, fifty cents per second foot; and for each second foot in excess thereof, twenty cents per second foot. For each acre foot of storage up to and including one hundred thousand acre feet, one cent per acre foot, and for each acre foot in excess thereof, one-fifth cent per acre foot. The ten dollar fee payable with the application shall be a credit to that amount whenever the fee for direct diversion or storage totals more than ten dollars



under the above schedule and in such case the further fee due shall be the total computed amount less ten dollars.

Within five days from receipt of an application the ~~((supervisor))~~ department shall notify the applicant by registered mail of any additional fees due under the above schedule and any additional fees shall be paid to and received by the ~~((supervisor))~~ department within thirty days from the date of filing the application, or the application shall be rejected.

(2) For filing and recording a permit to appropriate water for irrigation purposes, forty cents per acre for each acre to be irrigated up to and including one hundred acres, and twenty cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and ten cents for each acre in excess of one thousand acres; and also twenty cents for each theoretical horsepower up to and including one thousand horsepower, and four cents for each theoretical horsepower in excess of one thousand horsepower, but in no instance shall the minimum fee for filing and recording a permit to appropriate water be less than five dollars. For all other beneficial purposes the fee shall be twice the amount of the examination fee except that for individual household and domestic use, which may include water for irrigation of a family garden, the fee shall be five dollars.

(3) For filing and recording any other water right instrument, four dollars for the first hundred words and forty cents for each additional hundred words or fraction thereof.

(4) For making a copy of any document recorded or filed in his office, forty cents for each hundred words or fraction thereof, but when the amount exceeds twenty dollars, only the actual cost in excess of that amount shall be charged.

(5) For certifying to copies, documents, records or maps, two dollars for each certification.

(6) For blueprint copies of a map or drawing, or, for such other work of a similar nature as may be required of ~~((his office))~~ the department, at actual cost of the work.

(7) For granting each extension of time for beginning construction work under a permit to appropriate water, an amount equal to one-half of the filing and recording fee, except that the minimum fee shall be not less than five dollars for each year that an extension is granted, and for granting an extension of time for completion of construction work or for completing application of water to a beneficial use, five dollars for each year that an extension is granted.

(8) For the inspection of any hydraulic works to insure safety to life and property, the actual cost of the inspection, including the expense incident thereto.

(9) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ten dollars, or the actual cost.

(10) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of five dollars.

(11) For preparing and issuing all water right certificates, five dollars.

(12) For filing and recording a protest against granting any application, two dollars.

Sec. 99. Section 3, chapter 161, Laws of 1925 ex. sess. and RCW 90-.03.471 are each amended to read as follows:

All fees, collections and revenues derived (~~(hereunder)~~) under RCW 90.03.470 or by virtue of RCW 90.03.180, shall be used exclusively for the purpose of carrying out the work and performing the functions of the division of water resources of the department.

Sec. 100. Section 15, chapter 233, Laws of 1967 and RCW 90.14.150 are each amended to read as follows:

Nothing in this chapter shall be construed to affect any rights or privileges arising from any permit to withdraw public waters or any application for such permit, but the (~~(supervisor)~~) department of ecology shall grant extensions of time to the holder of a preliminary permit only as provided by RCW 90.03.290.

Sec. 101. Section 18, chapter 233, Laws of 1967 and RCW 90.14.180 are each amended to read as follows:

Any person hereafter entitled to divert or withdraw waters of the state through an appropriation authorized under RCW 90.03.330, 90.44.080, or 90.44.090 who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to withdraw for any period of five successive years shall relinquish such right or portion thereof, and such right or portion thereof shall revert to the state, and the waters affected by said right shall become available for appropriation in accordance with RCW 90.03.250. All certificates hereafter issued by the (~~(supervisor of water resources)~~) department of ecology pursuant to RCW 90.03.330 shall expressly incorporate this section by reference.

Sec. 102. Section 23, chapter 233, Laws of 1967 and RCW 90.14.230 are each amended to read as follows:

The (~~(supervisor of water resources)~~) department of ecology is authorized to promulgate such rules and regulations as are necessary to carry out the provisions of this chapter.

Sec. 103. Section 3, chapter 284, Laws of 1969 ex. sess. and RCW 90-.22.010 are each amended to read as follows:

The department of (~~(water resources)~~) ecology may establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife resources, or recreational or aesthetic values of said public waters whenever it appears to be in the public interest to establish the same. In addition, the department of (~~(water resources)~~) ecology shall, when requested by the department of

fisheries or the game commission to protect fish, game or other wildlife resources under the jurisdiction of the requesting state agency, or ~~((by the water pollution control commission))~~ if the department of ecology finds it necessary to preserve water quality, establish such minimum flows or levels as are required to protect the resource or preserve the water quality described in the request or determination. Any request submitted by the department of fisheries~~(;)~~ or game commission ~~((or water pollution control commission))~~ shall include a statement setting forth the need for establishing a minimum flow or level. When the department acts to preserve water quality, it shall include a similar statement with the proposed rule filed with the code reviser. This section shall not apply to waters artificially stored in reservoirs, provided that in the granting of storage permits by the department ~~((of water resources))~~ in the future, full recognition shall be given to downstream minimum flows, if any there may be, which have theretofore been established hereunder.

Sec. 104. Section 6, chapter 284, Laws of 1969 ex. sess. and RCW 90.22.040 are each amended to read as follows:

It shall be the policy of the state, and the department of ~~((water resources))~~ ecology shall be so guided in the implementation of RCW 90.22.010 and 90.22.020, to retain sufficient minimum flows or levels in streams, lakes or other public waters to provide adequate waters in such water sources to satisfy stockwatering requirements for stock on riparian grazing lands which drink directly therefrom where such retention shall not result in an unconscionable waste of public waters. The policy hereof shall not apply to stockwatering relating to feed lots and other activities which are not related to normal stockgrazing land uses.

Sec. 105. Section 4, chapter 107, Laws of 1939 as last amended by section 1, chapter 243, Laws of 1963 and RCW 90.24.030 are each amended to read as follows:

The petition shall be entitled "In the matter of fixing the level of Lake . . . . . in . . . . . county, Washington", and shall be filed with the clerk of the court and a copy thereof, together with a copy of the order fixing the time for hearing the petition, shall be served on each owner of property abutting on the lake, not less than ten days before the hearing. Like copies shall also be served upon the director of fisheries and of game and the ~~((supervisor of water resources))~~ director of ecology. The copy of the petition and of the order fixing time for hearing shall be served in the manner provided by law for the service of summons in civil actions, or in such other manner as may be prescribed by order of the court. For the benefit of every riparian owner abutting on a stream or river flowing from such lake, a copy of the notice of hearing shall be published at least once a week for two consecutive weeks before the time set for hearing in a newspaper in each county or counties wherein located, said notice to contain a brief statement of the reasons and necessity for such application.

Sec. 106. Section 7, chapter 107, Laws of 1939 and RCW 90.24.060 are each reenacted and amended to read as follows:

Such improvement or device in said lake for the protection of the fish and game fish therein shall be installed by and under the direction of the board of county commissioners of said county with the approval of the respective directors of the department of fisheries, the department of game and the ~~((supervisor of water resources))~~ department of ecology of the state of Washington and paid for out of the special fund provided for in RCW 90.24.050.

Sec. 107. Section 3, chapter 263, Laws of 1945 as amended by section 2, chapter 94, Laws of 1973 and RCW 90.44.035 are each amended to read as follows:

For purposes of this chapter:

(1) "Department" means the department of ecology;

(2) "Director" means the director of ecology;

(3) "Ground waters" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves(~~(, are defined for the purposes of this chapter as "ground waters."))~~. There is a recognized ((α)) distinction between(~~(- (†))~~) natural ground water and artificially stored ground water;

(4) "Natural ground water" means water that exists in underground storage owing wholly to natural processes; (~~(for the purposes of this chapter such water is designated as "natural ground water." (2))~~) and

(5) "Artificially stored ground water" means water that is made available in underground storage artificially, either intentionally, or incidentally to irrigation and that otherwise would have been dissipated by natural waste(~~(; for the purposes of this chapter such water is designated as "artificially stored ground water."))~~).

Sec. 108. Section 5, chapter 263, Laws of 1945 as amended by section 1, chapter 122, Laws of 1947 and RCW 90.44.050 are each amended to read as follows:

After ~~((the effective date of this act))~~ June 6, 1945, no withdrawal of public ground waters of the state shall be begun, nor shall any well or other works for such withdrawal be constructed, unless an application to appropriate such waters has been made to the ~~((supervisor of water resources))~~ department and a permit has been granted by ~~((him))~~ it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt from the provisions of this section, but, to the

extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this chapter: PROVIDED, HOWEVER, That the ((supervisor)) department from time to time may require the person or agency making any such small withdrawal to furnish information as to the means for and the quantity of that withdrawal: PROVIDED, FURTHER, That at the option of the party making withdrawals of ground waters of the state not exceeding five thousand gallons per day, applications under this section or declarations under RCW 90.44.090 may be filed and permits and certificates obtained in the same manner and under the same requirements as is in this chapter provided in the case of withdrawals in excess of five thousand gallons a day.

Sec. 109. Section 6, chapter 263, Laws of 1945 and RCW 90.44.060 are each amended to read as follows:

Applications for permits for appropriation of underground water shall be made in the same form and manner provided in RCW 90.03.250 through 90.03.340, as amended, the provisions of which sections are hereby extended to govern and to apply to ground water, or ground water right certificates and to all permits that shall be issued pursuant to such applications, and the rights to the withdrawal of ground water acquired thereby shall be governed by RCW 90.03.250 through 90.03.340, inclusive: PROVIDED, That each application to withdraw public ground water by means of a well or wells shall set forth the following additional information: (1) the name and post office address of the applicant; (2) the name and post office address of the owner of the land on which such well or wells or works will be located; (3) the location of the proposed well or wells or other works for the proposed withdrawal; (4) the ground water area, sub-area, or zone from which withdrawal is proposed, provided the ((supervisor of water resources)) department has designated such area, sub-area, or zone in accord with RCW 90.44.130; (5) the amount of water proposed to be withdrawn, in gallons a minute and in acre feet a year, or millions of gallons a year; (6) the depth and type of construction proposed for the well or wells or other works: AND PROVIDED FURTHER, That any permit issued pursuant to an application for constructing a well or wells to withdraw public ground water may specify an approved type and manner of construction for the purposes of preventing waste of said public waters and of conserving their head.

Sec. 110. Section 7, chapter 263, Laws of 1945 and RCW 90.44.070 are each amended to read as follows:

No permit shall be granted for the development or withdrawal of public ground waters beyond the capacity of the underground bed or formation in the given basin, district, or locality to yield such water within a reasonable or feasible pumping lift in case of pumping developments, or within a reasonable or feasible reduction of pressure in the case of artesian developments. The ((supervisor of water resources)) department shall have the power to determine whether the granting of any such permit will injure or

damage any vested or existing right or rights under prior permits and may in addition to the records of ~~((his office))~~ the department, require further evidence, proof, and testimony before granting or denying any such permits.

Sec. 111. Section 8, chapter 263, Laws of 1945 and RCW 90.44.080 are each amended to read as follows:

Upon a showing to the ~~((supervisor of water resources))~~ department that construction has been completed in compliance with the terms of any permit issued under the provisions of this chapter, it shall be the duty of ~~((such supervisor))~~ the department to issue to the permittee a certificate of ground water right stating that the appropriation has been perfected under such permit: PROVIDED, HOWEVER, That such showing shall include the following information: (1) the location of each well or other means of withdrawal constructed under the permit, both with respect to official land surveys and in terms of distance and direction to any preexisting well or wells or works constructed under an earlier permit or approved declaration of a vested right, provided the distance to such pre-existing well or works is not more than a quarter of a mile; (2) the depth and diameter of each well or the depth and general specifications of any other works constructed under the terms of the permit; (3) the thickness in feet and the physical character of each bed, stratum, or formation penetrated by each well; (4) the length and position, in feet below the land surface, and the commercial specifications of all casing, also of each screen or perforated zone in the casing of each well constructed; (5) the tested capacity of each well in gallons a minute, as determined by measuring the discharge of the pump or pumps after continuous operation for at least four hours or, in the case of a flowing well, by measuring the natural flow at the land surface; (6) for each nonflowing well, the depth to the static ground water level as measured in feet below the land surface immediately before the well-capacity test herein provided, also the draw-down of the water level, in feet, at the end of said well-capacity test; (7) for each flowing well, the shut-in pressure measured in feet above the land surface or in pounds per square inch at the land surface; and (8) such additional factual information as reasonably may be required by the ~~((supervisor))~~ department to establish compliance with the terms of the permit and with the provisions of this chapter.

The well driller or other constructor of works for the withdrawal of public ground waters shall be obligated to furnish the permittee a certified record of the factual information necessary to show compliance with the provisions of this section.

Sec. 112. Section 9, chapter 263, Laws of 1945 as amended by section 2, chapter 122, Laws of 1947 and RCW 90.44.090 are each amended to read as follows:

Any person, firm or corporation claiming a vested right to withdraw public ground waters of the state by virtue of prior beneficial use of such water shall, within three years after the effective date of this act, be entitled

to receive from the (~~(supervisor of water resources)~~) department a certificate of ground water right to that effect: PROVIDED, That the issuance by the (~~(supervisor)~~) department of any such certificate of vested right shall be contingent on a declaration by the claimant in a form prescribed by (~~(said supervisor)~~) the department, which declaration shall set forth: (1) the beneficial use for which such withdrawal has been made; (2) the date or approximate date of the earliest beneficial use of the water so withdrawn, and the continuity of such beneficial use; (3) the amount of water claimed; (4) if the beneficial use has been for irrigation, the description of the land to which such water has been applied and the name of the owner thereof; and (5) so far as it may be available, descriptive information concerning each well or other works for the withdrawal of public ground water, as required of original permittees under the provisions of RCW 90.44.080: PROVIDED, HOWEVER, That in case of failure to comply with the provisions of this section within the three years allotted, the claimant may apply to the (~~(supervisor)~~) department for a reasonable extension of time, which shall not exceed two additional years and which shall be granted only upon a showing of good cause for such failure.

Each such declaration shall be certified, either on the basis of the personal knowledge of the declarant or on the basis of information and belief. With respect to each such declaration there shall be publication, and findings in the same manner as provided in RCW 90.44.060 in the case of an original application to appropriate water. If (~~(his)~~) the department's findings sustain the declaration, the (~~(supervisor)~~) department shall approve said declaration, which then shall be recorded at length (~~(in his office)~~) with the department and may also be recorded in the office of the county auditor of the county within which the claimed withdrawal and beneficial use of public ground water have been made. When duly approved and recorded as herein provided, each such declaration or copies thereof shall have the same force and effect as an original permit granted under the provisions of RCW 90.44.060, with a priority as of the date of the earliest beneficial use of the water.

Declarations heretofore filed with the (~~(supervisor)~~) department in substantial compliance with the provisions of this section shall have the same force and effect as if filed after (~~(the effective date of this act)~~) June 6, 1945.

The same fees shall be collected by the (~~(supervisor)~~) department in the case of applications for the issuance of certificates of vested rights, as are required to be collected in the case of application for permits for withdrawal of ground waters and for the issuance of certificates of ground water withdrawal rights under this chapter.

Sec. 113. Section 10, chapter 263, Laws of 1945 and RCW 90.44.100 are each amended to read as follows:

After an application to, and upon the issuance by the (~~(supervisor of water resources)~~) department of an amendment to the appropriate permit or certificate of ground water right, the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or he may change the manner or the place of use of the water: PROVIDED, HOWEVER, That such amendment shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the (~~(supervisor)~~) department only on the conditions that: (1) The additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (4) other existing rights shall not be impaired. The (~~(supervisor)~~) department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

Sec. 114. Section 11, chapter 263, Laws of 1945 as amended by section 1, chapter 63, Laws of 1949 and RCW 90.44.110 are each amended to read as follows:

No public ground waters that have been withdrawn shall be wasted without economical beneficial use. The (~~(supervisor of water resources)~~) department shall require all wells producing waters which contaminate other waters to be plugged or capped. (~~(He)~~) The department shall also require all flowing wells to be so capped or equipped with valves that the flow of water can be completely stopped when the wells are not in use under the terms of their respective permits or approved declarations of vested rights. Likewise, (~~(he)~~) the department shall also require both flowing and non-flowing wells to be so constructed and maintained as to prevent the waste of public ground waters through leaky casings, pipes, fittings, valves, or pumps—either above or below the land surface: PROVIDED, HOWEVER, That the withdrawal of reasonable quantities of public ground water in connection with the construction, development, testing, or repair of a well shall not be construed as waste; also, that the inadvertent loss of such water owing to breakage of a pump, valve, pipe, or fitting shall not be construed as waste if reasonable diligence is shown by the permittee in effecting the necessary repair.

In the issuance of an original permit, or of an amendment to an original permit or certificate of vested right to (~~(withdrawal)~~) withdraw and appropriate public ground waters under the provisions of this chapter, the (~~(supervisor)~~) department may, as in his judgment is necessary, specify for



the proposed well or wells or other works a manner of construction adequate to accomplish the provisions of this section.

Sec. 115. Section 3, chapter 122, Laws of 1947 as amended by section 2, chapter 63, Laws of 1949 and RCW 90.44.120 are each amended to read as follows:

The unauthorized use of ground water to which another person is entitled, or the wilful or negligent waste of ground water, or the failure, when required by the ~~((supervisor of water resources))~~ department, to cap flowing wells or equip the same with valves, fittings, or casings to prevent waste of ground waters, or to cap or plug wells producing waters which contaminate other waters, shall be a misdemeanor.

Sec. 116. Section 12, chapter 263, Laws of 1945 as amended by section 4, chapter 122, Laws of 1947 and RCW 90.44.130 are each amended to read as follows:

As between appropriators of public ground water, the prior appropriator shall as against subsequent appropriators from the same ground water body be entitled to the preferred use of such ground water to the extent of his appropriation and beneficial use, and shall enjoy the right to have any withdrawals by a subsequent appropriator of ground water limited to an amount that will maintain and provide a safe sustaining yield in the amount of the prior appropriation. The ~~((supervisor of water resources))~~ department shall have jurisdiction over the withdrawals of ground water and shall administer the ground water rights under the principle just set forth, and ~~((he))~~ it shall have the jurisdiction to limit withdrawals by appropriators of ground water so as to enforce the maintenance of a safe sustaining yield from the ground water body. For this purpose, the ~~((supervisor))~~ department shall have authority and it shall be ~~((his))~~ its duty from time to time, as adequate factual data become available, to designate ground water areas or sub-areas, to designate separate depth zones within any such area or sub-area, or to modify the boundaries of such existing area, or sub-area, or zones to the end that the withdrawals therefrom may be administratively controlled as prescribed in RCW 90.44.180 in order that overdraft of public ground waters may be prevented so far as is feasible. Each such area or zone shall, as nearly as known facts permit, be so designated as to enclose a single and distinct body of public ground water. Each such sub-area may be so designated as to enclose all or any part of a distinct body of public ground water, as the ~~((supervisor))~~ department deems will most effectively accomplish the purposes of this chapter.

Designation of, or modification of the boundaries of such a ground water area, sub-area, or zone may be proposed by the ~~((supervisor))~~ department on ~~((his))~~ its own motion or by petition to the ~~((supervisor))~~ department signed by at least fifty or one-fourth, whichever is the lesser number, of the users of ground water in a proposed ground water area, sub-area, or zone. Before any proposed ground water area, sub-area, or zone

shall be designated, or before the boundaries or any existing ground water area, sub-area, or zone shall be modified the ~~((supervisor))~~ department shall publish a notice setting forth: (1) In terms of the appropriate legal subdivisions a description of all lands enclosed within the proposed area, sub-area, or zone, or within the area, sub-area, or zone whose boundaries are proposed to be modified; (2) the object of the proposed designation or modification of boundaries; and (3) the day and hour, and the place where written objections may be submitted and heard. Such notice shall be published in three consecutive weekly issues of a newspaper of general circulation in the county or counties containing all or the greater portion of the lands involved, and the newspaper of publication shall be selected by the ~~((supervisor))~~ department. Publication as just prescribed shall be construed as sufficient notice to the landowners and water users concerned.

Objections having been heard as herein provided, the ~~((supervisor))~~ department shall make and file in ~~((his))~~ its office written findings of fact with respect to the proposed designation or modification and, if the findings are in the affirmative, shall also enter a written order designating the ground water area, or sub-area, or zone or modifying the boundaries of the existing area, sub-area, or zone. Such findings and order shall also be published substantially in the manner herein prescribed for notice of hearing, and when so published shall be final and conclusive unless an appeal therefrom is taken within the period and in the manner prescribed by ~~((RCW 90.44.215))~~ section 6 of this 1987 act. Publication of such findings and order shall give force and effect to the remaining provisions of this section and to the provisions of RCW 90.44.180, with respect to the particular area, sub-area, or zone.

Priorities of right to withdraw public ground water shall be established separately for each ground water area, sub-area, or zone and, as between such rights, the first in time shall be the superior in right. The priority of the right acquired under a certificate of ground water right shall be the date of filing of the original application for a withdrawal ~~((in the office of the supervisor))~~ with the department, or the date or approximate date of the earliest beneficial use of water as set forth in a certificate of a vested ground water right, under the provisions of RCW 90.44.090.

Within ninety days after the designation of a ground water area, sub-area or zone as herein provided, any person, firm or corporation then claiming to be the owner of artificially stored ground water within such area, sub-area, or zone shall file a certified declaration to that effect ~~((in the office of the supervisor))~~ with the department on a form prescribed by ~~((said supervisor))~~ the department. Such declaration shall cover: (1) The location and description of the works by whose operation such artificial ground water storage is purported to have been created, and the name or names of the owner or owners thereof; (2) a description of the lands purported to be underlain by such artificially stored ground water, and the

name or names of the owner or owners thereof; (3) the amount of such water claimed; (4) the date or approximate date of the earliest artificial storage; (5) evidence competent to show that the water claimed is in fact water that would have been dissipated naturally except for artificial improvements by the claimant; and (6) such additional factual information as reasonably may be required by the ~~((supervisor))~~ department. If any of the purported artificially stored ground water has been or then is being withdrawn, the claimant also shall file (1) the declarations which this chapter requires of claimants to a vested right to withdraw public ground waters, and (2) evidence competent to show that none of the water withdrawn under those declarations is in fact public ground water from the area, sub-area, or zone concerned: PROVIDED, HOWEVER, That in case of failure to file a declaration within the ninety-day period herein provided, the claimant may apply to the ~~((supervisor))~~ department for a reasonable extension of time, which shall not exceed two additional years and which shall be granted only upon a showing of good cause for such failure.

Following publication of the declaration and findings—as in the case of an original application, permit, or certificate of right to appropriate public ground waters—the ~~((supervisor))~~ department shall accept or reject such declaration or declarations with respect to ownership or withdrawal of artificially stored ground water. Acceptance of such declaration or declarations by the ~~((supervisor))~~ department shall convey to the declarant no right to withdraw public ground waters from the particular area, sub-area, or zone, nor to impair existing or subsequent rights to such public waters.

Any person, firm or corporation hereafter claiming to be the owner of ground water within a designated ground water area, sub-area, or zone by virtue of its artificial storage subsequent to such designation shall, within three years following the earliest artificial storage file a declaration of claim ~~((in the office of the supervisor))~~ with the department, as herein prescribed for claims based on artificial storage prior to such designation: PROVIDED, HOWEVER, That in case of such failure the claimant may apply to the ~~((supervisor))~~ department for a reasonable extension of time, which shall not exceed two additional years and which shall be granted upon a showing of good cause for such failure.

Any person, firm or corporation hereafter withdrawing ground water claimed to be owned by virtue of artificial storage subsequent to designation of the relevant ground water area, sub-area, or zone shall, within ninety days following the earliest such withdrawal, file ~~((in the office of the supervisor))~~ with the department the declarations required by this chapter with respect to withdrawals of public ground water.

Sec. 117. Section 13, chapter 263, Laws of 1945 and RCW 90.44.180 are each amended to read as follows:

At any time the ~~((supervisor of water resources))~~ department may hold a hearing on ~~((his))~~ its own motion, and shall hold a hearing upon petition

of at least fifty or one-fourth, whichever is the lesser number, of the holders of valid rights to withdraw public ground waters from any designated ground water area, sub-area, or zone, to determine whether the water supply in such area, sub-area, or zone is adequate for the current needs of all such holders. Notice of any such hearing, and the findings and order resulting therefrom shall be published in the manner prescribed in RCW 90.44-.130 with respect to the designation or modification of a ground water area, or sub-area, or zone.

If such hearing finds that the total available supply is inadequate for the current needs of all holders of valid rights to withdraw public ground waters from the particular ground water area, sub-area, or zone, the ~~((supervisor))~~ department shall order the aggregate withdrawal from such area, sub-area, or zone decreased so that it shall not exceed such available supply. Such decrease shall conform to the priority of the pertinent valid rights and shall prevail for the term of shortage in the available supply. Except that by mutual agreement among the respective holders and with the ~~((supervisor))~~ department, the ordered decrease in aggregate withdrawal may be accomplished by the waiving of all or some specified part of a senior right or rights in favor of a junior right or rights: PROVIDED, That such waiving of a right or rights by agreement shall not modify the relative priorities of such right or rights as recorded ~~((in the office of the supervisor))~~ in the department.

Sec. 118. Section 15, chapter 263, Laws of 1945 and RCW 90.44.200 are each amended to read as follows:

The ~~((supervisor of water resources))~~ department, as in ~~((his))~~ its judgment is deemed necessary and advisable, may appoint one or more ground water supervisors for each designated ground water area, sub-area, or zone, or may appoint one or more ground water supervisors-at-large. Within their respective jurisdictions and under the direction of the ~~((supervisor of water resources))~~ department, such supervisor and supervisors-at-large shall supervise the withdrawal of public ground waters and the carrying out of orders issued by the ~~((supervisor of water resources))~~ department under the provisions of this chapter.

The duties, compensation, and authority of such supervisors or supervisors-at-large shall be those prescribed for water masters under the terms of RCW 90.03.060 and 90.03.070.

Sec. 119. Section 17, chapter 263, Laws of 1945 and RCW 90.44.220 are each amended to read as follows:

In ~~((his))~~ its discretion or upon the application of any party claiming right to the withdrawal and use of public ground water, the ~~((supervisor of water resources))~~ department may file a petition with the superior court of the county for the determination of the rights of appropriators of any particular ground water body and all the provisions of RCW 90.03.110 through 90.03.240 as heretofore amended, shall govern and apply to the adjudication

and determination of such ground water body and to the ownership thereof. Hereafter, in any proceedings for the adjudication and determination of water rights—either rights to the use of surface water or to the use of ground water, or both—pursuant to chapter 90.03 RCW as heretofore amended, all appropriators of ground water or of surface water in the particular basin or area may be included as parties to such adjudication, as pertinent.

Sec. 120. Section 18, chapter 263, Laws of 1945 and RCW 90.44.230 are each amended to read as follows:

In any determination of the right to withdrawal of ground water under RCW (~~90.44.215 or~~) 90.44.220, the (~~supervisor's~~) department's findings and the court's findings and judgment shall determine the priority of right and the quantity of water to which each appropriator who is a party to the proceedings shall be entitled, shall determine the level below which the ground water body shall not be drawn down by appropriators, or shall reserve jurisdiction for the determination of a safe sustaining water yield as necessary from time to time to preserve the rights of the several appropriators and to prevent depletion of the ground water body.

Sec. 121. Section 19, chapter 263, Laws of 1945 and RCW 90.44.250 are each amended to read as follows:

The (~~supervisor of water resources~~) department is hereby authorized to make such investigations(;) as may be necessary to determine the location, extent, depth, volume, and flow of all ground waters within the state and in making such examination, hereby is authorized and directed to cooperate with the federal government, with any county or municipal corporation, or any person, firm, association or corporation, and upon such terms as may seem appropriate to (~~him~~) it.

In connection with such investigation, the (~~supervisor~~) department from time to time may require reports from each ground water appropriator as to the amount of public ground water being withdrawn and as to the manner and extent of the beneficial use. Such reports shall be in a form prescribed by (~~said supervisor~~) the department.

Sec. 122. Section 2, chapter 216, Laws of 1945 as amended by section 1, chapter 13, Laws of 1967 and RCW 90.48.020 are each amended to read as follows:

Whenever the word "person" is used in this chapter, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever.

Wherever the words "waters of the state" shall be used in this chapter, they shall be construed to include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Whenever the word "pollution" is used in this chapter, it shall be construed to mean such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Wherever the word "~~((commission))~~ department" is used in this chapter it shall mean the ~~((water pollution control commission as created in RCW 90.48.021))~~ department of ecology.

Whenever the word "director" is used in this chapter it shall mean the director ~~((as provided for in RCW 90.48.023))~~ of ecology.

Sec. 123. Section 10, chapter 216, Laws of 1945 and RCW 90.48.030 are each amended to read as follows:

The ~~((commission))~~ department shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington.

Sec. 124. Section 11, chapter 216, Laws of 1945 as last amended by section 11, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.035 are each amended to read as follows:

The ~~((commission))~~ department shall have the authority to, and shall promulgate, amend, or rescind such rules and regulations as it shall deem necessary to carry out the provisions of this chapter, including but not limited to rules and regulations relating to standards of quality for waters of the state and for substances discharged therein in order to maintain the highest possible standards of all waters of the state in accordance with the public policy as declared in RCW 90.48.010.

Sec. 125. Section 7, chapter 13, Laws of 1967 and RCW 90.48.037 are each amended to read as follows:

The ~~((commission))~~ department, with the assistance of the attorney general, is authorized to bring any appropriate action at law or in equity, including action for injunctive relief, in the name of the people of the state of Washington as may be necessary to carry out the provisions of this chapter.

Sec. 126. Section 14, chapter 216, Laws of 1945 as amended by section 8, chapter 13, Laws of 1967 and RCW 90.48.080 are each amended to read as follows:

It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to

be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the ((commission)) department, as provided for in this chapter.

Sec. 127. Section 15, chapter 216, Laws of 1945 and RCW 90.48.090 are each amended to read as follows:

The ((commission)) department or its duly appointed agent shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to the pollution of or the possible pollution of any of the waters of this state.

Sec. 128. Section 9, chapter 13, Laws of 1967 and RCW 90.48.095 are each amended to read as follows:

In carrying out the purposes of this chapter the ((commission)) department shall, in conjunction with either the promulgation of rules and regulations, consideration of an application for a waste discharge permit or the termination or modification of such permit, or proceedings in contested cases, have the authority to issue process and subpoena witnesses effective throughout the state on its own behalf or that of an interested party, compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith require the production for examination of any books or papers relating to the matter under consideration by the ((commission)) department. In case of disobedience on the part of any person to comply with any subpoena issued by the ((commission)) department, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the ((commission)) department, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. In connection with the authority granted under this section no witness or other person shall be required to divulge trade secrets or secret processes. Persons responding to a subpoena as provided herein shall be entitled to fees as are witnesses in superior court.

Sec. 129. Section 16, chapter 216, Laws of 1945 and RCW 90.48.100 are each amended to read as follows:

The ((commission)) department shall have the right to request and receive the assistance of any educational institution or state agency when it is deemed necessary by the ((commission)) department to carry out the provisions of this chapter.

Sec. 130. Section 17, chapter 216, Laws of 1945 as amended by section 10, chapter 13, Laws of 1967 and RCW 90.48.110 are each amended to read as follows:

All plans and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements

or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the ((commission)) department, before construction thereof may begin. No approval shall be given until the ((commission)) department is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter.

Sec. 131. Section 18, chapter 216, Laws of 1945 as last amended by section 3, chapter 316, Laws of 1985 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 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)) section 6 of this 1987 act. 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. 132. Section 13, chapter 139, Laws of 1967 ex. sess. as last amended by section 6, chapter 316, Laws of 1985 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)) department 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)) department 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)) department. 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. 133. Section 1, chapter 58, Laws of 1949 and RCW 90.48.153 are each amended to read as follows:

The ((commission)) department is authorized to cooperate with the federal government and to accept grants of federal funds for carrying out the purposes of this chapter. The ((commission)) department is empowered to make any application or report required by an agency of the federal government as an incident to receiving such grants.

Sec. 134. Section 2, chapter 58, Laws of 1949 and RCW 90.48.156 are each amended to read as follows:

The ((commission)) department is authorized to cooperate with appropriate agencies of neighboring states, to enter into contracts, and make contributions toward interstate projects to carry out the purposes of this chapter.

Sec. 135. Section 14, chapter 13, Laws of 1967 and RCW 90.48.165 are each amended to read as follows:

Any city, town or municipal corporation operating a sewerage system including treatment facilities may be granted authority by the ((commission)) department to issue permits for the discharge of wastes to such system provided the ((commission)) department ascertains to its satisfaction that the sewerage system and the inspection and control program operated and conducted by the city, town or municipal corporation will protect the public interest in the quality of the state's waters as provided for in this chapter. Such authority may be granted by the ((commission)) department upon application by the city, town or municipal corporation and may be revoked by the ((commission)) department if it determines that such city, town, or municipal corporation is not, thereafter, operated and conducted in a manner to protect the public interest. Persons holding municipal permits

to discharge into sewerage systems operated by a municipal corporation authorized by this section to issue such permits shall not be required to secure a waste discharge permit provided for in RCW 90.48.160 as to the wastes discharged into such sewerage systems. Authority granted by the ((commission)) department to cities, towns, or municipal corporations to issue permits under this section shall be in addition to any authority or power now or hereafter granted by law to cities, towns and municipal corporations for the regulation of discharges into sewerage systems operated by such cities, towns, or municipal corporations. Permits issued under this section shall automatically terminate if the authority to issue the same is revoked by the ((commission)) department.

Sec. 136. Section 2, chapter 71, Laws of 1955 as amended by section 15, chapter 13, Laws of 1967 and RCW 90.48.170 are each amended to read as follows:

Applications for permits shall be made on forms prescribed by the ((commission)) department and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other relevant information deemed necessary by the ((commission)) department. Application for permits shall be made at least sixty days prior to commencement of any proposed discharge or permit expiration date, whichever is applicable. Upon receipt of a proper application relating to a new operation, or an operation previously under permit for which an increase in volume of wastes or change in character of effluent is requested over that previously authorized, the ((commission)) department shall instruct the applicant to publish notices thereof by such means and within such time as the ((commission)) department shall prescribe. The ((commission)) department shall require that the notice so prescribed shall be published twice in a newspaper of general circulation within the county in which the disposal of waste material is proposed to be made and in such other appropriate information media as the ((commission)) department may direct. Said notice shall include a statement that any person desiring to present his views to the ((commission)) department with regard to said application may do so in writing to the ((commission)) department, or any person interested in the ((commission's)) department's action on an application for a permit, may submit his views or notify the ((commission)) department of his interest within thirty days of the last date of publication of notice. Such notification or submission of views to the ((commission)) department shall entitle said persons to a copy of the action taken on the application. Upon receipt by the ((commission)) department of an application, it shall immediately send notice thereof containing pertinent information to the directors of fisheries(;) and game(, ~~conservation and health~~) and to the secretary of social and health services. When an application complying with the provisions of this chapter and the rules and regulations of the

~~((commission))~~ department has been filed with the ~~((commission))~~ department, it shall be its duty to investigate the application, and determine whether the use of public waters for waste disposal as proposed will pollute the same in violation of the public policy of the state.

Sec. 137. Section 3, chapter 71, Laws of 1955 as amended by section 16, chapter 13, Laws of 1967 and RCW 90.48.180 are each amended to read as follows:

The ~~((commission))~~ department shall issue a permit unless it finds that the disposal of waste material as proposed in the application will pollute the waters of the state in violation of the public policy declared in RCW 90.48-.010. The ~~((commission))~~ department shall have authority to specify conditions necessary to avoid such pollution in each permit under which waste material may be disposed of by the permittee. Permits may be temporary or permanent but shall not be valid for more than five years from date of issuance.

Sec. 138. Section 4, chapter 71, Laws of 1955 as amended by section 17, chapter 13, Laws of 1967 and RCW 90.48.190 are each amended to read as follows:

A permit shall be subject to termination upon thirty days' notice in writing if the ~~((commission))~~ department finds:

- (1) That it was procured by misrepresentation of any material fact or by lack of full disclosure in the application;
- (2) That there has been a violation of the conditions thereof;
- (3) That a material change in quantity or type of waste disposal exists.

Sec. 139. Section 18, chapter 13, Laws of 1967 and RCW 90.48.195 are each amended to read as follows:

In the event that a material change in the condition of the state waters occurs the ~~((commission))~~ department may, by appropriate order, modify permit conditions or specify additional conditions in permits previously issued.

Sec. 140. Section 5, chapter 71, Laws of 1955 as amended by section 19, chapter 13, Laws of 1967 and RCW 90.48.200 are each amended to read as follows:

In the event of failure of the ~~((commission))~~ department to act upon an application within sixty days after it has been filed the applicant shall be deemed to have received a temporary permit. Said permit shall authorize the applicant to discharge wastes into waters of the state as requested in its application only until such time as the ~~((commission))~~ department shall have taken action upon said application.

Sec. 141. Section 23, chapter 13, Laws of 1967 and RCW 90.48.250 are each amended to read as follows:

The ((commission)) department is authorized to make agreements and enter into such contracts as are appropriate to carry out a program of monitoring the condition of the waters of the state and the effluent discharged therein, including contracts to monitor effluent discharged into public waters when such monitoring is required by the terms of a waste discharge permit or as part of the approval of a sewerage system, if adequate compensation is provided to the ((commission)) department as a term of the contract.

Sec. 142. Section 26, chapter 13, Laws of 1967 and RCW 90.48.270 are each amended to read as follows:

The ((commission)) department shall have authority to delineate and establish sewage drainage basins in the state for the purpose of developing and/or adopting comprehensive plans for the control and abatement of water pollution within such basins. Basins may include, but are not limited to, rivers and their tributaries, streams, coastal waters, sounds, bays, lakes, and portions or combinations thereof, as well as the lands drained thereby.

Sec. 143. Section 27, chapter 13, Laws of 1967 and RCW 90.48.280 are each amended to read as follows:

The ((commission)) department is authorized to prepare and/or adopt a comprehensive water pollution control and abatement plan and to make subsequent amendments thereto, for each basin established pursuant to RCW 90.48.270. Comprehensive plans for sewage drainage basins may be prepared by any municipality and submitted to the ((commission)) department for adoption.

Prior to adopting a comprehensive plan for any basin or any subsequent amendment thereof the ((commission)) department shall hold a public hearing thereon. Notice of such hearing shall be given by registered mail, together with copies of the proposed plan, to each municipality, or other political subdivision, within the basin exercising a sewage disposal function, at least twenty days prior to the hearing date. Such hearing may be continued from time to time and, at the termination thereof, the ((commission)) department may reject the plan proposed or adopt it with such modifications as it shall deem proper.

Following adoption of a comprehensive plan for any basin, the ((commission)) department shall require compliance with such plan by any municipality or person operating or constructing a sewage collection, treatment or disposal system or plant, or any improvement to or extension of an existing sewage collection, treatment or disposal system or plant, within the basin.

Sec. 144. Section 1, chapter 141, Laws of 1969 ex. sess. as amended by section 13, chapter 32, Laws of 1980 and RCW 90.48.285 are each amended to read as follows:

The ((commission)) department is authorized to enter into contracts with any municipal or public corporation or political subdivision within the state for the purpose of assisting such agencies to finance the construction of water pollution control projects necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state, including but not limited to, systems for the control of storm or surface waters which will provide for the removal of waste or polluting materials in a manner conforming to the comprehensive plan of water pollution control and abatement proposed by the agencies and approved by the ((commission)) department. Any such contract may provide for:

The payment by the ((commission)) department to a municipal or public corporation or political subdivision on a monthly, quarterly, or annual basis of varying amounts of moneys as advances which shall be repayable by said municipal or public corporation, or political subdivision under conditions determined by the ((commission)) department.

Contracts made by the ((commission)) department shall be subject to the following limitations:

(1) No contract shall be made unless the ((commission)) department shall find that the project cannot be financed at reasonable cost or within statutory limitations by the borrower without the making of such contract.

(2) No contract shall be made with any public or municipal corporation or political subdivision to assist in the financing of any project located within a sewage drainage basin for which the ((commission)) department shall have previously adopted a comprehensive water pollution control and abatement plan unless the project is found by the ((commission)) department to conform with the basin comprehensive plan.

(3) The ((commission)) department shall determine the interest rate, not to exceed ten percent per annum, which such advances shall bear.

(4) The ((commission)) department shall provide such reasonable terms and conditions of repayment of advances as it may determine.

(5) The total outstanding amount which the ((commission)) department may at any time be obligated to pay under all outstanding contracts made pursuant to this section shall not exceed the moneys available for such payment.

(6) Municipal or public corporations or political subdivisions shall meet such qualifications and follow such procedures in applying for contract assistance as shall be established by the ((commission)) department.

In making such contracts the ((commission)) department shall give priority to projects which will provide relief from actual or potential public health hazards or water pollution conditions and which provide substantial capacity beyond present requirements to meet anticipated future demand.

Sec. 145. Section 28, chapter 13, Laws of 1967 as amended by section 1, chapter 284, Laws of 1969 ex. sess. and RCW 90.48.290 are each amended to read as follows:

The ((commission)) department is authorized to make and administer grants within appropriations authorized by the legislature to any municipal or public corporation, or political subdivision within the state for the purpose of aiding in the construction of water pollution control projects necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state including, but not limited to, projects for the control of storm or surface waters which will provide for the removal of waste or polluting materials therefrom.

Grants so made by the ((commission)) department shall be subject to the following limitations:

(1) No grant shall be made in an amount which exceeds the recipient's contribution to the estimated cost of the project: PROVIDED, That the following shall be considered a part of the recipient's contribution:

(a) Any grant received by the recipient from the federal government pursuant to section 8(f) of the Federal Water Pollution Control Act (33 U.S.C. 466) for the project;

(b) Any expenditure which is made by any municipal or public corporation, or political subdivision within the state as a part of a joint effort with the recipient to carry out the project and which has not been used as a matching contribution for another grant made pursuant to this chapter, and

(c) Any expenditure for the project made by the recipient out of moneys advanced by the ((commission)) department from a revolving fund and repayable to said fund.

(2) No grant shall be made for any project which does not qualify for and receive a grant of federal funds under the provisions of the Federal Water Pollution Control Act as now or hereafter amended: PROVIDED, That this restriction shall not apply to state grants made in any biennium over and above the amount of such grants required to match all federal funds allocated to the state for such biennium.

(3) No grant shall be made to any municipal or public corporation, or political subdivision for any project located within a drainage basin unless the ((commission)) department shall have previously adopted a comprehensive water pollution control and abatement plan and unless the project is found by the ((commission)) department to conform with such basin comprehensive plan: PROVIDED, That the requirement for a project to conform to a comprehensive water pollution control and abatement plan may be waived by the ((commission or director)) department for any grant application filed with the ((commission)) department prior to July 1, 1974, in those situations where the ((commission or director)) department finds the public interest would be served better by approval of any grant application made prior to adoption of such plan than by its denial.

(4) Recipients of grants shall meet such qualifications and follow such procedures in applying for grants as shall be established by the ((commission)) department.

(5) Grants may be made to reimburse recipients for expenditures made after July 1, 1967 for projects which meet the requirements of this (~~(1969 amendatory act)~~) section and were commenced after the recipient had filed a grant application with the (~~(commission)~~) department.

Sec. 146. Section 1, chapter 133, Laws of 1969 ex. sess. as amended by section 2, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.320 are each amended to read as follows:

It shall be unlawful, except under the circumstances hereafter described in this section, for oil to enter the waters of the state from any ship or any fixed or mobile facility or installation located offshore or onshore whether publicly or privately operated, regardless of the cause of the entry or fault of the person having control over the oil, or regardless of whether it be the result of intentional or negligent conduct, accident or other cause. This section shall not apply to discharges of oil in the following circumstances:

(1) The person discharging was expressly authorized to do so by the (~~(water pollution control commission)~~) department prior to the entry of the oil into state waters;

(2) The person discharging was authorized to do so by operation of law as provided in RCW 90.48.200;

(3) Where a person having control over the oil can prove that a discharge was caused by:

(a) An act of war or sabotage, or

(b) Negligence on the part of the United States government, or the state of Washington.

Sec. 147. Section 3, chapter 133, Laws of 1969 ex. sess. as amended by section 4, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.330 are each amended to read as follows:

The (~~(water pollution control commission)~~) department is authorized, with the staff, equipment and material under its control, or by contract with others, to take such actions as are necessary to collect, investigate, perform surveillance over, remove, contain, treat, or disperse oil discharged into waters of the state. The (~~(director of the commission)~~) department shall keep a record of all necessary expenses incurred in carrying out any project or activity authorized under this section, including a reasonable charge for the services performed by the state's personnel and the state's equipment and materials utilized. The authority granted hereunder shall be limited to projects and activities which are designed to protect the public interest or public property.

Sec. 148. Section 5, chapter 133, Laws of 1969 ex. sess. as last amended by section 4, chapter 316, Laws of 1985 and RCW 90.48.340 are each amended to read as follows:

The ((director)) department 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)) department, 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)) department 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)) department, the amount of necessary expenses incurred by the ((commission)) department in conducting the project or activity, and a notice that said amount is due and payable immediately upon receipt of said order. The ((commission)) department 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)) department 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)) department 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)) department subsequent to such application is not paid within fifteen days after receipt thereof, the attorney general, upon request of the ((director)) department, 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, or in any other court of competent jurisdiction, to recover the amount specified in the final order of the ((director or the commission, as appropriate)) department. No order issued under this section shall be construed as an order within the meaning of ~~((RCW 90.48.135))~~ section 6 of this 1987 act and shall not be appealable to the hearings board. 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).

Sec. 149. Section 8, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.343 are each amended to read as follows:

Any person who proposes to discharge oil or cause or permit the entry of same into waters of the state shall prior to such discharge obtain permission from the director ~~((of the water pollution control commission))~~. The director is authorized to permit the discharge of oil into waters of the state consistent with the pertinent effluent and receiving water standards and



treatment requirements established by the ~~((commission))~~ department. Permission for industrial or commercial discharges shall be given through the terms of a waste discharge permit issued pursuant to RCW 90.48.180. Permission shall be given in all other cases on a form prescribed by the director.

Sec. 150. Section 6, chapter 133, Laws of 1969 ex. sess. and RCW 90.48.345 are each amended to read as follows:

The ~~((commission))~~ department shall adopt such rules and regulations as it deems necessary and proper for the purpose of carrying out the provisions of RCW 90.48.315 through 90.48.365.

Sec. 151. Section 8, chapter 133, Laws of 1969 ex. sess. and RCW 90.48.355 are each amended to read as follows:

The ~~((commission))~~ department, through its duly authorized representatives, shall have the power to enter upon any private or public property, including the boarding of any ship, at any reasonable time, and the owner, managing agent, master or occupant of such property shall permit such entry for the purpose of investigating conditions relating to violations or possible violations of RCW 90.48.315 through 90.48.365, and to have access to any pertinent records relating to such property, including but not limited to operation and maintenance records and logs: PROVIDED, That in connection with the authority granted herein no person shall be required to divulge trade secrets or secret processes.

Sec. 152. Section 9, chapter 133, Laws of 1969 ex. sess. and RCW 90.48.360 are each amended to read as follows:

It shall be the duty of any person discharging oil or otherwise causing, permitting, or allowing the same to enter the waters of the state, unless the discharge or entry was expressly authorized by the ~~((commission))~~ department prior thereto or authorized by operation of law under RCW 90.48.200, to immediately notify the ~~((water pollution control commission))~~ department at its office in Olympia, or a regional office thereof, of such discharge or entry.

Sec. 153. Section 11, chapter 133, Laws of 1969 ex. sess. and RCW 90.48.365 are each amended to read as follows:

RCW 90.48.315 through 90.48.365 shall grant authority to the ~~((water pollution control commission))~~ department which is supplemental to and in no way reduces or otherwise modifies the powers heretofore granted to the ~~((water pollution control commission))~~ department, except as it may directly conflict therewith.

Sec. 154. Section 2, chapter 106, Laws of 1967 and RCW 90.50.020 are each amended to read as follows:

The ~~((pollution control commission))~~ department of ecology is authorized to make and administer grants to any public bodies for the purpose of

aiding in the construction and improvement of water pollution control facilities in conjunction with federal grants authorized pursuant to the Federal Water Pollution Control Act.

Sec. 155. Section 3, chapter 106, Laws of 1967 as amended by section 14, chapter 32, Laws of 1980 and RCW 90.50.030 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 shall be administered by the (~~pollution control commission~~) department of ecology under the authority granted by RCW 90.50.020.

Sec. 156. Section 8, chapter 185, Laws of 1973 1st ex. sess. as amended by section 6, chapter 54, Laws of 1977 and RCW 90.62.080 are each amended to read as follows:

(1) Any person aggrieved by any final decision of a state agency, as defined in RCW 90.62.020(8) as now or hereafter amended, contained in the document issued by the department pursuant to RCW 90.62.060(6) may obtain review thereof by filing a request, with the board, within thirty days of the transmittal under RCW 90.62.060(6) by the department of ecology of the document, for all final decisions other than a final decision relating to the granting or denial of a substantial development permit pursuant to RCW 90.58.140 in which case the filing of such request shall be with the shorelines hearings board. The board shall review all final decisions other than a final decision on a substantial development permit which shall be reviewed by the shorelines hearings board. In the event a request for review includes a final decision involving a substantial development permit and other permits, there shall be single staged hearing of the permits by the boards. The board shall be authorized to adopt rules and regulations implementing such staged hearings and the filing of requests so as to eliminate all unnecessary duplication.

(2) Any hearing held pursuant to this section by the pollution control hearings board or the shorelines hearings board or by the boards jointly shall be a de novo quasi judicial hearing and shall be conducted pursuant to the procedures provided in chapter 34.04 RCW.

(3) The board or boards shall make written findings of fact based upon a preponderance of the evidence and shall prepare written conclusions of law and an order, which order may affirm with or without condition, remand for further proceedings, or reverse the appealed decision in accordance with the findings and conclusions.

(4) Judicial review of decisions of the boards shall be controlled by RCW 43.21B.180 through (~~43.21B.200~~) 43.21B.190 except as they relate to decisions pertaining to substantial development permits under RCW 90.58.140 which shall be controlled by RCW 90.58.180.

(5) (a) Any person aggrieved by and desiring to appeal any final decision of a local government contained in the document issued by the department pursuant to RCW 90.62.060(6) as now or hereafter amended shall obtain review thereof in the same manner as would apply had the local government not utilized the procedures provided by this chapter.

(b) The provisions of subsection (5)(a) of this section shall not apply to a decision concerning any permit required by a "state agency" as that term is defined in RCW 90.62.020(8) as now or hereafter amended.

#### PART D MISCELLANEOUS

Sec. 157. Section 8, chapter 1, Laws of 1977 ex. sess. and RCW 43.83B.335 are each amended to read as follows:

The power is granted to the department of ecology to levy civil penalties of up to one hundred dollars per day for violation of any of the provisions of this chapter and chapters (~~(90.03)~~) 43.83B, 90.22, and 90.44 RCW, and rules, permits, and similar documents and regulatory orders of the department of ecology adopted or issued pursuant to such chapters. The procedures of RCW 90.48.144 shall be applicable to all phases of the levying of a penalty as well as review and appeal of the same.

NEW SECTION. Sec. 158. RECODIFICATION. RCW 43.83B.335 shall be recodified in chapter 90.03 RCW.

NEW SECTION. Sec. 159. REPEALER. The following acts or parts of acts are each repealed:

- (1) Section 14, chapter 212, Laws of 1971 ex. sess. and RCW 18.104-.140;
- (2) Section 43.21.100, chapter 8, Laws of 1965 and RCW 43.21.100;
- (3) Section 43.21.120, chapter 8, Laws of 1965 and RCW 43.21.120;
- (4) Section 43.21.150, chapter 8, Laws of 1965 and RCW 43.21.150;
- (5) Section 42, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B-.120;
- (6) Section 50, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B-.200;
- (7) Section 52, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B-.220;
- (8) Section 8, chapter 284, Laws of 1969 ex. sess. and RCW 43.27A-.200;
- (9) Section 9, chapter 284, Laws of 1969 ex. sess. and RCW 43.27A-.210;
- (10) Section 37, chapter 238, Laws of 1967, section 27, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.223;
- (11) Section 48, chapter 238, Laws of 1967 and RCW 70.94.333;

(12) Section 49, chapter 238, Laws of 1967, section 35, chapter 168, Laws of 1969 ex. sess., section 5, chapter 193, Laws of 1973 1st ex. sess. and RCW 70.94.334;

(13) Section 11, chapter 117, Laws of 1917, section 1, chapter 71, Laws of 1919 and RCW 90.03.080;

(14) Section 46, chapter 117, Laws of 1917 and RCW 90.03.480;

(15) Section 16, chapter 263, Laws of 1945 and RCW 90.44.215;

(16) Section 12, chapter 13, Laws of 1967, section 1, chapter 41, Laws of 1970 ex. sess. and RCW 90.48.135; and

(17) Section 6, chapter 71, Laws of 1955, section 20, chapter 13, Laws of 1967, section 14, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.210.

NEW SECTION, Sec. 160. RULES. The department of ecology shall amend its rules by June 30, 1988, to effect the purposes of this act.

NEW SECTION, Sec. 161. SEVERABILITY. 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. 162. CAPTIONS. As used in this act, bill headings and section captions constitute no part of the law.

NEW SECTION, Sec. 163. CODIFICATION. Sections 4 through 8 of this act are each added to chapter 43.21B RCW.

Passed the Senate April 7, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 20, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 20, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 22, Senate Bill No. 5427, entitled:

"AN ACT Relating to simplifying and clarifying procedures of the department of ecology, local air pollution control authorities, and the pollution control hearings board."

Section 22 of this bill amends RCW 70.107.050 relating to noise pollution penalties. I have signed into law today Substitute Senate Bill No. 5389, entitled:

"AN ACT relating to noise control."

Signing both laws would constitute a double amendment to existing law and create confusion. For this reason, I have vetoed section 22.

With the exception of section 22, Senate Bill No. 5427 is approved."

## CHAPTER 110

[Substitute House Bill No. 124]  
BALLOT ORDER OF CANDIDATES

AN ACT Relating to the ballot order of candidates; amending RCW 29.18.022 and 29.18.045; and adding a new section to chapter 29.21 RCW.

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

Sec. 1. Section 1, chapter 120, Laws of 1986 and RCW 29.18.022 are each amended to read as follows:

The names of all candidates for partisan office, for the office of superintendent of public instruction, and for all judicial offices (~~except district court judge~~) shall be rotated in each precinct in the manner specified by RCW 29.30.040, 29.30.340, and 29.30.440. The order of names of candidates for such offices on sample ballots and on absentee ballots in primaries shall be determined in the following manner:

(1) After the close of business on the last day for candidates to file for office, the officer with whom declarations of candidacy are filed shall, from among those filings made in person and by mail in accordance with RCW 29.18.045(2), determine by lot the order in which the names of those candidates shall appear on the sample and absentee ballots under the appropriate office heading. The determination shall be done publicly, and may be witnessed by the media and by any candidate desiring to do so.

(2) For the purposes of this section and RCW 29.18.045, "filing officer" means the officer with whom declarations of candidacy for an office must be filed.

Sec. 2. Section 2, chapter 120, Laws of 1986 and RCW 29.18.045 are each amended to read as follows:

Any candidate may mail his or her declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be processed. The candidate shall then be permitted to resubmit his or her declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before the close of business on the last day of the filing period shall be included with filings made in person during the filing period. In partisan and judicial elections (~~other than for district court judge~~;) the filing officer shall determine by lot the order in which the

names of those candidates shall appear upon sample and absentee primary ballots.

(3) Any declaration of candidacy received by the filing officer after the close of business on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it.

**NEW SECTION.** Sec. 3. A new section is added to chapter 29.21 RCW to read as follows:

The names of candidates for district court judge shall appear on primary and general election ballots in the following order:

(1) The names shall be rotated in each precinct in primaries in the manner specified by RCW 29.30.040, 29.30.340, and 29.30.440. The order of the names on sample ballots and on absentee ballots in primaries shall be determined by lot as specified in RCW 29.18.022.

(2) On the general election ballot and on absentee and sample ballots for the general election, the name of the candidate who receives the greatest number of votes for the position at the primary shall be listed first followed by the name of the candidate who receives the next greatest number of votes.

Passed the House February 6, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 111

[House Bill No. 148]

### BUSINESS REPORTING AND TAXATION SYSTEM—UNIFICATION FEASIBILITY STUDY TO BE UNDERTAKEN—UNEMPLOYMENT COMPENSATION AND WORKERS' COMPENSATION ENFORCEMENT PROVISIONS REVISED—CONTRACTORS MAY USE UNIFIED BUSINESS IDENTIFIER ACCOUNT NUMBERS ON REGISTRATION APPLICATIONS

AN ACT Relating to implementation by state agencies of a unified system for business identification, reporting, and compliance; amending RCW 50.12.220, 50.24.040, 50.24.070, 50.24.110, 50.32.030, 51.16.190, 51.48.210, and 18.27.030; creating new sections; and providing an effective date.

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

**NEW SECTION.** Sec. 1. The legislature finds that improving service to the business community and improving the efficiency of state government are goals that can be assisted by simplifying and consolidating the business reporting and taxation system. To accomplish these goals, similar registration, reporting, compliance, and enforcement authority should be accorded to those agencies that collect state taxes. In particular, reporting and compliance for the payroll taxes that fund unemployment insurance and industrial insurance should be coordinated whenever possible. Accordingly, the

employment security department, the department of labor and industries, and the department of revenue are directed to examine and test the feasibility of unified business identification, reporting, and compliance and make recommendations to the legislature by January 1, 1988.

Sec. 2. Section 1, chapter 190, Laws of 1979 ex. sess. and RCW 50.12.220 are each amended to read as follows:

(1) If an employer fails to file in a timely and complete manner a report required by RCW 50.12.070 as now or hereafter amended or the rules adopted pursuant thereto, the employer shall be subject to a minimum penalty of ten dollars per violation (~~in addition to any other administrative, civil, or criminal sanctions which may apply~~).

(2) If contributions are not paid on the date on which they are due and payable as prescribed by the commissioner, there shall be assessed a penalty of (~~four~~) five percent of the amount of the contributions for the first month or part thereof of delinquency; there shall be assessed a total penalty of (~~nine~~) ten percent of the amount of the contributions for the second month or part thereof of delinquency; and there shall be assessed a total penalty of (~~nineteen~~) twenty percent of the amount of the contributions for the third month or part thereof of delinquency. No penalty so added shall be less than (~~two~~) ten dollars. These penalties are in addition to the interest charges assessed under RCW 50.24.040.

(3) Penalties shall not accrue on contributions from an estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer qualifies as such, but contributions accruing with respect to employment of persons by a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer shall become due and shall be subject to penalties in the same manner as contributions due from other employers.

(4) Where adequate information has been furnished to the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, penalties shall be waived by the commissioner. Penalties may also be waived for good cause if the commissioner determines that the failure to timely file reports or pay contributions was not due to the employer's fault.

(5) Any decision to assess a penalty as provided by this section shall be made by the chief administrative officer of the tax branch or his or her designee.

(6) Nothing in this section shall be construed to deny an employer the right to appeal the assessment of any penalty. Such appeal shall be made in the manner provided in RCW 50.32.030.

~~((7) This section is applicable to contributions due and payable on wages paid after December 31, 1979, and tax reports which are due for the quarter ending March 31, 1980, and subsequent quarters.))~~

Sec. 3. Section 92, chapter 35, Laws of 1945 as last amended by section 8, chapter 158, Laws of 1973 1st. ex. sess. and RCW 50.24.040 are each amended to read as follows:

If contributions are not paid on the date on which they are due and payable as prescribed by the commissioner, the whole or part thereof remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof from and after such date until payment plus accrued interest is received by him. ~~((Interest shall not accrue in excess of twenty-four percent for delinquent contributions for any one contributions period.))~~ The date as of which payment of contributions, if mailed, is deemed to have been received may be determined by such regulations as the commissioner may prescribe. Interest collected pursuant to this section shall be paid into the administrative contingency fund. Interest shall not accrue on contributions from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer qualifies as such, but contributions accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer shall become due and shall draw interest in the same manner as contributions due from other employers. Where adequate information has been furnished the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived.

Sec. 4. Section 95, chapter 35, Laws of 1945 as amended by section 3, chapter 190, Laws of 1979 ex. sess. and RCW 50.24.070 are each amended to read as follows:

At any time after the commissioner shall find that any contributions, interest, or penalties have become delinquent, the commissioner may issue an order and notice of assessment specifying the amount due, which order and notice of assessment shall be served upon the delinquent employer in the manner prescribed for the service of a summons in a civil action, ~~((except that if the employer cannot be found within the state, said order and notice will be deemed to be served when mailed to the delinquent employer at his last known address by registered mail))~~ or by certified mail to the last known address of the employer as shown by the records of the department. Failure of the employer to receive such notice or order whether served or mailed shall not release the employer from any tax, or any interest or penalties thereon.



Sec. 5. Section 99, chapter 35, Laws of 1945 as last amended by section 7, chapter 190, Laws of 1979 ex. sess. and RCW 50.24.110 are each amended to read as follows:

The commissioner is hereby authorized to issue to any person, firm, corporation, political subdivision or department of the state, a notice and order to withhold and deliver property of any kind whatsoever when he has reason to believe that there is in the possession of such person, firm, corporation, political subdivision or department, property which is due, owing, or belonging to any person, firm, or corporation upon whom the department has served a benefit over payment assessment or a notice and order of assessment ~~((has been served by the employment security department of the state))~~ for unemployment compensation contributions, interest, or penalties. The effect of a notice to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability is satisfied or becomes unenforceable because of a lapse of time.

The notice and order to withhold and deliver shall be served by the sheriff of the county wherein the service is made, or by his deputy, or by any duly authorized representative of the commissioner. Any person, firm, corporation, political subdivision or department upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice.

In the event there is in the possession of any such person, firm, corporation, political subdivision or department, any property which may be subject to the claim of the employment security department of the state, such property shall be delivered forthwith to the commissioner or his duly authorized representative upon demand to be held in trust by the commissioner for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, there shall be furnished a good and sufficient bond satisfactory to the commissioner conditioned upon final determination of liability.

Should any person, firm or corporation fail to make answer to an order to withhold and deliver within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against such person, firm or corporation for the full amount claimed by the commissioner in the notice to withhold and deliver, together with costs.

Sec. 6. Section 119, chapter 35, Laws of 1945 as last amended by section 20, chapter 23, Laws of 1983 1st ex. sess. and RCW 50.32.030 are each amended to read as follows:

When an order and notice of assessment has been served upon or mailed to a delinquent employer, as heretofore provided, such employer may within ~~((ten))~~ thirty days thereafter file a petition in writing with the appeal tribunal, stating that such assessment is unjust or incorrect and requesting a

hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the employment security department. If no such petition be filed with the appeal tribunal within ~~((said-ten))~~ thirty days, ~~((said))~~ the assessment shall be conclusively deemed to be just and correct: PROVIDED, That in such cases, and in cases where payment of contributions, interest, or penalties has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of a petition on a disputed assessment with the appeal tribunal shall stay the distraint and sale proceeding provided for in this title until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the commissioner to perfect a lien, as provided by this title, upon the property of the employer. The filing of a petition on a disputed assessment shall stay the accrual of interest and penalties on the disputed contributions until a final decision shall have been made thereon.

Within ~~((ten))~~ thirty days after notice of denial of refund or adjustment has been mailed or delivered (whichever is the earlier) to an employer, the employer may file a petition in writing with the appeal tribunal for a hearing thereon: PROVIDED, That this right shall not apply in those cases in which assessments have been appealed from and have become final. The petitioner shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said ~~((ten))~~ thirty days, the determination of the commissioner as stated in said notice shall be final.

Sec. 7. Section 27, chapter 323, Laws of 1977 ex. sess. as amended by section 5, chapter 315, Laws of 1985 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.

(3) In case of a false or fraudulent report with intent to evade premiums, assessments, contributions, penalties, interest, or other sums, or in the event of a failure to file a report, action may be begun at any time.

(4) 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. 8. Section 18, chapter 9, Laws of 1986 and RCW 51.48.210 are each amended to read as follows:

If payment of any tax due is not received by the department by the due date, there shall be assessed a penalty of five percent of the amount of the tax (~~(; and if the tax is not received within thirty days after the due date, there shall be assessed a total penalty of ten percent of the amount of the tax, and if the tax is not received within sixty days after the due date, there shall be assessed a total penalty of twenty percent of the amount of the tax)~~) for the first month or part thereof of delinquency; there shall be assessed a total penalty of ten percent of the amount of the tax for the second month or part thereof of delinquency; and there shall be assessed a total penalty of twenty percent of the amount of the tax for the third month or part thereof of delinquency. No penalty so added may be less than ten dollars. If a warrant is issued by the department for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of five percent of the amount of the tax, but not less than five dollars nor greater than one hundred dollars. (~~Warrants shall earn~~) In addition, delinquent taxes shall bear interest at the rate of one percent of the delinquent amount ((of such warrant)) per month or fraction thereof from and after the due date ((of entry of such warrant)) until payment, increases, and penalties are received by the department.

Sec. 9. Section 3, chapter 77, Laws of 1963 as amended by section 3, chapter 153, Laws of 1973 1st ex. sess. and RCW 18.27.030 are each amended to read as follows:

An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

- (1) Employer social security number.
- (2) Industrial insurance number.
- (3) Employment security department number.
- (4) State excise tax registration number.
- (5) Unified business identifier (UBI) account number may be substituted for the information required by subsections (2), (3), and (4) of this section.

(6) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

~~((6))~~ (7) The name and address of each partner if the applicant be a firm or partnership, or the name and address of the owner if the applicant be an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The

information contained in such application shall be a matter of public record and open to public inspection.

**NEW SECTION.** Sec. 10. 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. 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. This act shall take effect July 1, 1987. Sections 2 and 8 of this act shall be effective for quarters beginning on and after July 1, 1987.

Passed the House January 28, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 112

[Substitute House Bill No. 805]

### SCHOOL PLANT CONSTRUCTION PREREQUISITES—SCHOOL DISTRICT FACILITY LEASE REQUIREMENTS

AN ACT Relating to school plant construction; and adding a new section to chapter 28A.47 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 28A.47 RCW to read as follows:

School districts shall be required to lease for a reasonable fee vacant school plant facilities from a contiguous school district wherever possible.

No school district with unhoused students may be eligible for the state matching funds for the construction of school plant facilities if:

(1) The school district contiguous to the school district applying for the state matching percentage has vacant school plant facilities;

(2) The superintendent of public instruction and the state board of education have determined the vacant school plant facilities available in the contiguous district will fulfill the needs of the applicant district in housing unhoused students. In determining whether the contiguous district school

plant facilities meet the needs of the applicant district, consideration shall be given, but not limited to the geographic location of the vacant facilities as they relate to the applicant district; and

(3) A lease of the vacant school plant facilities can be negotiated.

Passed the House March 11, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 113

[Substitute House Bill No. 522]

### EXCHANGE OF STATE LAND—NATURAL RESOURCES DEPARTMENT AUTHORITY MODIFIED

AN ACT Relating to the exchange of public lands; and amending RCW 79.08.180.

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

Sec. 1. Section 1, chapter 290, Laws of 1957 as last amended by section 1, chapter 261, Laws of 1983 and RCW 79.08.180 are each amended to read as follows:

~~((1) For the purpose of facilitating the marketing of forest products of state lands, or consolidating and blocking up of state lands, or the acquisition of lands having commercial recreational leasing potential, the commissioner of public lands, with the approval of the board of natural resources, may exchange any state lands with any timber thereon for any other land of equal value.~~

~~(2) The commissioner of public lands, with the approval of the board of natural resources, may exchange state lands for lands of equal value owned by a county.~~

~~((3)) The department of natural resources, with the approval of the board of natural resources, may exchange any state land and any timber thereon for any land of equal value in order to:~~

~~(1) Facilitate the marketing of forest products of state lands;~~

~~(2) Consolidate and block-up state lands;~~

~~(3) Acquire lands having commercial recreational leasing potential;~~

~~(4) Acquire county-owned lands;~~

~~(5) Acquire urban property which has greater income potential or which could be more efficiently managed by the department in exchange for state urban lands as defined in RCW 79.01.784; or~~

~~(6) Acquire any other lands when such exchange is determined by the board of natural resources to be in the best interest of the trust for which the state land is held.~~

~~(7) Land exchanged under this section shall not be used to reduce the publicly owned forest land base.~~

(8) The board of natural resources shall determine that each land exchange is in the best interest of the trust for which the land is held prior to authorizing the land exchange.

Passed the House March 12, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

---

CHAPTER 114

[House Bill No. 136]

GAME COMMISSION MEETINGS

AN ACT Relating to game commission meetings; and amending RCW 77.04.060.

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

Sec. 1. Section 77.04.060, chapter 36, Laws of 1955 as last amended by section 110, chapter 287, Laws of 1984 and RCW 77.04.060 are each amended to read as follows:

The commission shall hold at least one regular meeting~~((s within the first ten days of January, April, July, and October of each year))~~ during the first two months of each calendar quarter, and special meetings when called by the chairman or by four members. Four members constitute a quorum for the transaction of business.

The commission at a meeting in each odd-numbered year shall elect one of its members as chairman and another member as vice chairman, each of whom shall serve for a term of two years or until a successor is elected and qualified.

When a vacancy in the office of the director has occurred, the commission shall elect a director by approval of four members. The director shall hold office at the pleasure of the commission.

Members of the commission shall be compensated in accordance with RCW 43.03.250. In addition, members are allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060.

Passed the House January 22, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 115

[House Bill No. 49]

HAZARDOUS WASTE OR SOLID WASTE MANAGEMENT—GOVERNOR'S  
AWARD OF EXCELLENCE

AN ACT Relating to the solid waste advisory committee; and amending RCW 70.95.040.

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

Sec. 1. Section 1, chapter 10, Laws of 1977 as amended by section 1, chapter 108, Laws of 1982 and RCW 70.95.040 are each amended to read as follows:

(1) There is created a solid waste advisory committee to provide consultation to the department of ecology concerning matters covered by this chapter. The committee shall advise on the development of programs and regulations for solid and dangerous waste handling, resource recovery, and recycling, and shall supply recommendations concerning methods by which existing solid and dangerous waste handling, resource recovery, and recycling practices and the laws authorizing them may be supplemented and improved.

(2) The committee shall consist of eleven members, including the assistant director for the division of solid waste management within the department. The director shall appoint ten members with due regard to the interests of the public, local government, agriculture, industry, public health, and the refuse removal and resource recovery industries. The director shall include among his ten appointees representatives of activities from which dangerous wastes arise and the Washington state patrol's hazardous materials technical advisory committee. The term of appointment shall be determined by the director. The committee shall elect its own chairman and meet at least four times a year, in accordance with such rules of procedure as it shall establish. Members shall receive no compensation for their services but shall be reimbursed their travel expenses while engaged in business of the committee in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) The committee shall each year recommend to the governor a recipient for a "governor's award of excellence" which the governor shall award for outstanding achievement by an industry, company, or individual in the area of hazardous waste or solid waste management.

Passed the House February 18, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 116

[Substitute House Bill No. 942]

## MEDICAL EXAMINERS BOARD MEMBERSHIP TO INCLUDE A PHYSICIAN'S ASSISTANT

AN ACT Relating to the state board of medical examiners; and amending RCW 18.71.015.

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

Sec. 1. Section 2, chapter 284, Laws of 1961 as last amended by section 44, chapter 287, Laws of 1984 and RCW 18.71.015 are each amended to read as follows:

There is hereby created a board of medical examiners consisting of six individuals licensed to practice medicine in the state of Washington, one individual who is registered as a physician's assistant under chapter 18.71A RCW who shall be entitled to vote only on matters directly related to physicians' assistants, and one individual who is not a physician, to be known as the Washington state board of medical examiners.

The board shall be appointed by the governor. The members of the first board shall be appointed within thirty days after March 21, 1961, to serve the following terms: One member for one year, one member for two years, one member for three years, one member for four years, one member for five years, and the physician's assistant for a term of five years, from the date of their appointment, or until their successors are duly appointed and qualified. On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified.

Each member of the board shall be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The board shall meet as soon as practicable after appointment and elect a chairman and a secretary from its members. Meetings shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

It shall require the affirmative vote of a majority of the members of the board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize or deny the issuance of any certificate.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of licensing.



Any member of the board may be removed by the governor for neglect of duty, misconduct, or malfeasance or misfeasance in office.

Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Passed the House March 13, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 117

[Engrossed House Bill No. 520]

### NONPROFIT CORPORATIONS—REINSTATEMENT PROCEDURES MODIFIED— SECRETARY OF STATE FEES REVISED

AN ACT Relating to nonprofit corporations; amending RCW 24.03.386, 24.03.388, 24.03.302, 24.03.395, and 24.03.405; and adding a new section to chapter 24.03 RCW.

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

Sec. 1. Section 57, chapter 240, Laws of 1986 and RCW 24.03.386 are each amended to read as follows:

(1) A corporation revoked under RCW 24.03.380 may apply to the secretary of state for reinstatement within ~~((three))~~ five years after the effective date of revocation. An application filed within such ~~((two))~~ five-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement which may be reserved under RCW 24.03.046;

(d) Appoint a registered agent and state the registered office address under RCW 24.03.340; 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 cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name which the secretary of state finds to be contrary to the requirements of RCW 24.03.046, the application, amended application, or supplemental application shall be amended to adopt another corporate name which is in compliance with RCW 24.03.046. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement.

Sec. 2. Section 58, chapter 240, Laws of 1986 and RCW 24.03.388 are each amended to read as follows:

(1) An application processing fee of ~~((thirty))~~ twenty-five dollars shall be charged for an application for reinstatement under RCW 24.03.386.

(2) An application processing fee of ten dollars shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall file all annual reports and pay the full amount of all annual corporation fees which would have been assessed for the years of the period of administrative revocation, had the corporation been in active status, ~~((and the license fee for the year of reinstatement))~~ including the reinstatement year.

Sec. 3. Section 9, chapter 163, Laws of 1969 ex. sess. as last amended by section 42, chapter 240, Laws of 1986 and RCW 24.03.302 are each amended to read as follows:

A corporation shall be administratively dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

(1) Has failed to file or complete its annual report within the time required by law; or

(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or

(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than forty-five days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the forty-five day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this

section, the secretary of the state shall dissolve the corporation by issuing a certificate of administrative dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of administrative dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of administrative dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it shall ~~((file or complete its annual report))~~ complete and file all the annual reports which would have been required for the years of the period of administrative dissolution including those for the reinstatement year or if it shall appoint or maintain a registered agent, or if it shall file with the secretary of state a required statement of change of registered agent or registered office and in addition, if it shall pay a reinstatement fee of twenty-five dollars plus any other fees that may be due and owing the secretary of state. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided in RCW 24.03.300 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members.

Sec. 4. Section 80, chapter 235, Laws of 1967 as last amended by section 53, chapter 240, Laws of 1986 and RCW 24.03.395 are each amended to read as follows:

Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) 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~~)).

(3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

The information shall be given as of the date of the execution of the report. It 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, it shall be executed on behalf of the corporation by such receiver or trustee.

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.

Sec. 5. Section 82, chapter 235, Laws of 1967 as last amended by section 55, chapter 240, Laws of 1986 and RCW 24.03.405 are each amended to read as follows:

The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment or restatement and issuing a certificate of amendment or a restated certificate of incorporation, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.

(5) Filing articles of dissolution, no fee.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, ten dollars.

(8) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(9) Filing a certificate by a foreign corporation of the appointment of a registered agent, five dollars. A separate fee for filing such certificate shall not be charged if the statement appears (~~in an amendment to the articles of incorporation or~~) in conjunction with the filing of the annual report.

(10) Filing a certificate of election adopting the provisions of chapter 24.03 RCW, twenty dollars.

(11) Filing an application to reserve a corporate name, ten dollars.

(12) Filing a notice of transfer of a reserved corporate name, five dollars.

(13) Filing a name registration, twenty dollars per year, or part thereof.

(14) Filing an annual report of a domestic or foreign corporation, five dollars.

(15) Filing any other statement or report authorized for filing under this chapter, (~~including an annual report, of a domestic or foreign corporation;~~) ten dollars.

NEW SECTION. Sec. 6. A new section is added to chapter 24.03 RCW to read as follows:

The secretary of state may, where exigent or mitigating circumstances are presented, reinstate to full active status any corporation previously in good standing which would otherwise be penalized or lose its active status. Any corporation desiring to seek relief under this section shall, within fifteen days of discovery by corporate officials of the missed filing or lapse, notify the secretary of state in writing. The notification shall include the name and mailing address of the corporation, the corporate officer to whom correspondence should be sent, and a statement under oath by a responsible corporate officer, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. Upon receipt of the notice, the secretary of state shall investigate the circumstances of the missed filing or lapse. If the secretary of state is satisfied that sufficient exigent or mitigating circumstances exist, that the corporation has demonstrated good faith and a reasonable attempt to comply with the applicable corporate license statutes of this state, that disproportionate harm would occur to the corporation if relief were not granted, and that relief would not be contrary to the public interest expressed in this title, the secretary may issue an order reinstating the corporation and specifying any terms and conditions of the relief. Reinstatement may relate back to the date of lapse or dissolution. If the secretary of state determines the request does not comply with the requirements for relief, the secretary shall issue an order denying the requested relief and stating the reasons for the denial. Any denial of relief by the secretary of state is final and is not appealable. The secretary of state shall keep records of all requests for relief and the disposition of the requests. The secretary of state shall annually report to

the legislature the number of relief requests received in the preceding year and a summary of the secretary's disposition of the requests.

Passed the House March 10, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

CHAPTER 118

[House Bill No. 865]

PUBLIC EMPLOYEES' RETIREMENT SYSTEM—SERVICE CREDIT ALLOWANCE FOR CERTAIN MEMBERS WHO BECOME DISABLED IN THE LINE OF DUTY

AN ACT Relating to continued service credit for duty disability retirement recipients; and amending RCW 41.40.223.

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

Sec. 1. Section 2, chapter 176, Laws of 1986 and RCW 41.40.223 are each amended to read as follows:

Those members subject to this chapter who became disabled in the line of duty on or after March 27, 1984, and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) Nothing in this section shall abridge service credit rights granted in RCW 41.40.220(2) and 41.40.320.

(8) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

Passed the House March 13, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 119

[House Bill No. 410]

### STATE CLEARINGHOUSE FOR EDUCATIONAL INFORMATION REVOLVING FUND CREATED

AN ACT Relating to the state clearinghouse for educational information revolving fund; and adding a new section to chapter 28A.03 RCW.

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:

There is hereby created the state clearinghouse for educational information revolving fund in the custody of the state treasurer. The fund shall consist of: Funds appropriated to the revolving fund, gifts or grants made to the revolving fund, and fee revenues assessed and collected by the superintendent of public instruction pursuant to RCW 28A.03.510. The superintendent of public instruction is authorized to expend from the state clearinghouse for educational information revolving fund such funds as are necessary for the payment of costs, expenses, and charges incurred in the reproduction, handling, and delivery by mail or otherwise of materials and information furnished pursuant to RCW 28A.03.510(3).

The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

Passed the House March 18, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 120

[Engrossed Substitute House Bill No. 186]

### MUNICIPAL PUBLIC WORKS

AN ACT Relating to local government; amending RCW 35.23.353; reenacting and amending RCW 35.22.620 and 35.23.352; and adding a new section to chapter 43.09 RCW.

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

Sec. 1. Section 1, chapter 56, Laws of 1975 1st ex. sess. as last amended by section 6, chapter 169, Laws of 1985 and by section 1, chapter 219, Laws of 1985 and RCW 35.22.620 are each reenacted and 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:)~~)  
As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade



is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

After September 1, 1987, each first class city with a population of one hundred fifty thousand or less shall use the form required by section 4 of this 1987 act to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) 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. Within two weeks of the finding that such an emergency existed, the city council shall adopt a resolution certifying the existence of this emergency situation.

((2)) (7) In ((addition to)) lieu of the procedures of subsections ((+)) (2) and (6) of this section, a first class city may use a small works roster and award contracts under this subsection for contracts of 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 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. 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 one hundred thousand dollars or less, the city shall award the contract to the contractor submitting the lowest responsible bid.

~~((3))~~ (8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

Sec. 2. Section 35.23.352, chapter 7, Laws of 1965 as last amended by section 7, chapter 169, Laws of 1985, by section 2, chapter 219, Laws of 1985, and by section 24, chapter 469, Laws of 1985 and RCW 35.23.352 are each reenacted and amended to read as follows:

(1) Any second or third class city or any town may construct any public ~~((work or improvement))~~ works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ~~((fifteen))~~ thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed ~~((fifteen thousand dollars))~~ these figures, 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. The 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. 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 a 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 the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In ~~((addition to))~~ lieu of 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 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 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. The 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 one hundred thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

~~((3))~~ (4) After September 1, 1987, each second class city, third class city, and town shall use the form required by section 4 of this 1987 act to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds ~~((two))~~ seven thousand five hundred 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))~~ (7) 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))~~ (8) For advertisement and competitive bidding to be dispensed with as to purchases between ~~((two))~~ seven thousand five hundred and ~~((four))~~ fifteen 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 the 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))~~ (9) These requirements for purchasing may be waived by resolution of the city or town council which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

Sec. 3. Section 35.23.353, chapter 7, Laws of 1965 and RCW 35.23-.353 are each amended to read as follows:

Any purchase by a municipality of the second, third or fourth class of supplies, material, equipment or services for garbage collection and disposal, except for public work or improvement and except for purchases authorized under RCW 35.23.352 (9) and (10), where the cost thereof exceeds ~~((two thousand dollars))~~ the limits established in RCW 35.23.352 (6) and (8) shall be made upon call for bids in accordance with the procedure prescribed for any public work or improvement in the first paragraph of RCW 35.23.352 as now or hereafter amended. Notwithstanding any provision of law to the contrary, any municipality of the second, third or fourth class may call for bids for garbage collection and disposal for a period of five years or less but in no case for more than five years. The contract shall be awarded to the lowest responsible bidder. Nothing in this section is intended to repeal, amend or change RCW 35.13.280 as now or hereafter amended.

NEW SECTION. Sec. 4. A new section is added to chapter 43.09 RCW to read as follows:

The state auditor, through the division of municipal corporations, shall prescribe a standard form with which the accounts and records of costs shall be maintained as required under RCW 39.04.070.

Passed the House March 19, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 121

[House Bill No. 377]

### DEFERRED COMPENSATION ACCOUNTS MODIFIED

AN ACT Relating to the deferred compensation revolving fund; and amending RCW 41.04.260.

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

Sec. 1. Section 1, chapter 274, Laws of 1975 1st ex. sess. as last amended by section 23, chapter 57, Laws of 1985 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))~~) principal account 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.))~~) Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be transferred to that account from the deferred compensation principal account.

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))~~) deferred compensation principal account 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))~~) deferred compensation principal account 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))~~) deferred compensation principal account 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))~~) deferred compensation principal account, 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))~~) principal account 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))~~) principal account. The earnings on any surplus balances in the deferred compensation (~~((revolving fund))~~) principal

account shall be credited to the deferred compensation ((fund)) principal account, notwithstanding RCW 43.84.090.

(4) The deferred compensation administrative account 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 administrative account. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the deferred compensation administrative account shall be credited to this account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be expended to the deferred compensation principal account. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the deferred compensation principal account.

(5) 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))~~ (6) 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))~~ (7) The committee may adopt rules necessary to carry out the purposes of RCW 41.04.250 and 41.04.260.

Passed the House February 27, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

---

## CHAPTER 122

[House Bill No. 378]

### STATE EMPLOYEES' INSURANCE FUNDS AND ACCOUNTS MODIFIED

AN ACT Relating to the state employees' insurance revolving fund; amending RCW 41.05.030, 41.05.040, and 41.05.050; and adding a new section to chapter 41.05 RCW.

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

Sec. 1. Section 3, chapter 39, Laws of 1970 ex. sess. as last amended by section 1, chapter 38, Law of 1975 1st ex. sess. and RCW 41.05.030 are each amended to read as follows:

(1) The state employees' insurance board shall have the following powers and duties, in addition to any other powers and duties prescribed by law: (a) To authorize the director of personnel to appoint a benefits supervisor, to whom the director may delegate his duties hereunder, and other necessary personnel, subject to the jurisdiction of the state civil service law, chapter 41.06 RCW; (b) to authorize other necessary administrative expenses; ~~((and))~~ (c) to provide for the ~~((expenditure))~~ disbursement of funds in the state employees' insurance ~~((revolving fund))~~ principal account for payment of premiums~~((:));~~and to reduce employee contributions or increase benefits~~((:));~~; and (d) to provide for the expenditure of funds in the state employees' insurance administrative account, subject to legislative appropriation, to pay salaries and wages and other necessary administrative expenses.

(2) The director of the department of personnel shall be trustee and administrator of all health benefit and insurance contracts.

He shall transmit contributions for health care and other insurance plans in payment of premiums and transfers to the state employees' insurance administrative account for operating and administrative costs of the board and the benefits supervisor, and receive and deposit contributions and dividends or refunds into the state employees' insurance ~~((revolving fund))~~ principal account. He shall provide facilities and services necessary for the purpose of the board and its operations, subject to full reimbursement by the board for the cost thereof to be paid out of the state employees' insurance administrative account.

(3) Every division, department, or separate agency of state government shall fully cooperate in administration of the plans, education of employees, claims administration, and other duties as required by the trustee or the board.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

There is hereby created the state employees' insurance administrative account in the state treasury. This account, subject to legislative appropriation, is to be used by the trustee to pay administrative expenses of the state employees' insurance board and the salaries, wages, and expenses of the benefits supervisor and other necessary personnel in accordance with RCW 41.05.030. Moneys from the state employees' insurance administrative account 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 administrative account shall be credited to this account. Any excess of earnings of investments of balances credited to this account over administrative expenses



disbursed from this account shall be expended to the state employees' insurance principal account. Any deficiency in the state employees' insurance administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the state employees' insurance principal account.

Sec. 3. Section 4, chapter 39, Laws of 1970 ex. sess. as last amended by section 901, chapter 312, Laws of 1986 and RCW 41.05.040 are each amended to read as follows:

There is hereby created (~~(a fund)~~) an account within the state treasury, designated as the (~~(a)~~)state employees' insurance (~~(fund)~~) principal account, 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 to the state employees' insurance administrative account authorized by RCW 41.05.030(2). Moneys from the state employees' insurance (~~(fund)~~) principal account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the trustee. However, before June 30, 1987, the treasurer shall not disburse moneys from the (~~(fund)~~) account when the disbursement would result in a fund balance of less than \$11,597,000. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the state employees' insurance (~~(fund)~~) principal account shall be credited to (~~(this fund)~~) the state employees' insurance administrative account.

Sec. 4. Section 9, chapter 2, Laws of 1983 as last amended by section 1, chapter 107, Laws of 1984 and RCW 41.05.050 are each amended to read as follows:

(1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the state employees' insurance board. Such contributions, which shall be paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the state (~~(employee's)~~) employees' insurance board to pay the administrative expenses of the board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: PROVIDED, That this administrative service charge for state employees shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee. All such contributions will be paid into the state employees' insurance (~~(fund)~~) principal account to be expended in accordance with RCW 41.05.030.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the state employees' insurance board, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose: **PROVIDED**, That provision for school district personnel shall not be made under this chapter: **PROVIDED FURTHER**, That insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(3) The trustee with the assistance of the department of personnel shall survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the state employees' insurance board. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the board for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The board shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

Passed the House February 27, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 123

[House Bill No. 68]

### IRRIGATION DISTRICT ELECTION POLLING PLACES

AN ACT Relating to irrigation district elections; and amending RCW 87.03.085.

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

Sec. 1. Section 5, page 674, Laws of 1889-90 as amended by section 2, chapter 168, Laws of 1984 and RCW 87.03.085 are each amended to read as follows:

Fifteen days before any election held under this chapter, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election(~~(, and)~~). The secretary shall also post a general notice of the same in the office of the board, which shall be established and kept at some fixed place to be determined by the board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for the precinct. If the board fails to appoint a board of election, or the

members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held. However, in any irrigation district that is less than two hundred thousand acres in size and is divided into director divisions, the board of directors in its discretion may designate one polling place within the district to serve more than one election precinct. The board of directors of any irrigation district may designate the principal business office of the district as a polling place to serve one or more election precincts and may do so regardless of whether the business office is located within or outside of the boundaries of the district. If the board of directors does designate a single polling place for more than one election precinct, then the election officials appointed by the board of directors may serve more than one election precinct and the election officials may be electors of any of the election precincts for which they are the election board.

Passed the House February 2, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 124

[House Bill No. 75]

### IRRIGATION DISTRICTS—DESIGNATION OF A STATE-WIDE PROMOTIONAL ASSOCIATION—DUES OR ASSESSMENT PROVISIONS REVISED

AN ACT Relating to irrigation districts; and amending RCW 87.76.020 and 87.76.040.

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

Sec. 1. Section 2, chapter 193, Laws of 1947 and RCW 87.76.020 are each amended to read as follows:

The directors of such irrigation districts may designate a ~~((State Association of Washington Irrigation Districts))~~ state-wide association dedicated to the promotion of irrigated agriculture as a coordinating agency in the execution of the duties imposed by this chapter, and ~~((reimburse))~~ pay dues or assessments, or both, to the association from district expense funds ~~((in the annual district budgets for the costs of the services rendered))~~, and the several districts may levy assessments against the lands therein for this purpose. Such ~~((reimbursement))~~ dues and assessments shall be paid only on vouchers approved by the board of directors of the contributing district in the manner provided for the approval of district vouchers generally ~~((, and submitted to the proper county auditor for issuance of warrants thereon: The vouchers shall set forth the nature of the claim involved and shall be~~

signed by the claimant in the manner required by law)). The total of such voucher claims for any district in any calendar year shall not exceed two percent of the total amount or its equivalent of the expense fund levy of the district for that year.

Sec. 2. Section 1, chapter 41, Laws of 1949 as amended by section 1, chapter 202, Laws of 1951 and RCW 87.76.040 are each amended to read as follows:

To avoid duplication of effort the state association (~~(of irrigation districts)~~) may, in the discretion of its officers, affiliate and cooperate with other (~~(reclamation)~~) organizations and agencies engaged in the furthering of reclamation of lands in the state and make financial contributions to them for such purpose.

Passed the House February 2, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 125

[Substitute House Bill No. 232]

### WATER RIGHTS—NONRELINQUISHMENT OF WATER RIGHTS UNDER THE FEDERAL CONSERVATION RESERVE PROGRAM

AN ACT Relating to nonrelinquishment of water rights under the federal conservation reserve program; and amending RCW 90.14.140.

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

Sec. 1. Section 14, chapter 233, Laws of 1967 and RCW 90.14.140 are each amended to read as follows:

(1) For the purposes of ~~((this chapter))~~ RCW 90.14.130 through 90.14.180, "sufficient cause" shall be defined as the nonuse of all or a portion of the water by the owner of a water right for a period of five or more consecutive years where such nonuse occurs as a result of:

~~((1))~~ (a) Drought, or other unavailability of water;

~~((2))~~ (b) Active service in the armed forces of the United States during military crisis;

~~((3))~~ (c) Nonvoluntary service in the armed forces of the United States;

~~((4))~~ (d) The operation of legal proceedings;

~~((5))~~ (e) Federal laws imposing land or water use restrictions either directly or through the voluntary enrollment of a landowner in a federal program implementing those laws, or acreage limitations, or production quotas.

(2) Notwithstanding any other provisions of ~~((this chapter))~~ RCW 90.14.130 through 90.14.180, there shall be no relinquishment of any water right:

~~((1))~~ (a) If such right is claimed for power development purposes under chapter 90.16 RCW and annual license fees are paid in accordance with chapter 90.16 RCW, or

~~((2))~~ (b) If such right is used for a standby or reserve water supply to be used in time of drought or other low flow period so long as withdrawal or diversion facilities are maintained in good operating condition for the use of such reserve or standby water supply, or

~~((3))~~ (c) If such right is claimed for a determined future development to take place either within fifteen years of the effective date of this act, or the most recent beneficial use of the water right, whichever date is later, or

~~((4))~~ (d) If such right is claimed for municipal water supply purposes under chapter 90.03 RCW, or

~~((5))~~ (e) If such waters are not subject to appropriation under the applicable provisions of RCW 90.40.030 as now or hereafter amended.

Passed the House February 11, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 126

[House Bill No. 1027]

### TIMBER ON STATE LANDS—SALE OF DAMAGED TIMBER

AN ACT Relating to the sale of damaged timber from state lands; adding new sections to chapter 79.01 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 79.01 RCW to read as follows:

From time to time timber on state land is damaged by events such as fire, wind storms, and flooding. After such events the timber becomes very susceptible to loss of value and quality due to rot and disease. To obtain maximum value for the state, it is important to sell any damaged timber as fast as possible while providing ample protection for the physical environment and recognizing the sensitivity of removing timber from certain locations.

NEW SECTION. Sec. 2. A new section is added to chapter 79.01 RCW to read as follows:

When the department finds timber on state land that is damaged by fire, wind, flood, or from any other cause, it shall determine if the sale of

the damaged timber is in the best interest of the trust for which the land is held. If selling the timber is in the best interest of the trust, the department shall proceed to offer the timber for sale within a period not to exceed seven months from the date of first identifying the damaged timber. In determining if the sale is in the best interest of the trust the department shall consider the net value of the timber and relevant elements of the physical and social environment. If selling the timber is not in the best interest of the trust, the department shall not offer it for sale until such time as in the department's determination it is in the trust's best interest.

If elements of the physical or social environment extend the time required to prepare the timber for sale beyond seven months from the date of first identifying the damaged timber, the department shall prepare the timber for sale at the earliest time practicable.

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 16, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 127

[House Bill No. 255]

### MOTOR VEHICLE OWNERSHIP—LATE TRANSFER PENALTY ASSESSMENTS

AN ACT Relating to penalty assessments for late transfer of motor vehicle ownership; amending RCW 46.12.101; and prescribing penalties.

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

Sec. 1. Section 7, chapter 140, Laws of 1967 as last amended by section 1, chapter 39, Laws of 1984 and RCW 46.12.101 are each amended to read as follows:

A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1) If an owner transfers his or her interest in a vehicle, other than by the creation of a security interest, (~~he~~) the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and inscribe in ink the number of miles indicated on the odometer in the respective spaces provided therefor on the certificate or as the department prescribes, and cause the certificate and assignment to be transmitted to the transferee. Within five days the owner shall notify the department of the sale or transfer giving the date thereof, the name and address of the owner and of the

transferee, and such description of the vehicle as may be required in the appropriate form provided for that purpose by the department.

(2) Except as provided in RCW 46.12.120 the transferee shall within fifteen days after delivery to ~~((him))~~ the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department.

(3) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party ~~((under his security agreement))~~.

(4) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(5) If the purchaser or transferee fails or neglects to make application to transfer ~~((such))~~ the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle ~~((to him))~~, he or she shall on making application for transfer be assessed a twenty-five(= )dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars~~((: PROVIDED, That))~~. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

(a) The department requesting additional supporting documents;

(b) Extended hospitalization or illness of the purchaser;

(c) Failure of a legal owner to release his or her interest;

(d) Failure, negligence, or nonperformance of the department, auditor, or subagent.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor.

(6) Upon receipt of an application for ~~((the))~~ reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership ~~((and such))~~ or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit

the fees together with an itemized detailed report to the state treasurer, to be deposited in the motor vehicle fund.

(7) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place.

Passed the House March 6, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

CHAPTER 128

[House Bill No. 51]

WASHINGTON ESSENTIAL PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM—CONTINUATION AUTHORIZED

AN ACT Relating to property insurance; and amending RCW 48.58.010.

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

Sec. 1. Section 1, chapter 140, Laws of 1969 ex. sess. as amended by section 9, chapter 32, Laws of 1980 and RCW 48.58.010 are each amended to read as follows:

(1) The commissioner may reimburse the secretary of the department of housing and urban development under the provisions of Section 1223(a)(1) of the Urban Property Protection and Reinsurance Act of 1968 (Public Law 90-448) for losses reinsured by the secretary of the department of housing and urban development and occurring in this state on or after August 1, 1968. After receipt by the state treasurer of a statement requesting reimbursement from the secretary of the department of housing and urban development and upon certification promptly made by the commissioner of insurance, hereafter referred to as the commissioner, of the correctness of the amount thereof, the commissioner is hereby authorized to provide for an assessment upon insurers authorized to do business in this state in amounts sufficient to pay reimbursement to the secretary of the department of housing and urban development: PROVIDED, That the amount assessed each insurer shall be in the same proportion that the premiums written by each insurer in this state bear to the aggregate premiums written in this state by all insurance companies on those lines for which reinsurance was available in this state from the secretary of the department of housing and urban development during the preceding calendar year.

(2) In the event any insurer fails, by reason of insolvency, to pay any assessment as provided herein, the amount assessed each insurer, as computed under subsection (1) of this section, shall be immediately recalculated excluding therefrom the insolvent insurer so that its assessment is, in effect, assumed and redistributed among the remaining insurers.



(3) When assessments as provided herein are made, the individual insurer, after having paid the full amount assessed against the insurer, may deduct from future premium tax liabilities an amount not to exceed twenty percent per annum until such deductions equal the amount of the assessment levied against the insurer.

(4) This section shall cease to be of any force and effect upon termination of the Urban Property Protection and Reinsurance Act of 1968 (Public Law 90-448), except that obligations incurred pursuant to the provisions of this section shall not be impaired by the expiration of the same.

(5) Notwithstanding the termination of the Urban Property Protection and Reinsurance Act of 1968 (Public Law 90-448), the commissioner is authorized to continue in force the program developed in response to that act, the Washington essential property insurance inspection and placement program, in order to provide essential property insurance within the state where it cannot be obtained through the normal insurance market.

Passed the House February 2, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

---

## CHAPTER 129

[House Bill No. 699]

### PHYSICIAN LIMITED LICENSE PROVISIONS REVISED

AN ACT Relating to limited licenses for physicians; and reenacting and amending RCW 18.71.095.

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

Sec. 1. Section 1, chapter 189, Laws of 1959 as last amended by section 6, chapter 322, Laws of 1985 and by section 110, chapter 259, Laws of 1986 and RCW 18.71.095 are each reenacted and 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 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 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.

(4)(a) Upon nomination by the dean of the school of medicine at the University of Washington or the chief executive officer of a hospital or other appropriate health care facility licensed in the state of Washington, the board may issue a limited license to a physician applicant invited to serve as a teaching-research member of the institution's instructional staff if the sponsoring institution and the applicant give evidence that he or she has graduated from a recognized medical school and has been licensed or otherwise privileged to practice medicine at his or her location of origin. Such license shall permit the recipient to practice medicine only within the confines of the instructional program specified in the application and shall terminate whenever the holder ceases to be involved in that program, or at the end of one year, whichever is earlier. Upon request of the applicant and the institutional authority, the license may be renewed for no more than a total of two years.

(b) Upon nomination by the dean of the school of medicine of the University of Washington or the chief executive officer of any hospital or appropriate health care facility licensed in the state of Washington, the board may issue a limited license to an applicant selected by the sponsoring institution to be enrolled in one of its designated departmental or divisional fellowship programs provided that the applicant shall have graduated from

a recognized medical school and has been granted a license or other appropriate certificate to practice medicine in the location of the applicant's origin. Such license shall permit the holder only to practice medicine within the confines of the fellowship program to which he or she has been appointed and, upon the request of the applicant and the sponsoring institution, the license may be renewed by the board for a total period of time not to exceed two calendar years.

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 chapters 18.72 and 18.130 RCW.

Persons applying for licensure pursuant to this section shall pay an application fee 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. Any person who obtains a limited license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter.

Passed the House March 12, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 130

[Substitute House Bill No. 147]

### CREDIT INSURANCE

AN ACT Relating to credit insurance; and amending RCW 48.34.060.

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

Sec. 1. Section 6, chapter 219, Laws of 1961 as last amended by section 23, chapter 32, Laws of 1983 1st ex. sess. and RCW 48.34.060 are each amended to read as follows:

The initial amount of credit life insurance under a group policy shall at no time exceed the amount owed by the debtor which is repayable in installments to the creditor (~~((nor shall the amount repayable under the contract of indebtedness extend over a period in excess of ten years))~~).

Passed the House February 9, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

CHAPTER 131

[House Bill No. 1204]

SENTENCING—EXCEPTIONAL SENTENCES—ONGOING PATTERN OF SEXUAL ABUSE

AN ACT Relating to establishing multiple incidents of sexual abuse as an aggravating circumstance for an exceptional sentence; and amending RCW 9.94A.370 and 9.94A.390.

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

Sec. 1. Section 8, chapter 115, Laws of 1983 as last amended by section 26, chapter 257, Laws of 1986 and RCW 9.94A.370 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The additional time for deadly weapon findings shall be added to the entire presumptive sentence range. The court may impose any sentence within the range that it deems appropriate. All presumptive sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing. Acknowledgement includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the presumptive sentence range except upon stipulation or when specifically provided for in RCW 9.94A.390(2) (c) ~~((and))~~, (d), and (e).

Sec. 2. Section 10, chapter 115, Laws of 1983 as last amended by section 27, chapter 257, Laws of 1986 and RCW 9.94A.390 are each amended to read as follows:

If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

## (2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(d) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(iii) The current offense involved the manufacture of controlled substances for use by other parties; or

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

(e) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time; or

(f) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

Passed the House March 20, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 132

[House Bill No. 31]

### INSURERS—ANNUAL FILING AND FEE TO THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AN ACT Relating to insurance; and adding a new section to chapter 48.05 RCW.

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:

(1) Each domestic, foreign, and alien insurer that is authorized to transact insurance in this state shall annually, on or before March 1 of each year, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with such additional filings as prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurate page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with

the commissioner shall also be filed with the National Association of Insurance Commissioners.

(2) Coincident with the filing of its annual statement convention blank and other filings, each such insurer shall pay a reasonable fee directly to the National Association of Insurance Commissioners in an amount approved by the commissioner to cover the costs associated with the analysis of the annual statement convention blank.

(3) Foreign insurers that are domiciled in a state which has a law substantially similar to subsection (1) of this section shall be considered to be in compliance with this section.

(4) In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, National Association of Insurance Commissioners employees, and all other persons charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks shall be acting as agents of the commissioner under the authority of this section and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected for the filings required under this section.

(5) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of any insurer failing to file its annual statement or pay the fees when due or within any extension of time which the commissioner, for good cause, may have granted.

Passed the House February 2, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

---

## CHAPTER 133

[House Bill No. 658]

### PRECINCT CANDIDATES—FILING PROCEDURES

AN ACT Relating to filing for the office of precinct committeeman; amending RCW 29.18.030 and 29.42.040; and adding a new section to chapter 29.18 RCW.

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

Sec. 1. Section 29.18.030, chapter 9, Laws of 1965 as last amended by section 3, chapter 142, Laws of 1984 and RCW 29.18.030 are each amended to read as follows:

Each candidate who desires to have his or her name printed on the ballot at a primary, a special election, or a general election for any office other than president of the United States, vice president of the United

States, precinct committeeman, or an office in a jurisdiction where ownership of property is a prerequisite to voting shall execute and file a declaration and affidavit of candidacy in substantially the following form:

DECLARATION AND AFFIDAVIT OF CANDIDACY

State of Washington }  
County of ..... } ss.

I, ....., hereby swear, or affirm:

(1) That I am a registered voter residing at ..... (street and number, or rural route) ....., ..... (city or town) ....., ..... county, state of Washington ..... (ZIP code) .....

(2) That, at the time of filing this declaration and affidavit, I am legally qualified to assume office if elected;

(3) That I hereby declare myself to be a candidate for nomination to the office of: .....

(4) For the following term of office:  a full term or a full term and short term or  an unexpired term;

(5) At the primary election to be held on the ..... day of .....

(6) That this office is:  nonpartisan, or  partisan and I request that my name be printed upon the ballots  as a candidate of the ..... party, or  an independent candidate nominated under chapter 29.24 RCW; and

(7) That  there is no filing fee because the office is without a fixed annual salary, or  I accompany herewith the sum of ..... dollars, the fee required by law for becoming a candidate, or  I am without sufficient assets or income to pay the fee required by law and I have attached a nominating petition in lieu of this fee.

I further swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

.....  
(Please print name as name to appear upon ballot) (Signature of candidate)

Subscribed and sworn to before me this ..... day of ....., 19...

.....  
(Signature of official)  
.....  
(Official title)



NEW SECTION. Sec. 2. A new section is added to chapter 29.18 RCW to read as follows:

Each candidate who desires to have his or her name printed on the ballot at a primary, a special election, or a general election for the office of precinct committeeman shall execute and file a declaration of candidacy in substantially the following form:

**DECLARATION OF CANDIDACY  
FOR PRECINCT COMMITTEEMAN**

State of Washington }  
County of ..... } ss.

I, ....., hereby declare under penalty of perjury under the laws of the state of Washington:

(1) That I am a registered voter residing at ..... (street and number, or rural route) ....., ..... (city or town) ....., ..... county, state of Washington ..... (ZIP code) .....

(2) That, at the time of filing this declaration and affidavit, I am legally qualified to assume office if elected;

(3) That I hereby declare myself to be a candidate for nomination to the office of precinct committeeman;

(4) For the following term of office:  a full term or a full term and short term or  an unexpired term;

(5) At the primary election to be held on the ..... day of ....., .....

(6) That this office is partisan and I request that my name be printed upon the ballots as a candidate of the ..... party; and

(7) That  I accompany herewith the sum of one dollar, the fee required by law for becoming a candidate, or  I am without sufficient assets or income to pay the fee required by law and I have attached a nominating petition in lieu of this fee.

I further declare under penalty of perjury, that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

Signed at   (city)  ,   (state)  , on the ... day of ....., 19...

.....  
(Please print name as name to appear upon ballot) (Signature of candidate)

Sec. 3. Section 29.42.040, chapter 9, Laws of 1965 as amended by section 6, chapter 4, Laws of 1973 and RCW 29.42.040 are each amended to read as follows:

Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his declaration of candidacy as prescribed by section 2 of this act with the county auditor for the office of precinct committeeman of his party in that precinct. When elected he shall serve so long as he remains an eligible voter in that precinct and until his successor has been elected at the next ensuing state general election in the even-numbered year.

- Passed the House March 12, 1987.
Passed the Senate April 9, 1987.
Approved by the Governor April 21, 1987.
Filed in Office of Secretary of State April 21, 1987.

CHAPTER 134
[House Bill No. 671]
NEW CONSTRUCTION—TIME PERIOD FOR PLACEMENT ON THE ASSESSMENT ROLLS REVISED

AN ACT Relating to the placement of new construction on the assessment rolls; amending RCW 36.21.070 and 36.21.090; and declaring an emergency.

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

Sec. 1. Section 36.21.070, chapter 4, Laws of 1963 and RCW 36.21-.070 are each amended to read as follows:

Upon receipt of such copy, the county assessor shall, within ((six)) twelve months of the date of issue of such permit, proceed to make a physical appraisal of the building or buildings covered by the permit.

Sec. 2. Section 7, chapter 22, Laws of 1977 ex. sess. and RCW 36.21-.090 are each amended to read as follows:

When any mobile home first becomes subject to assessment for property taxes in this state, the county assessor is authorized to place the mobile home on the assessment rolls for purposes of tax levy up to ((May)) August

31st of each year. The assessed valuation of the mobile home shall be considered as of the (~~April 30th~~) July 31st immediately preceding the date that the mobile home is placed on the assessment roll.

**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, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 21, 1987.

Filed in Office of Secretary of State April 21, 1987.

## CHAPTER 135

[Substitute Senate Bill No. 5312]

### STATE PATROL—COLLECTIVE BARGAINING

AN ACT Relating to collective bargaining; amending RCW 41.56.020 and 41.56.030; and adding a new section to chapter 41.56 RCW.

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

Sec. 1. Section 2, chapter 108, Laws of 1967 ex. sess. as last amended by section 107, chapter 7, Laws of 1985 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 54.04.170, 54.04.180, and chapters 41.59, 47.64, and 53.18 RCW. The Washington state patrol shall be considered a public employer of state patrol officers appointed under RCW 43.43.020.

Sec. 2. Section 3, chapter 108, Laws of 1967 ex. sess. as last amended by section 1, chapter 150, Laws of 1984 and RCW 41.56.030 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to

statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter. In the case of the Washington state patrol, "collective bargaining" shall not include wages and wage-related matters.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of any county of the second class or larger, or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended.

NEW SECTION. Sec. 3. 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, 41.56.440, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator shall not consider wages and wage-related matters.

(2) The services of the mediator, including any per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this section shall be construed to prohibit the public employer and a bargaining representative from agreeing to substitute at their own expense some other mediator or mediation procedure.

(3) If the public employer and a bargaining representative are unable to reach an agreement in mediation, either party, by written notice to the other party and to the commission, may request that the matters in dispute be submitted to a fact-finder for recommendations. If the executive director, upon the recommendation of the mediator, finds that the parties remain at an impasse after a reasonable period of negotiations, the executive director shall initiate fact-finding proceedings.

(a) The executive director shall provide the parties with a list of five persons qualified to serve as the neutral fact-finder. The parties shall without delay attempt to agree upon a fact-finder from the list provided by the commission or to agree upon some other person as a fact-finder. Upon the failure of the parties to agree upon a fact-finder within seven days after the issuance of the list, the commission shall, upon the request of either party, appoint a fact-finder. The commission shall not appoint as fact-finder the same person who acted as mediator in the dispute.

(b) The fact-finder shall promptly establish a date, time, and place to meet with the representatives of the parties and shall provide reasonable notice of the meeting to the parties to the dispute. The requirements of chapter 34.04 RCW shall not apply to fact-finding proceedings. The fact-finder shall make inquiries and investigations, hold hearings, and take such other steps as he or she deems appropriate. The fact-finder may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

(c) The fact-finder shall, within thirty days following the conclusion of the hearing, make written findings of fact and written recommendations to the parties as to how their dispute should be resolved. A copy shall be delivered or mailed to each of the parties to the dispute. A copy shall be filed with the commission. The findings and recommendations of the fact-finder are advisory only.

(d) The findings and recommendations of the fact-finder shall be held in confidence among the fact-finder, the public employer, the bargaining representative, and the commission for seven calendar days following their issuance, to permit the public employer and the bargaining representative to study the recommendations. No later than seven calendar days following the issuance of the recommendations of the fact-finder, each party shall notify the commission and the other party whether it accepts or rejects, in whole or in part, the recommendations of the fact-finder. If the parties remain in disagreement following the expiration of the seven-day period, the findings and recommendations of the fact-finder may be made public.

(e) The fees and expenses of the fact-finder shall be paid by the parties to the dispute, in equal amounts. All other costs of the proceeding shall be paid by the party incurring those costs. Nothing in this section prohibits an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, some other impasse procedure or from agreeing to some other allocation of the costs of fact-finding between them.

**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 February 26, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 136

[Substitute House Bill No. 424]

### SCHOOL DISTRICT EMPLOYEES'—PUBLIC EMPLOYEES' RETIREMENT SYSTEM CREDIT REQUIREMENTS REVISED

AN ACT Relating to service credit of school district employees; and amending RCW 41.40.450.

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

Sec. 1. Section 1, chapter 23, Laws of 1973 as amended by section 2, chapter 69, Laws of 1983 and RCW 41.40.450 are each amended to read as follows:

(1) Notwithstanding any other law, or rule or regulation of the director, any member employed by the school district who is actually employed by the district on a continuous nine month basis and who earns at least nine months of service credit under RCW 41.40.010(9) during the school district's fiscal year shall receive credit for twelve months of service.

(2) The provisions of subsection (1) of this section shall be effective on a retroactive basis for all members who retire after the effective date of this 1987 act.

Passed the House March 13, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 137

[House Bill No. 1180]

### HIGHER EDUCATION RESIDENCY REQUIREMENTS—RESIDENCY GRANTED FOR CERTAIN OUT-OF-STATE STUDENTS WHO ATTENDED AN IN-STATE HIGH SCHOOL

AN ACT Relating to residency requirements for students who have attended Washington high schools recently; and amending RCW 28B.15.012.

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

Sec. 1. Section 2, chapter 273, Laws of 1971 ex. sess. as last amended by section 62, chapter 370, Laws of 1985 and RCW 28B.15.012 are each amended to read as follows:

Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean: (a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational; (b) a dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution; ((or)) (c) a student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous; or (d) any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended. A nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service and who does not also meet and comply with all the applicable requirements in RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require.

Passed the House March 18, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 138

[Engrossed Substitute House Bill No. 298]

### LOCAL GOVERNMENT JUNIOR TAXING DISTRICTS—WITHDRAWAL AND REANNEXATION OF AREAS—TEMPORARY VOTER-APPROVED INCREASE IN REGULAR PROPERTY TAX AUTHORIZED—COUNTY ASSESSORS TO REPORT TO REVENUE DEPARTMENT ON STANDARDIZED FORMS

AN ACT Relating to local government; adding a new section to chapter 27.12 RCW; adding a new section to chapter 35.61 RCW; adding a new section to chapter 36.21 RCW; adding a new section to chapter 52.04 RCW; adding a new section to chapter 70.44 RCW; adding a new section to chapter 84.09 RCW; adding a new section to chapter 84.52 RCW; adding a new section to chapter 84.55 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 27.12 RCW to read as follows:

(1) As provided in this section, a rural county library district, island library district, or intercounty rural library district may withdraw areas from its boundaries, or reannex areas into the library district that previously had been withdrawn from the library district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the board of trustees requesting the withdrawal and finding that, in the opinion of the board, inclusion of this area within the library district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the



city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The authority of an area to be withdrawn from a library district as provided under this section is in addition, and not subject, to the provisions of RCW 27.12.380.

The withdrawal of an area from the boundaries of a library district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the library district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a library district under this section may be reannexed into the library district upon: (a) Adoption of a resolution by the board of trustees proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date specified in RCW 29.13-.030 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**NEW SECTION.** Sec. 2. A new section is added to chapter 35.61 RCW to read as follows:

(1) As provided in this section, a metropolitan park district may withdraw areas from its boundaries, or reannex areas into the metropolitan park

district that previously had been withdrawn from the metropolitan park district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the park district commissioners requesting the withdrawal and finding that, in the opinion of the commissioners, inclusion of this area within the metropolitan park district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The withdrawal of an area from the boundaries of a metropolitan park district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the metropolitan park district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a metropolitan park district under this section may be reannexed into the metropolitan park district upon: (a) Adoption of a resolution by the park district commissioners proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the

voters of the area at the next special election date specified in RCW 29.13-.030 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**NEW SECTION.** Sec. 3. A new section is added to chapter 52.04 RCW to read as follows:

(1) As provided in this section, a fire protection district may withdraw areas from its boundaries, or reannex areas into the fire protection district that previously had been withdrawn from the fire protection district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the board of fire commissioners requesting the withdrawal and finding that, in the opinion of the board, inclusion of this area within the fire protection district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The authority of an area to be withdrawn from a fire protection district as provided under this section is in addition, and not subject, to the provisions of RCW 52.04.101.

The withdrawal of an area from the boundaries of a fire protection district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the fire protection district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a fire protection district under this section may be reannexed into the fire protection district upon: (a) Adoption of a resolution by the board of fire commissioners proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling

for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date specified in RCW 29.13-.030 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**NEW SECTION.** Sec. 4. A new section is added to chapter 70.44 RCW to read as follows:

(1) As provided in this section, a public hospital district may withdraw areas from its boundaries, or reannex areas into the public hospital district that previously had been withdrawn from the public hospital district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the hospital district commissioners requesting the withdrawal and finding that, in the opinion of the commissioners, inclusion of this area within the public hospital district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The withdrawal of an area from the boundaries of a public hospital district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the public hospital district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a public hospital district under this section may be reannexed into the public hospital district upon: (a) Adoption of a resolution by the hospital district commissioners proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The

reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date specified in RCW 29.13-.030 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**NEW SECTION.** Sec. 5. A new section is added to chapter 84.09 RCW to read as follows:

Notwithstanding the provisions of RCW 84.09.030, the boundaries of a library district, metropolitan park district, fire protection district, or public hospital district that withdraws an area from its boundaries pursuant to section 1, 2, 3, or 4 of this act, which area has boundaries that are coterminous with the boundaries of a taxing district, shall be established as of the first day of October in the year in which the area is withdrawn.

**NEW SECTION.** Sec. 6. A new section is added to chapter 84.55 RCW to read as follows:

Whenever a withdrawal occurs under section 1, 2, 3, or 4 of this act, restrictions under chapter 84.55 RCW on the taxes due for the library district, metropolitan park district, fire protection district, or public hospital district, and restrictions under chapter 84.55 RCW on the taxes due for the city or town if an entire city or town area is withdrawn from a library district or fire protection district, shall be calculated as if the withdrawn area had not been part of the library district, metropolitan park district, fire protection district, or public hospital district, and as if the library district or fire protection district had not been part of the city or town.

**NEW SECTION.** Sec. 7. A new section is added to chapter 84.52 RCW to read as follows:

(1) The governing body of any library district, public hospital district, metropolitan park district, or fire protection district may provide for the submission of a ballot proposition to the voters of the taxing district authorizing the taxing district to maintain its otherwise authorized tax levy

rate, and authorizing an increase in the cumulative regular property tax limitation of nine dollars and fifteen cents per thousand dollars of assessed valuation within the taxing district, as provided in this section. A fire protection district may use this authority to increase its regular property tax levy up to fifty cents per thousand dollars of assessed valuation.

(2) A resolution by a governing body, requesting that a special election be called to submit such a ballot proposition to the voters, must be transmitted to the county legislative authority of the county, or county legislative authorities of the counties, within which the taxing district is located, at least forty-five days before the special election date at which the ballot proposition is submitted. The ballot proposition shall be worded substantially as follows:

"Shall the cumulative limitation on most regular property tax rates be increased by an amount not exceeding thirty-five cents per thousand dollars of assessed valuation for a five consecutive year period allowing (insert the name of the taxing district) to maintain its otherwise authorized property tax rate?"

The ballot proposition for a fire protection district shall be worded substantially as follows:

"Shall the cumulative limitation on most regular property tax rates be increased by an amount not exceeding thirty-five cents per thousand dollars of assessed valuation for a five consecutive year period allowing (insert the name of the taxing district) to permit the fire protection district to impose its property tax at a value up to fifty cents per thousand dollars of assessed valuation?"

Approval of this ballot proposition by a simple majority vote shall authorize the following for the succeeding five consecutive year period: (a) Property tax rates of junior taxing districts are calculated first as if this proposition had not been approved; (b) subject to the one hundred six percent limitation, the regular property tax rate of the taxing district receiving such authorization is increased to a level not exceeding the lesser of its maximum authorized regular property tax rate or whatever tax rate it otherwise would have been able to impose plus an additional thirty-five cents per thousand dollars of assessed valuation; and (c) the cumulative property tax rate limitation is increased within the boundaries of the taxing district receiving this authorization to an amount equal to nine dollars and fifteen cents per thousand dollars of assessed valuation plus the increased amount of the regular levy rate of this taxing district, but not to exceed nine dollars and fifty cents per thousand dollars of assessed valuation.

(3) If two or more taxing districts that occupy a portion of the same territory receive such approval, the additional authorized taxing capacity above nine dollars and fifteen cents per thousand dollars of assessed valuation shall be distributed among these taxing districts by adjusting their levy rate requests in the same manner and under the same conditions as if they

were the only taxing districts in the area subject to adjustment of their property tax rates and the levy rate adjustments were being made with the cumulative limitation of nine dollars and fifteen cents per thousand dollars of assessed valuation.

(4) Levies authorized under RCW 84.52.069 are not subject to the rate adjustments and the nine dollar and fifty cent per thousand dollar of assessed valuation cumulative limitation on regular property tax rates established by this section.

**NEW SECTION.** Sec. 8. A new section is added to chapter 36.21 RCW to read as follows:

Every county assessor shall report to the department of revenue on the property tax levies and related matters within the county annually at a date and in a form prescribed by the department of revenue.

**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 19, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 139

[House Bill No. 66]

### PEARL BARLEY PROCESSING—BUSINESS AND OCCUPATION TAX RATE REDUCED

AN ACT Relating to the business and occupation taxation of the manufacture of barley into pearl barley; and reenacting and amending RCW 82.04.260.

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

Sec. 1. Section 5, chapter 3, Laws of 1983 2nd ex. sess. as amended by section 2, chapter 135, Laws of 1985 and by section 1, chapter 471, Laws of 1985 and RCW 82.04.260 are each reenacted and 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, barley into pearl barley, 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, pearl barley, 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 twenty-five one-hundredths of one percent through June 30, 1986, and one-eighth of one percent thereafter.

(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 43.200 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 16, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 140

[Substitute House Bill No. 508]

### ACCESS DEVICE CRIMES—CREDIT CARD REDEFINED AS ACCESS DEVICE

AN ACT Relating to credit card fraud; amending RCW 9A.56.010, 9A.56.040, 9A.56.140, 9A.56.160, and 9A.60.010; and prescribing penalties.

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

Sec. 1. Section 9A.56.010, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 257, Laws of 1986 and RCW 9A.56.010 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) (~~"Credit card"~~) "Access device" means any (~~instrument or device, whether incomplete, revoked, or expired, whether known as a credit~~) card, (~~credit~~) plate, (~~charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining~~) code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, (including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer) or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where such use is unauthorized by the partnership agreement;

(8) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of

equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(13) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(14) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

Sec. 2. Section 9A.56.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 15, chapter 47, Laws of 1982 1st ex. sess. and RCW 9A.56.040 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he commits theft of:

(a) Property or services which exceed(s) two hundred and fifty dollars in value, but does not exceed one thousand five hundred dollars in value; or

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or

(c) ~~((A credit card))~~ An access device; or

(d) A motor vehicle, of a value less than one thousand five hundred dollars; or

(e) A firearm, of a value less than one thousand five hundred dollars.

(2) Theft in the second degree is a class C felony.

Sec. 3. Section 9A.56.140, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.56.140 are each amended to read as follows:

(1) "Possessing stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

(2) The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

(3) When a person not an issuer or agent thereof has in his possession or under his control stolen ~~((credit cards))~~ access devices issued in the names of two or more persons, he shall be presumed to know that they are stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen ~~((credit cards))~~ access devices was without knowledge that they were stolen.

Sec. 4. Section 9A.56.160, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.56.160 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the second degree if:

(a) He possesses stolen property which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He possesses a stolen ~~((credit card))~~ access device; or

(d) He possesses a stolen motor vehicle of a value less than one thousand five hundred dollars; or

(e) He possesses a stolen firearm.

(2) Possessing stolen property in the second degree is a class C felony.

Sec. 5. Section 9A.60.010, chapter 260, Laws of 1975 1st ex. sess. as amended by section 12, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.60.010 are each amended to read as follows:

The following definitions and the definitions of RCW 9A.56.010 are applicable in this chapter unless the context otherwise requires:

(1) "Written instrument" means: (a) Any paper, document, or other instrument containing written or printed matter or its equivalent; or (b) any (~~credit card~~) access device, as defined in RCW 9A.56.010(3), token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification;

(2) "Complete written instrument" means one which is fully drawn with respect to every essential feature thereof;

(3) "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument;

(4) To "falsely make" a written instrument means to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, he did not authorize the making or drawing thereof;

(5) To "falsely complete" a written instrument means to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it;

(6) To "falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner;

(7) "Forged instrument" means a written instrument which has been falsely made, completed or altered.

Passed the House March 12, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 141

[House Bill No. 827]

### SCHOOL DISTRICT PUPIL TRANSPORTATION CONTRACTS

AN ACT Relating to pupil transportation contracts; amending RCW 28A.58.131; and adding a new section to chapter 28A.58 RCW.

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

Sec. 1. Section 1, chapter 210, Laws of 1977 ex. sess. as last amended by section 93, chapter 7, Laws of 1985 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.58.099 and 28A.67.070.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.58 RCW to read as follows:

As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district engages in an open competitive process at least once every five years after the effective date of this section. As used in this section:

(1) "Open competitive process" means either one of the following, at the choice of the school district:

(a) The solicitation of bids or quotations and the award of contracts under RCW 28A.58.135; or

(b) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;

(2) "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and

their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; and

(3) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction.

**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 House March 13, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 142

[Substitute House Bill No. 585]

### RESIDENCY MODIFIED FOR VEHICLE LICENSE REGISTRATION PURPOSES— LICENSE PLATE REQUIREMENTS REVISED

AN ACT Relating to motor vehicle registration requirements; amending RCW 46.16.028, 46.16.240, and 46.85.060; and adding a new section to chapter 46.16 RCW.

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

Sec. 1. Section 1, chapter 353, Laws of 1985 as amended by section 2, chapter 186, Laws of 1986 and RCW 46.16.028 are each amended to read as follows:

(1) For the purposes of vehicle license registration, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes but is not limited to:

~~(a) Owns a vehicle that is licensable under this chapter and that is physically present in the state of Washington more than six months in any continuous twelve-month period; or~~

~~(b) Resides in this state more than six months in any continuous twelve-month period; or~~

~~(c) Becomes))~~ Becoming a registered voter in this state; or

~~((d) Receives))~~ (b) Receiving benefits under one of the Washington public assistance programs; or

~~((e) Declares himself to be))~~ (c) Declaring that he or she is a resident for the purpose of obtaining a state license or tuition fees at resident rates.

(2) The term "Washington public assistance programs" referred to in subsection (1)(b) of this section includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within



the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and aid to families with dependent children, 42 U.S.C. Secs. 601 through 606.

(3) A resident of the state shall register under chapters 46.12 and 46.16 RCW a vehicle to be operated on the highways of the state. New Washington residents shall be allowed thirty days from the date they become residents as defined in this section to procure Washington registration for their vehicles. This thirty-day period shall not be combined with any other period of reciprocity provided for in this chapter or chapter 46.85 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 46.16 RCW to read as follows:

It is unlawful to purchase a vehicle bearing foreign license plates without removing and destroying the plates unless (1) the out-of-state vehicle is sold to a Washington resident by a resident of a jurisdiction where the license plates follow the owner or (2) the out-of-state plates may be returned to the jurisdiction of issuance by the owner for refund purposes or (3) for such other reasons as the department may deem appropriate by rule.

Sec. 3. Section 46.16.240, chapter 12, Laws of 1961 as last amended by section 10, chapter 170, Laws of 1969 ex. sess. and RCW 46.16.240 are each amended to read as follows:

The vehicle license number plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued and in such a manner that they can be plainly seen and read at all times: PROVIDED, That if only one license number plate is legally issued for any vehicle such plate shall be conspicuously attached to the rear of such vehicle. Each vehicle license number plate shall be placed or hung in a horizontal position at a distance of not less than one foot nor more than four feet from the ground and shall be kept clean so as to be plainly seen and read at all times: PROVIDED, HOWEVER, That in cases where the body construction of the vehicle is such that compliance with this section is impossible, permission to deviate therefrom may be granted by the state commission on equipment. It shall be unlawful to display upon the front or rear of any vehicle, vehicle license number plate or plates other than those furnished by the director for such vehicle or to display upon any vehicle any vehicle license number plate or plates which have been in any manner changed, altered, disfigured or have become illegible. License plate frames may be used on vehicle license number plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the plates can be plainly seen and read at all times. It is unlawful to use any holders, frames, or any materials that in any manner change, alter, or make the vehicle license number plates illegible. It shall be unlawful for any person to operate any vehicle unless

there shall be displayed thereon valid vehicle license number plates attached as herein provided.

Sec. 4. Section 6, chapter 106, Laws of 1963 as last amended by section 3, chapter 353, Laws of 1985 and RCW 46.85.060 are each amended to read as follows:

In the absence of an agreement or arrangement with another jurisdiction, the department may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits and privileges to be extended to vehicles properly registered or licensed in such other jurisdiction, or to the owners of such vehicles, which shall, in the judgment of the department, be in the best interest of this state and the citizens thereof and which 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. Declarations of exemptions, benefits, and privileges issued by the department shall include at least the following exemptions:

(1) Nonresident persons not employed in this state may operate a vehicle in this state that is currently licensed in another jurisdiction for a period not to exceed ~~((one hundred eighty days in a calendar year, but a nonresident person employed in Washington for more than one hundred eighty days may operate a vehicle licensed in another jurisdiction as long as no permanent, temporary, or part-time residence is maintained in this state))~~ six months in any continuous twelve-month period.

(2) ~~Nonresident ((salespersons based at a location outside Washington are permitted to))~~ persons employed in this state may operate vehicles not to exceed twelve thousand pounds registered gross vehicle weight that are currently licensed in another jurisdiction if no permanent, temporary, or part-time residence is maintained in this state ((without registration)) for a period greater than six months in any continuous twelve-month period.

(3) A vehicle or a combination of vehicles, not exceeding a registered gross or combined gross vehicle weight of twelve thousand pounds, which is properly base licensed in another jurisdiction~~((;))~~ and ~~((used for business purposes in this state))~~ registered to a bona fide business in that jurisdiction is not required to obtain Washington vehicle license registration except when such vehicle is owned or operated by a business or branch office of a business located in Washington.

(4) The department of licensing, after consultation with the department of revenue, shall adopt such rules as it deems necessary for the administration of these exemptions, benefits, and privileges.

Passed the House March 12, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 143

[House Bill No. 1067]

PUBLIC RETIREMENT ALLOWANCES—ACTUARIALLY EQUIVALENT OPTIONS  
REVISED

AN ACT Relating to actuarially equivalent options for public retirement allowances; and amending RCW 41.32.498, 41.40.185, and 41.40.190.

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

Sec. 1. Section 3, chapter 189, Laws of 1973 1st ex. sess. as amended by section 4, chapter 199, Laws of 1974 ex. sess. and RCW 41.32.498 are each amended to read as follows:

Any person who becomes a member subsequent to April 25, 1973 or who has made the election, provided by RCW 41.32.497, to receive the benefit provided by this section, shall receive a retirement allowance consisting of:

(1) An annuity which shall be the actuarial equivalent of his additional contributions on full salary as provided by chapter 274, Laws of 1955 and his lump sum payment in excess of the required contribution rate made at date of retirement, pursuant to RCW 41.32.350, if any; and

(2) A combined pension and annuity service retirement allowance which shall be equal to two percent of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system, to a maximum of sixty percent of such average earnable compensation: **PROVIDED**, That any member may irrevocably elect, at time of retirement, to withdraw all or a part of his accumulated contributions and to receive, in lieu of the full retirement allowance provided by this subsection, a reduction in the standard two percent allowance, of the actuarially determined amount of monthly annuity which would have been purchased by said contributions: **PROVIDED FURTHER**, That no member may withdraw an amount of accumulated contributions which would lower his retirement allowance below the minimum allowance provided by RCW 41.32.497 as now or hereafter amended: **AND PROVIDED FURTHER**, That said reduced amount may be reduced even further pursuant to the options provided in subsection (4) below;

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the retirement allowance payable for service of a member who was state superintendent of public instruction on January 1, 1973 shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service for each year of such service.

(4) Upon an application for retirement approved by the board of trustees every member shall receive the maximum retirement allowance available to him throughout life unless prior to the time the first installment

thereof becomes due he has elected to receive the reduced amount provided in subsection (2) and/or has elected by executing the proper application therefor, to receive the actuarial equivalent of his retirement allowance in reduced payments throughout his life, with the options listed below:

(a) Option 1. If he dies before he has received the present value of his accumulated contributions at the time of his retirement by virtue of the annuity portion of his retirement allowance, the unpaid balance shall be paid to his estate or to such person as he shall have nominated by written designation executed and filed with the board of trustees.

(b) Option 2. Upon his death his adjusted retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the board of trustees at the time of his retirement.

(c) Option 3. Upon his death one-half of his adjusted retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation executed and filed with the board of trustees at the time of his retirement.

(d) Option 4. In addition to the other options provided under this subsection, the member may also elect to receive a retirement allowance based on options 1, 2, or 3 which also includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to options 1, 2, and 3 as provided in this subsection.

Sec. 2. Section 5, chapter 151, Laws of 1972 ex. sess. as amended by section 8, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.185 are each amended to read as follows:

Upon retirement from service, as provided for in RCW 41.40.180 or 41.40.210, a member shall be eligible for a service retirement allowance computed on the basis of the law in effect at the time of retirement, together with such post-retirement pension increases as may from time to time be expressly authorized by the legislature. The service retirement allowance payable to members retiring on and after February 25, 1972 shall consist of:

(1) An annuity which shall be the actuarial equivalent of his additional contributions made pursuant to RCW 41.40.330(2).

(2) A membership service pension, subject to the provisions of subsection (4) of this section, which shall be equal to two percent of his average final compensation for each year or fraction of a year of membership service.

(3) A prior service pension which shall be equal to one-seventieth of his average final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his service accounts. In no event, except as provided in this 1972 amendatory act, shall any member receive a retirement allowance pursuant to subsections (2) and (3) of this

section of more than sixty percent of his average final compensation: PROVIDED, That no member shall receive a pension under this section of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit.

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected to the office of state senator or state representative.

(5) Upon making application for a service retirement allowance under RCW 41.40.180, a member who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(a) Standard Allowance. A member selecting this option shall receive a retirement allowance, which shall be computed as provided in subsections (1), (2) and (3) of this section. The retirement allowance shall be payable throughout his life. However, if he dies before the total of the retirement allowance paid to him equals the amount of his accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board, or if there be no such designated person or persons, still living at the time of his death, then to his surviving spouse, or if there be neither such designated person or persons still living at the time of his death nor a surviving spouse, then to his legal representative.

(b) Option II. A member who selects this option shall receive a reduced retirement allowance which upon his death shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board at the time of his retirement.

(c) Option III. A member who selects this option shall receive a reduced retirement allowance and upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board at the time of his retirement.

(d) In addition to the other options provided under this subsection, the member may also elect to receive a standard allowance, an option II allowance, or an option III allowance, which includes the benefit provided under RCW 41.40.640. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the options offered in (a), (b), and (c) of this subsection.

Sec. 3. Section 20, chapter 274, Laws of 1947 as last amended by section 9, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.190 are each amended to read as follows:

In lieu of the retirement allowance provided in RCW 41.40.185, an individual employed on or before April 25, 1973 may, after complying with RCW 41.40.180 or 41.40.210, make an irrevocable election to receive the retirement allowance provided by this section which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(2) A basic service pension of one hundred dollars per annum; and

(3) A membership service pension, subject to the provisions of subdivision (4) of this section, which shall be equal to one one-hundredth of his average final compensation for each year or fraction of a year of membership service credited to his service account; and

(4) A prior service pension which shall be equal to one-seventieth of his average final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his service accounts. In no event shall any original member upon retirement at age seventy with ten or more years of service credit receive less than nine hundred dollars per annum as a retirement allowance, nor shall any member upon retirement at any age receive a retirement allowance of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit. In the event that the retirement allowance as to such member provided by subdivisions (1), (2), (3), and (4) hereof shall amount

to less than the aforesaid minimum retirement allowance, the basic service pension of the member shall be increased from one hundred dollars to a sum sufficient to make a retirement allowance of the applicable minimum amount.

(5) Notwithstanding the provisions of subsections (1) through (4) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected under the provisions of Article II of the Washington state Constitution.

(6) Upon making application for a service retirement allowance under RCW 41.40.180, a member who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(a) Option IA. A member electing this option shall receive a retirement allowance payable throughout his life only with termination at death, which shall be computed as provided for in subsections (1) through (4) or (5) of this section.

(b) Option I. If he dies before the total of the annuity portions of the retirement allowance paid to him equals the amount of his accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board, or if there be no such designated person or persons, still living at the time of his death, then to his surviving spouse, or if there be neither such designated person or persons still living at the time of his death nor a surviving spouse, then to his legal representative; or

(c) Option II. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board at the time of his retirement. Unless payment shall be made under RCW 41.40.270, option II shall automatically be given effect as if selected for the benefit of the surviving spouse upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified for a service retirement allowance or has completed ten years of service at the time of death, except that if the member is not then qualified for a service retirement allowance, such option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance; or

(d) Option III. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board at the time of his retirement.

(e) In addition to the other options provided under this subsection, the member may also elect to receive a retirement allowance based on options IA, I, II, or III, which includes the benefit provided under RCW 41.40.640. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the options offered in (a), (b), (c), and (d) of this subsection.

Passed the House March 13, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 144

[Engrossed House Bill No. 235]

PRESCRIPTIONS WRITTEN BY OUT-OF-STATE PHYSICIANS MAY BE FILLED  
IN THIS STATE UNLESS THE PRESCRIPTION IS OVER SIX MONTHS OLD

AN ACT Relating to prescription drugs; amending RCW 69.41.030 and 69.50.101; and declaring an emergency.

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

Sec. 1. Section 3, chapter 186, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 120, Laws of 1981 and RCW 69.41.030 are each amended to read as follows:

It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter



18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces, marine hospital service, or public health service in the discharge of his official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his official duties, a registered nurse under chapter 18.88 RCW when authorized by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners, or a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any ((state or)) province of Canada which shares a common border with the state of Washington or in any state of the United States: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the department of social and health services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That it shall be unlawful to fill a prescription written by an authorized prescriber who is not licensed in this state if more than six months has passed since the date of the issuance of the original prescription.

Sec. 2. Section 69.50.101, chapter 308, Laws of 1971 ex. sess. as last amended by section 1, chapter 124, Laws of 1986 and RCW 69.50.101 are each amended to read as follows:

As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) a practitioner, or  
 (2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Drug enforcement administration" means the federal drug enforcement administration in the United States Department of Justice, or its successor agency.

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(e) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(f) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(g) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(h) "Dispenser" means a practitioner who dispenses.

(i) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(j) "Distributor" means a person who distributes.

(k) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(l) "Immediate precursor" means a substance which the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(m) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance

by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(n) "Marihuana" means all parts of the plant of the genus *Cannabis* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(o) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(p) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(q) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

(r) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(s) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(t) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a chiroprapist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state (~~which shares a common border with the state of Washington~~) of the United States.

(u) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(v) "State", when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(w) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(x) "Board" means the state board of pharmacy.

(y) "Executive officer" means the executive officer of the state board of pharmacy.

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 9, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 145

[House Bill No. 545]

## MUNICIPAL UTILITY EXPANSIONS—VOTER APPROVAL REVISIONS

AN ACT Relating to correcting the double amendment to RCW 35.92.070; and reenacting and amending RCW 35.92.070.

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

Sec. 1. Section 35.92.070, chapter 7, Laws of 1965 as amended by section 3, chapter 444, Laws of 1985 and by section 11, chapter 445, Laws of 1985 and RCW 35.92.070 are each reenacted and amended to read as follows:

When the governing body of a city or town deems it advisable that the city or town purchase, acquire, or construct any such public utility, or make any additions and betterments thereto or ~~((make))~~ extensions thereof ~~((which would expand the previous service capacity by fifty percent or more, and where an amount of such increased service capacity equal to at least fifty percent of the previous service capacity is financed by the issuance of councilmanic general obligation bonds))~~, it shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as near as may be, and the ordinance shall be submitted for ratification or rejection by majority vote of the voters of the city or town at a general or special election ~~((except in the following cases where))~~.

(1) No submission shall be necessary:

~~((1))~~ (a) When the work proposed is an addition to, or betterment of, extension of, or an increased water supply for existing waterworks, or an addition, betterment, or extension of an existing system or plant of any other public utility;

(b) When in the charter of a city a provision has been adopted authorizing the corporate authorities thereof to provide by ordinance for acquiring, opening, or operating any of such public utilities; or

~~((2))~~ (c) When in the judgment of the corporate authority, the public health is being endangered by the discharge of raw or untreated sewage into any body of water and the danger to the public health may be abated by the construction and maintenance of a sewage disposal plant.

(2) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary if:

(a) The project or work may produce electricity for sale in excess of present or future needs of the water system;

(b) The city or town does not own or operate an electric utility system;

(c) The work involves an ownership greater than twenty-five percent in a new water supply project combined with an electric generation facility;  
and

(d) The combined facility has an installed capacity in excess of five megawatts.

(3) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary to make extensions to a public utility which would expand the previous service capacity by fifty percent or more, where such increased service capacity is financed by the issuance of general obligation bonds.

(4) Thirty days' notice of the election shall be given in the official newspaper ((doing)) of the city or town ((printing)), by publication at least once each week in the paper during such time.

(5) When a proposition has been adopted, or in the cases where no submission is necessary, the corporate authorities of the city or town may proceed forthwith to purchase, construct, and acquire the public utility or make additions, betterments, and extensions thereto and to make payment therefor.

Passed the House March 4, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 146

[House Bill No. 406]

### COMMITTEE, BOARD, OR COMMISSION MEMBERS WHO BELONG TO PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN I—SERVICE CREDIT REVISED

AN ACT Relating to retirement service credit for members of committees, boards, and commissions; amending RCW 41.40.165; and declaring an emergency.

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

Sec. 1. Section 4, chapter 34, Laws of 1975-'76 2nd ex. sess. as amended by section 17, chapter 295, Laws of 1977 ex. sess. and RCW 41.40.165 are each amended to read as follows:

(1) No person appointed to membership on any committee, board, or commission on or after July 1, 1976, who is compensated for service on such committee, board, or commission for ((less)) fewer than ten days or seventy hours in any month, whichever amount is less, shall receive service credit for such service for that month: PROVIDED, That on and after October 1, 1977, appointive and elective officials who receive monthly compensation earnable from an employer in an amount equal to or less than ninety times the state minimum hourly wage shall not receive any service credit for such employment.

(2) This section does not apply to any person serving on a committee, board, or commission on June 30, 1976, who continued such service until subsequently appointed by the governor to a different committee, board, or commission.

**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 11, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 147

[Second Substitute House Bill No. 257]

### GRADUATE FELLOWSHIP TRUST FUND PROGRAM

AN ACT Relating to fellowships for graduate students; and adding new sections to chapter 28B.10 RCW.

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

**NEW SECTION.** Sec. 1. The legislature recognizes that quality in the state's public four-year institutions of higher education would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public four-year institutions of higher education in creating endowments for funding fellowships for distinguished graduate students.

**NEW SECTION.** Sec. 2. The Washington graduate fellowship trust fund program is established. The program shall be administered by the higher education coordinating board. The trust fund shall be administered by the state treasurer.

**NEW SECTION.** Sec. 3. Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. All moneys deposited in the fund shall be invested by the state treasurer. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the fund shall be credited to the fund. At the request of the higher education coordinating board under section 5 of this act, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund.

**NEW SECTION.** Sec. 4. In consultation with eligible institutions of higher education, the higher education coordinating board shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of fellowships previously received.

Any allocation system shall be superseded by conditions in any legislative act appropriating funds for the program.

**NEW SECTION.** Sec. 5. (1) All state four-year institutions of higher education shall be eligible for matching trust funds. Institutions may apply to the higher education coordinating board for twenty-five thousand dollars from the fund when they can match the state funds with equal pledged or contributed private donations. These donations shall be made specifically to the graduate fellowship program, and shall be donated after July 1, 1987.

(2) Upon an application by an institution, the board may designate twenty-five thousand dollars from the trust fund for that institution's pledged graduate fellowship fund. If the pledged twenty-five thousand dollars is not received within two years, the board shall make the designated funds available for another pledged graduate fellowship fund.

(3) Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the graduate fellowships.

**NEW SECTION.** Sec. 6. (1) The fellowship is the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution.

(2) The institution is responsible for soliciting private donations, investing and maintaining all endowment funds, administering the fellowship, and reporting on the program to the governor and the legislature upon request. The institution may augment the endowment fund with additional private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund may be used to provide fellowship stipends to be used by the recipient for such things as tuition and fees, subsistence, research expenses, and other educationally related costs.

**NEW SECTION.** Sec. 7. Any private or public money, including all investment income, deposited in the Washington graduate fellowship trust fund or any local endowment for fellowship programs shall not be subject to collective bargaining.

**NEW SECTION.** Sec. 8. (1) After consulting with the higher education coordinating board and the state four-year institutions of higher education, the governor may transfer the administration of this program to another agency which has an appropriate educationally related mission.

(2) By December 1, 1989, the higher education coordinating board and any agency administering this program, if applicable, shall make recommendations to the governor and the legislature on any needed changes in the program.



NEW SECTION. Sec. 9. Sections 1 through 8 of this act are added to chapter 28B.10 RCW.

Passed the House March 18, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 148

[Substitute House Bill No. 60]

### COMMERCIAL FISHERMEN PROCESSOR LIENS

AN ACT Relating to processor liens for commercial fishermen; and amending RCW 60.13.010, 60.13.020, 60.13.040, 60.13.050, and 60.13.060.

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

Sec. 1. Section 1, chapter 412, Laws of 1985 and RCW 60.13.010 are each amended to read as follows:

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

(1) "Agricultural product," "conditioner," "consignor," "person," "processor," and "producer" have the meanings defined in RCW 20.01.010.

(2) "Preparer" means a person engaged in the business of feeding livestock or preparing livestock products for market.

(3) "Commercial fisherman" means a person licensed to fish commercially for or to take food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

(4) "Fish" means food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

Sec. 2. Section 2, chapter 412, Laws of 1985 and RCW 60.13.020 are each amended to read as follows:

Starting on the date a producer delivers any agricultural product to a processor or conditioner, the producer has a first priority statutory lien, referred to as a "processor lien." A commercial fisherman who delivers fish to a processor also has a first priority statutory "processor lien" starting on the date the fisherman delivers fish to the processor. This processor lien shall continue until twenty days after payment for the product is due and remains unpaid, without filing any notice of lien, for the contract price, if any, or the fair market value of the products delivered. The processor lien attaches to the agricultural products or fish delivered, to the processor's or conditioner's inventory, and to the processor's or conditioner's accounts receivable. However, no processor lien may attach to agricultural products or fish delivered by a producer or commercial fisherman, or on the producer's or fisherman's

behalf, to a processor which is organized and operated on a cooperative basis and of which the producer or fisherman is a member, nor may such lien attach to such processor's inventory or accounts receivable.

Sec. 3. Section 4, chapter 412, Laws of 1985 and RCW 60.13.040 are each amended to read as follows:

(1) A producer or commercial fisherman claiming a processor or preparer lien may file a statement evidencing the lien with the department of licensing after payment from the processor, conditioner, or preparer to the producer or fisherman is due and remains unpaid. For purposes of this subsection and RCW 60.13.050, payment is due on the date specified in the contract, or if not specified, then within thirty days from time of delivery.

(2) The statement shall be in writing, verified by the producer or fisherman, and shall contain in substance the following information:

(a) A true statement of the amount demanded after deducting all credits and offsets;

(b) The name of the processor, conditioner, or preparer who received the agricultural product or fish to be charged with the lien;

(c) A description sufficient to identify the agricultural product or fish to be charged with the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien; and

(e) The date on which payment was due for the agricultural product or fish to be charged with the lien.

Sec. 4. Section 5, chapter 412, Laws of 1985 and RCW 60.13.050 are each amended to read as follows:

(1) (a) If a statement is filed pursuant to RCW 60.13.040 within twenty days of the date upon which payment from the processor, conditioner, or preparer to the producer or commercial fisherman is due and remains unpaid, the processor or preparer lien evidenced by the statement continues its priority over all other liens or security interests upon agricultural products or fish, inventory, and accounts receivable, except as provided in (b) of this subsection. Such priority is without regard to whether the other liens or security interests attached before or after the date on which the processor or preparer lien attached.

(b) The processor or preparer lien shall be subordinate to liens for taxes or labor perfected before filing of the processor or preparer lien.

(2) If the statement provided for in RCW 60.13.040 is not filed within twenty days of the date payment is due and remains unpaid, the processor or preparer lien shall thereupon become subordinate to:

(a) A lien that has attached to the agricultural product or fish, inventory, or accounts receivable before the date on which the processor or preparer lien attaches; and

(b) A perfected security interest in the agricultural product or fish, inventory, or accounts receivable.

Sec. 5. Section 6, chapter 412, Laws of 1985 and RCW 60.13.060 are each amended to read as follows:

(1) The processor lien shall terminate six months after, and the preparer lien shall terminate fifty days after, the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed before that time as provided in RCW 60.13.070.

(2) If a statement has been filed as provided in RCW 60.13.040 and the producer or commercial fisherman has received payment for the obligation secured by the lien, the producer or fisherman shall promptly file with the department of licensing a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer or fisherman fails to file such statement of discharge within ten days following a request to do so, the producer or fisherman shall be liable to the processor, conditioner, or preparer in the sum of one hundred dollars plus actual damages caused by the failure.

Passed the House March 2, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 149

[Second Substitute Senate Bill No. 5515]

### VESSEL DEALER REGISTRATION REVISED

AN ACT Relating to vessel dealer registration; amending RCW 88.02.060 and 88.02.110; adding new sections to chapter 88.02 RCW; making an appropriation; prescribing penalties; declaring an emergency; and providing an effective date.

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

Sec. 1. Section 19, chapter 7, Laws of 1983 and RCW 88.02.060 are each amended to read as follows:

(1) Each vessel dealer (~~((of vessels))~~) in this state shall register with the department in the manner and upon forms prescribed by the department (~~(: Upon receipt of a dealer's application for registration and the registration fee provided in subsection (2) of this section, the dealer shall be registered and a registration number assigned.~~

~~(2))~~), in accordance with rules adopted under chapter 34.04 RCW. After the completed vessel dealer application has been satisfactorily filed and the applicant is eligible as determined by the department's rules, the department shall, if no denial proceeding is in effect, issue the vessel dealer's registration on the basis of staggered annual expiration dates.

(2) Before issuing a vessel dealer's registration, the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of

Washington. The bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter. Any vessel consignor or purchaser who has suffered any loss or damage by reason of any act or omission by a dealer that constitutes a violation of this chapter may institute an action for recovery against the dealer and the surety upon the bond. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety, the vessel dealer registration shall automatically be deemed canceled.

(3) Vessel dealers selling fifteen vessels or fewer per year having a retail value of no more than two thousand dollars each shall not be subject to the provisions of subsection (2).

(4) For the fiscal biennium from July 1, 1987, through June 30, 1989, the registration fee for dealers shall be ~~((twenty-five))~~ fifty dollars per year~~((, and the fee shall cover all vessels owned by the dealer for sale and not rented on a regular commercial basis by the dealer. Rented vessels shall be registered separately under RCW 88.02.020 through 88.02.050.~~

(3) Dealer registration numbers are nontransferable:

(4) RCW 88.02.020 does not apply to any dealer or employee or prospective customer of the dealer with respect to any vessel covered by the dealer's registration number and used for a business purpose of the dealer, such as a demonstration vessel or for purposes of testing or making repairs)) for an original registration, and twenty-five dollars for any subsequent renewal. In addition, a fee of twenty-five dollars shall be collected for the first decal, fifteen dollars for each additional decal, and fifteen dollars for each vessel dealer display decal replacement. In ensuing biennia, the director shall establish the amount of such fees at a sufficient level to defray the costs of administering the vessel dealer registration program. All such fees shall be fixed by rule adopted by the director in accordance with the Administrative Procedure Act, chapter 34.04 RCW. All fees collected under this section shall be deposited with the state treasurer and credited to the general fund.

NEW SECTION. Sec. 2. A new section is added to chapter 88.02 RCW to read as follows:

(1) A vessel dealer shall have and maintain an office in which to conduct business at the business address of the dealer.

(2) The vessel dealer's place of business shall be identified by an exterior sign with the business name. In the absence of other identifiers that the business conducted is marine business, the sign must identify the nature of the business, such as marine sales, service, repair, or manufacturing.

NEW SECTION. Sec. 3. A new section is added to chapter 88.02 RCW to read as follows:

Any person engaging in vessel dealer activities without first obtaining a registration certificate is guilty of a gross misdemeanor.

**NEW SECTION.** Sec. 4. A new section is added to chapter 88.02 RCW to read as follows:

Vessel dealer display decals shall only be used:

(1) To demonstrate vessels held for sale when operated by a prospective customer holding a dated demonstration permit, and shall be carried in the vessel at all times it is being operated by such individual;

(2) On vessels owned or consigned for sale that are in fact available for sale and being used only for vessel dealer business purposes by an officer of the corporation, a partner, a proprietor, or by a bona fide employee of the firm if a card so identifying any such individual is carried in the vessel at all times it is so operated.

**NEW SECTION.** Sec. 5. A new section is added to chapter 88.02 RCW to read as follows:

(1) Rented vessels shall be registered separately under RCW 88.02.020 through 88.02.050.

(2) RCW 88.02.020 does not apply to any registered dealer's vessels held for sale.

(3) Dealer registration numbers are not transferable.

**NEW SECTION.** Sec. 6. A new section is added to chapter 88.02 RCW to read as follows:

In addition to other penalties imposed by this chapter for unauthorized or personal use of vessel dealer display decals, the director may confiscate all display decals for such period as the director deems appropriate, and in addition, or in lieu of other sanctions, the director may impose a monetary penalty not exceeding twice the amount of excise tax that should have been paid to register each vessel properly. A monetary penalty assessment is in addition to any fees owing to register each vessel properly. Any monetary penalty imposed or vessel display decals confiscated shall be done in accordance with chapter 34.04 RCW. Any monetary penalty imposed by the director and the delinquent excise taxes collected shall be deposited in the general fund.

**NEW SECTION.** Sec. 7. A new section is added to chapter 88.02 RCW to read as follows:

It is a gross misdemeanor for any person to obtain a vessel dealer's registration for the purpose of evading excise tax on vessels under chapter 82.49 RCW.

**NEW SECTION.** Sec. 8. A new section is added to chapter 88.02 RCW to read as follows:

(1) Vessel dealers shall possess a certificate of title for each used vessel or a manufacturer's statement of origin, a carpenter's certificate, or a factory invoice with other evidence of ownership for each new vessel in the

vessel dealer's inventory unless the vessel for sale is consigned or subject to an inventory security agreement. Each certificate of title shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned.

(2) A vessel dealer may display and sell consigned vessels or vessels subject to an inventory security agreement if there is a written and signed consignment agreement for each vessel or an inventory security agreement covering all inventory vessels. The consignment agreement shall include verification by the vessel dealer that a vessel title or manufacturer's statement of origin exists and its location, the name and address of the registered owner, and the legal owner, if any. Vessels that are subject to an inventory security interest shall be supported with a certificate of title or manufacturer's statement of origin that is in the dealer's possession or the possession of the inventory security party. Upon payment of the debt secured for that vessel, the secured party shall deliver the certificate of title or the manufacturer's statement of origin, appropriately released, to the dealer. It is the vessel dealer's responsibility to ensure that title documents are available for title transfer upon the sale of the vessel.

(3) Following the retail sale of any vessel, the dealer shall promptly make application and execute the assignment and warranty of the certificate of title. Such assignment shall show any secured party holding a security interest created at the time of sale. The dealer shall deliver the certificate of title and application for registration to the department.

NEW SECTION. Sec. 9. A new section is added to chapter 88.02 RCW to read as follows:

(1) The department may authorize vessel dealers properly registered pursuant to this chapter to issue temporary permits to operate vessels under such rules as the department adopts.

(2) The fee for each temporary permit application distributed to an authorized vessel dealer shall be five dollars, which shall be credited to the payment of registration fees at the time application for registration is made.

NEW SECTION. Sec. 10. A new section is added to chapter 88.02 RCW to read as follows:

(1) A vessel dealer shall complete and maintain for a period of at least three years a record of the purchase and sale of all vessels purchased or consigned and sold by the vessel dealer. Records shall be made available for inspection by the department during normal business hours.

(2) Before renewal of the vessel dealer registration, the department shall require, on the forms prescribed, a record of the number of vessels sold during the registration year. Vessel dealers who assert that they qualify for the exemption provided in section 1, subsection (3) shall also record, on forms prescribed, the highest retail value of any vessel sold in the registration year.

**NEW SECTION.** Sec. 11. A new section is added to chapter 88.02 RCW to read as follows:

A vessel dealer who receives cash or a negotiable instrument from a purchaser before delivery of the vessel shall place the funds in a separate trust account.

(1) The cash or negotiable instrument must be set aside immediately upon receipt for the trust account, or endorsed to such a trust account immediately upon receipt.

(2) The cash or negotiable instrument must be deposited in the trust account by the close of banking hours on the day following the receipt.

(3) After delivery of the purchaser's vessel the vessel dealer shall remove the deposited funds from the trust account.

(4) The dealer shall not commingle the purchaser's funds with any other funds at any time.

(5) The funds shall remain in the trust account until the delivery of the purchased vessel. However, for the purpose of manufacturing a vessel that does not already exist, and upon written agreement from the purchaser, the vessel dealer may remove and release trust funds before delivery.

**NEW SECTION.** Sec. 12. A new section is added to chapter 88.02 RCW to read as follows:

Except as otherwise provided in this chapter, the director may by order deny, suspend, or revoke the registration of any vessel dealer, or in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the applicant or registrant:

(1) Is applying for a dealer's registration or has obtained a dealer's registration for the purpose of evading excise taxes on vessels; or

(2) Has been adjudged guilty of a felony that directly relates to marine trade and the time elapsed since the adjudication is less than ten years. For purposes of this section, adjudged guilty means, in addition to a final conviction in court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended; or

(3) Has failed to comply with the trust account requirements of this chapter; or

(4) Has failed to transfer a certificate of title to a purchaser as required in this chapter; or

(5) Has misrepresented the facts at the time of application for registration or renewal; or

(6) Has failed to comply with applicable provisions of this chapter or any rules adopted under it.

Sec. 13. Section 22, chapter 7, Laws of 1983 as last amended by section 2, chapter 183, Laws of 1984 and RCW 88.02.110 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a violation of this chapter, RCW 43.51.400, and the rules adopted by the department and the state parks and recreation commission pursuant to these statutes is a misdemeanor punishable only by a fine not to exceed one hundred dollars per vessel for the first violation. Subsequent violations in the same year are subject to the following fines:

(a) For the second violation, a fine of two hundred dollars per vessel;

(b) For the third and successive violations, a fine of four hundred dollars per vessel.

(2) After subtraction of court costs and administrative collection fees, moneys collected under this section shall be credited to the current expense fund of the arresting jurisdiction.

(3) All law enforcement officers shall have the authority to enforce this chapter, RCW 43.51.400, and the rules adopted by the department and the state parks and recreation commission pursuant to these statutes within their respective jurisdictions: **PROVIDED**, That a city, town, or county may contract with a fire protection district for such enforcement and fire protection districts are authorized to engage in such activities.

**NEW SECTION.** Sec. 14. There is appropriated to the department of licensing from the general fund for the biennium ending June 30, 1989, the sum of three hundred fourteen thousand dollars, or so much as may be necessary, to carry out the purposes of this act.

**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, 1987.

Passed the Senate April 10, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 150

[Substitute House Bill No. 563]

### PROFESSIONAL LICENSING—UNIFORM DISCIPLINARY ACT REVISIONS— STATE HEALTH COORDINATING COUNCIL TO MAKE RECOMMENDATIONS CONCERNING PROPOSALS FOR A MANDATED HEALTH INSURANCE COVERAGE

AN ACT Relating to professional licensing; amending RCW 18.130.050, 18.130.060, 18.130.170, 18.130.190, 18.130.185, 18.06.110, 18.22.018, 18.25.019, 18.29.076, 18.32.039, 18.34.136, 18.35.110, 18.35.161, 18.35.190, 18.35.220, 18.36.136, 18.39.178, 18.39.020,



18.50.126, 18.52.100, 18.53.101, 18.54.076, 18.55.066, 18.57.011, 18.59.141, 18.71.019, 18.74.029, 18.74.090, 18.78.054, 18.83.135, 18.83.155, 18.83.180, 18.88.086, 18.92.046, 18.108.076, and 48.42.070; reenacting and amending RCW 18.130.040; adding a new chapter to Title 18 RCW; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.25 RCW; adding a new section to chapter 18.26 RCW; adding a new section to chapter 18.29 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.34 RCW; adding a new section to chapter 18.35 RCW; adding a new section to chapter 18.36 RCW; adding a new section to chapter 18.52 RCW; adding a new section to chapter 18.53 RCW; adding a new section to chapter 18.55 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.59 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.78 RCW; adding new sections to chapter 18.83 RCW; adding a new section to chapter 18.92 RCW; adding new sections to chapter 18.130 RCW; creating a new section; repealing RCW 18.35.210, 18.52.055, 18.52.065, 18.52.090, 18.52.120, 18.52.150, 18.52.155, 18.83.120, 18.83.130, 18.83.145, 18.83.161, and 18.83.165; and prescribing penalties.

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

## PART I UNIFORM DISCIPLINARY ACT

Sec. 1. Section 4, chapter 279, Laws of 1984 as amended by section 29, chapter 326, Laws of 1985 and by section 3, chapter 259, Laws of 1986 and RCW 18.130.040 are each reenacted and 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) Massage operators and businesses licensed under chapter 18.108 RCW;
- (vi) Dental hygienists licensed under chapter 18.29 RCW; and
- (vii) Acupuncturists certified under chapter 18.106 RCW.

(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;

~~((v))~~ (vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

~~((vi))~~ (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;

~~((vii))~~ (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;

~~((viii))~~ (x) The board of physical therapy as established in chapter 18.74 RCW;

~~((ix))~~ (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

~~((x))~~ (xii) The board of practical nursing as established in chapter 18.78 RCW;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

~~((xi))~~ (xiv) The board of nursing as established in chapter 18.88 RCW; and

~~((xii))~~ (xv) 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 also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

Sec. 2. Section 5, chapter 279, Laws of 1984 and RCW 18.130.050 are each amended to read as follows:

The disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(5) To compel attendance of witnesses at hearings;

(6) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the disciplining authority;

(8) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the disciplining authority shall make the final decision regarding disposition of the license;

(9) To use ~~((consultants or))~~ individual members of the boards to ~~((assist in the direction of))~~ direct investigations ~~((and issuance of statements of charges))~~. However, the member of the board shall not subsequently participate in the hearing of the case;

(10) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(12) To adopt standards of professional conduct or practice;

(13) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;

(14) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(15) To designate individuals authorized to sign subpoenas and statements of charges.

Sec. 3. Section 6, chapter 279, Laws of 1984 and RCW 18.130.060 are each amended to read as follows:

In addition to the authority specified in RCW 18.130.050, the director has the following additional authority:

(1) To ~~((hire))~~ employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) Upon the request of a board, to appoint not more than three pro tem members for the purpose of participating as members of one or more committees of the board in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board. While serving as board members pro tem, 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. The chairperson of a committee shall be a regular member of the board appointed by the board chairperson. Committees have authority to act as directed by the board with respect to all matters concerning the review, investigation, and adjudication of all complaints, allegations, charges, and matters subject to the jurisdiction of the board. The authority to act through committees does not restrict the authority of the board to act as a single body at any phase of proceedings within the board's jurisdiction. Board committees may make interim orders and issue final decisions with respect to matters and cases delegated to the committee by the board. Final decisions may be appealed as provided in chapter 34.04 RCW;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency hearing or contested case as authorized by RCW 34.04.105(4);

(4) To conduct investigations and practice reviews at the direction of the disciplining authority and to issue subpoenas, administer oaths, and take depositions in the course of conducting those investigations and practice reviews at the direction of the disciplining authority.

NEW SECTION. Sec. 4. A new section is added to chapter 18.130 RCW to read as follows:

Where an order for payment of a fine is made as a result of a hearing under RCW 18.130.100 and timely payment is not made as directed in the final order, the disciplining authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the disciplining authority may have as to any licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review under RCW 18.130.140.

In any action for enforcement of an order of payment of a fine, the disciplining authority's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment.

NEW SECTION. Sec. 5. A new section is added to chapter 18.130 RCW to read as follows:

A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be placed in the health professions account. For the purpose of this section, the superior court issuing

any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

Sec. 6. Section 17, chapter 279, Laws of 1984 as amended by section 9, chapter 259, Laws of 1986 and RCW 18.130.170 are each amended to read as follows:

(1) If the disciplining authority believes a license holder or applicant may be unable to practice with reasonable skill and safety to consumers by reason of any mental or physical condition, a statement of charges in the name of the disciplining authority shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill and safety. If the disciplining authority determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the disciplining authority shall impose such sanctions under RCW 18.130.160 as is deemed necessary to protect the public.

(2) In ~~((enforcing this section))~~ investigating or adjudicating a complaint or report that a license holder or applicant may be unable to practice with reasonable skill or safety by reason of any mental or physical condition, the disciplining authority may require a license holder or applicant to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the disciplining authority. The cost of the examinations ordered by the disciplining authority shall be paid out of the health professions account. In addition to any examinations ordered by the disciplining authority, the licensee may submit physical or mental examination reports from licensed or certified health professionals of the license holder's or applicant's choosing and expense. Failure of a license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or denial of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the consumer.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the

admissibility or use of the examining health professional's testimony or examination reports by the disciplining authority on the ground that the testimony or reports constitute privileged communications.

Sec. 7. Section 19, chapter 279, Laws of 1984 as amended by section 11, chapter 259, Laws of 1986 and RCW 18.130.190 are each amended to read as follows:

(1) The director shall investigate complaints concerning practice by ~~unlicensed ((individuals))~~ persons of a profession ~~((requiring a license))~~ or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the director shall have the same authority as provided the director ~~((for the investigation of complaints against license holders))~~ under RCW 18.130.050. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced by civil contempt.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any ~~((individual))~~ person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any ~~((individual))~~ person practicing a ~~((licensed))~~ profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) ~~Unlicensed practice of a profession ((under the jurisdiction of a disciplining authority))~~ or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account.

Sec. 8. Section 15, chapter 259, Laws of 1986 and RCW 18.130.185 are each amended to read as follows:

If ~~((an individual))~~ a person or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the director, the board, or any other person may maintain an action in the name of the state of Washington to enjoin the person from committing the violations. The injunction shall not relieve the offender from

criminal prosecution, but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution and disciplinary action.

## PART II ACUPUNCTURE

Sec. 9. Section 11, chapter 326, Laws of 1985 and RCW 18.06.110 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, 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.

## PART III PODIATRY

Sec. 10. Section 17, chapter 259, Laws of 1986 and RCW 18.22.018 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 11. A new section is added to chapter 18.22 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice podiatry in this state unless the person first has obtained a license therefor.

## PART IV CHIROPRACTIC

Sec. 12. Section 21, chapter 259, Laws of 1986 and RCW 18.25.019 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice and the issuance and denial of licenses under this chapter.

NEW SECTION. Sec. 13. A new section is added to chapter 18.26 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the discipline of licensees under this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 18.25 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice chiropractic in this state unless the person has obtained a license as provided in this chapter.

## PART V DENTAL HYGIENISTS

Sec. 15. Section 31, chapter 259, Laws of 1986 and RCW 18.29.076 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**NEW SECTION.** Sec. 16. A new section is added to chapter 18.29 RCW to read as follows:

No person may practice as a dental hygienist in this state without having a license as such and, after the first year, an unexpired license renewal certificate.

#### PART VI DENTISTRY

Sec. 17. Section 34, chapter 259, Laws of 1986 and RCW 18.32.039 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**NEW SECTION.** Sec. 18. A new section is added to chapter 18.32 RCW to read as follows:

No person, unless previously licensed to practice dentistry in this state, shall begin the practice of dentistry without first applying to, and obtaining a license.

#### PART VII DISPENSING OPTICIANS

Sec. 19. Section 45, chapter 259, Laws of 1986 and RCW 18.34.136 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**NEW SECTION.** Sec. 20. A new section is added to chapter 18.34 RCW to read as follows:

No person may practice or represent himself or herself as a dispensing optician without first having a valid license to do so.

#### PART VIII HEARING AIDS

**NEW SECTION.** Sec. 21. A new section is added to chapter 18.35 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 22. Section 11, chapter 106, Laws of 1973 1st ex. sess. as amended by section 9, chapter 39, Laws of 1983 and RCW 18.35.110 are each amended to read as follows:



In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed under this chapter may be subject to disciplinary action by the council for any of the following causes:

~~(1) ((The licensee, in the application for the license, or in any written or oral communication to the department concerning the issuance or retention of the license, has made any material misstatement of fact, or has omitted to disclose any material fact which makes that which is stated misleading;~~

~~(2)) For unethical conduct((, or for gross incompetence)) in dealing in hearing aids. Unethical conduct shall include, but not be limited to:~~

~~(a) Using or causing or promoting the use of, in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is false, misleading or deceptive;~~

~~(b) ((Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this chapter;~~

~~(c)) Failing or refusing to honor or to perform as represented any representation, promise, agreement, or warranty in connection with the promotion, sale, dispensing, or fitting of the hearing aid;~~

~~((d)) (c) Advertising a particular model, type, or kind of hearing aid for sale which purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing and where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised;~~

~~((e)) (d) Falsifying hearing test or evaluation results;~~

~~((f)) (e) (i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user prior to fitting and dispensing a hearing aid to any such prospective hearing aid user, failing to advise that prospective hearing aid user in writing that the user should first consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to any duly licensed physician:~~

~~(A) Visible congenital or traumatic deformity of the ear, including perforation of the eardrum;~~

~~(B) History of, or active drainage from the ear within the previous ninety days;~~

~~(C) History of sudden or rapidly progressive hearing loss within the previous ninety days;~~

~~(D) Acute or chronic dizziness;~~

~~(E) Any unilateral hearing loss;~~

~~(F) Significant air-bone gap when generally acceptable standards have been established as defined by the food and drug administration;~~

(G) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal;

(H) Pain or discomfort in the ear; or

(I) Any other conditions that the department may by rule establish. It is a violation of this subsection for any licensee or that licensee's employees and putative agents upon making such required referral for medical opinion to in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking such medical opinion prior to the fitting and dispensing of a hearing aid. No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within six months of the date of purchase. The licensee or the licensee's employees or putative agents shall obtain a signed statement from the hearing aid user documenting the waiver of medical clearance and the waiver shall inform the prospective user that signing the waiver is not in the user's best health interest: PROVIDED, That the licensee shall maintain a copy of either the physician's statement showing that the prospective hearing aid user has had a medical evaluation or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing aid. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited under the laws of this state;

(ii) Fitting and dispensing a hearing aid to any person under eighteen years of age who has not been examined and cleared for hearing aid use within the previous six months by a physician specializing in otolaryngology except in the case of replacement instruments or except in the case of the parents or guardian of such person refusing, for good cause, to seek medical opinion: PROVIDED, That should the parents or guardian of such person refuse, for good cause, to seek medical opinion, the licensee shall obtain from such parents or guardian a certificate to that effect in a form as prescribed by the department;

(iii) Fitting and dispensing a hearing aid to any person under eighteen years of age who has not been examined by an audiologist who holds at least a master's degree in audiology for recommendations during the previous six months, without first advising such person or his or her parents or guardian in writing that he or she should first consult an audiologist who holds at least a master's degree in audiology, except in cases of hearing aids replaced within six months of their purchase;

~~((g))~~ (f) Representing that the services or advice of a person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW or of a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the word "doctor,"

"clinic," or other like words, abbreviations, or symbols which tend to conote a medical or osteopathic profession when such use is not accurate;

~~((f))~~ (g) Permitting another to use his or her license;

~~((f))~~ (h) Stating or implying that the use of any hearing aid will restore normal hearing, preserve hearing, prevent or retard progression of a hearing impairment, or any other false, misleading, or medically or audilogically unsupportable claim regarding the efficiency of a hearing aid;

~~((f))~~ (i) Representing or implying that a hearing aid is or will be "custom-made," "made to order," "prescription made," or in any other sense specially fabricated for an individual when that is not the case; or

~~((k))~~ (j) Directly or indirectly offering, giving, permitting, or causing to be given, money or anything of value to any person who advised another in a professional capacity as an inducement to influence that person, or to have that person influence others to purchase or contract to purchase any product sold or offered for sale by the licensee, or to influence any person to refrain from dealing in the products of competitors.

~~((3))~~ Engaging in the fitting or dispensing of hearing aids while suffering from a contagious or infectious disease involving risk to the public.

~~(4)~~ Dealing in hearing aids under a false, misleading, or deceptive name:

~~(5)~~ Violating any of the provisions of this chapter or the rules adopted by this chapter:

~~(6)~~ Failure to properly and reasonably accept responsibility for the actions of his or her employees:

~~(7))~~ (2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020 as now or hereafter amended.

~~((8))~~ (3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW.

Sec. 23. Section 13, chapter 39, Laws of 1983 and RCW 18.35.161 are each amended to read as follows:

The council shall have the following powers and duties:

(1) To establish by rule such minimum standards and procedures in the fitting and dispensing of hearing aids as deemed appropriate and in the public interest;

(2) To develop guidelines on the training and supervision of trainees;

(3) To adopt any other rules or regulations necessary to implement this chapter and which are not inconsistent with it;

(4) To develop, approve, and administer all licensing examinations required by this chapter; and

(5) To ~~(conduct all disciplinary proceedings pursuant to this chapter. All hearings conducted and all rules adopted shall be in accordance with chapter 34.04 RCW. If, following a hearing, the council finds that an applicant or licensee has violated any section of this chapter or any of the~~

~~rules promulgated under it, the council may enter an order imposing one or more of the following penalties:~~

- ~~(a) Denial of an initial license or renewal;~~
- ~~(b) Revocation or suspension of license;~~
- ~~(c) A fine not to exceed one thousand dollars for each separate offense;~~
- ~~(d) Issuance of a reprimand or letter of censure;~~
- ~~(e) Placement of the licensee on probation for a period of time;~~
- ~~(f) Restriction of the licensee's authorized scope of practice; or~~
- ~~(g) Requiring the))~~

require a licensee to make restitution to any individual injured by ((the)) a violation of this chapter or chapter 18.130 RCW, the uniform disciplinary act. The authority to require restitution does not limit the council's authority to take other action deemed appropriate and provided for in this chapter or chapter 18.130 RCW.

Sec. 24. Section 19, chapter 106, Laws of 1973 1st ex. sess. as amended by section 14, chapter 39, Laws of 1983 and RCW 18.35.190 are each amended to read as follows:

(1) In addition to remedies otherwise provided by law, in any action brought by or on behalf of a person required to be licensed hereunder, or by any assignee or transferee thereof, arising out of the business of fitting and dispensing of hearing aids, it shall be necessary to allege and prove that the licensee at the time of the transaction held a valid license as required by this chapter, and that such license has not been suspended or revoked pursuant to RCW 18.35.110 or 18.35.120.

~~(2) ((Any person who shall engage in the fitting and dispensing of hearing aids without having obtained a license or who shall wilfully and intentionally violate any of the provisions of this chapter shall be guilty of a gross misdemeanor punishable by a fine not to exceed five thousand dollars per violation or by imprisonment in the county jail for a period not to exceed six months, or both.~~

~~(3))~~ In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing aid shall have the right to rescind the transaction for other than the seller's breach if:

(a) The purchaser, for reasonable cause, returns the hearing aid or holds it at the seller's disposal: PROVIDED, That the hearing aid is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the council but shall not include a mere change of mind on the part of the purchaser or a change of mind related to cosmetic concerns of the purchaser in wearing a hearing aid; and

(b) By sending notice of such cancellation to the licensee at the licensee's place of business by certified mail, return receipt requested, which shall be posted not later than thirty days following the date of delivery: PROVIDED, That in the event of cancellation pursuant to this subsection or as otherwise provided by law, the licensee shall, without request, refund

to the purchaser postmarked within ten days after such cancellation all deposits, including any down payment less fifteen percent of the total purchase price or one hundred dollars per hearing aid, whichever is less, and shall return all goods traded in to the licensee on account or in contemplation of the sale less any reasonable costs actually incurred in making ready for sale, goods so traded in: AND PROVIDED FURTHER, That the buyer shall incur no additional liability for such cancellation.

(c) Where a purchaser has taken the steps described in subsections (a) and (b) above to cancel the purchase, and the purchaser subsequently agrees with the seller to extend the trial or rescission period, the purchaser remains entitled to receive the refund described in ~~((RCW 18.35.190(3)(b)))~~ subsection (2)(b) of this section upon demand made within sixty days of the original date of delivery or such other time as agreed to in writing by both parties. Written notice of the last date for demanding a refund shall be provided to the purchaser at the time the trial or rescission period is extended.

Sec. 25. Section 17, chapter 39, Laws of 1983 and RCW 18.35.220 are each amended to read as follows:

(1) If the council determines following notice and hearing, or following notice if no hearing was timely requested, that a person has:

- (a) Violated any provisions of this chapter or chapter 18.130 RCW; or
- (b) Violated any lawful order, or rule of the council

an order may be issued by the council requiring the person to cease and desist from the unlawful practice. The council shall then take affirmative action as is necessary to carry out the purposes of this chapter.

(2) If the council makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, a temporary cease and desist order may be issued. Prior to issuing a temporary cease and desist order, the council, whenever possible, shall give notice by telephone or otherwise of the proposal to issue a temporary cease and desist order to the person to whom the order would be directed. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether the order becomes permanent.

(3) The department, with or without prior administrative proceedings, may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, or rule or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted and a receiver or conservator may be appointed. The department shall not be required to post a bond in any court proceedings.

NEW SECTION. Sec. 26. Section 15, chapter 39, Laws of 1983 and RCW 18.35.210 are each repealed.

PART IX  
DRUGLESS HEALING

Sec. 27. Section 49, chapter 259, Laws of 1986 and RCW 18.36.136 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 28. A new section is added to chapter 18.36 RCW to read as follows:

No person may practice or represent himself or herself as a drugless therapist without first having a valid license to do so.

PART X  
EMBALMERS AND FUNERAL DIRECTORS

Sec. 29. Section 59, chapter 259, Laws of 1986 and RCW 18.39.178 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 30. Section 2, chapter 108, Laws of 1937 as amended by section 2, chapter 43, Laws of 1981 and RCW 18.39.020 are each amended to read as follows:

It is (~~unlawful~~) a violation of RCW 18.130.190 for any person to act or hold himself out as a funeral director or embalmer or discharge any of the duties of a funeral director or embalmer as defined in this chapter unless the person has a valid license under this chapter. It is unlawful for any person to open up, maintain or operate a funeral establishment without a valid establishment license and without having at all times at least one funeral director to supervise and direct the business conducted therefrom.

PART XI  
MIDWIFERY

Sec. 31. Section 75, chapter 259, Laws of 1986 and RCW 18.50.126 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

PART XII  
NURSING HOME ADMINISTRATORS

NEW SECTION. Sec. 32. A new section is added to chapter 18.52 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 33. Section 10, chapter 57, Laws of 1970 ex. sess. as amended by section 4, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.100 are each amended to read as follows:

The board with the assistance of the director for administrative matters shall have the duty and responsibility within the limits provided in this chapter:

(1) To develop standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall include criteria to evaluate the practical experience, education, and training of applicants for licenses to determine that applicants have the equivalent of two years of experience in the operation of a nursing home. The standards and criteria shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators as provided in this chapter.

(2) To develop appropriate techniques, including examinations and investigations to the extent necessary to determine whether an individual meets such standards for licensing.

(3) To develop, administer, and supervise an administrator-in-training program for applicants for licenses who are otherwise qualified but do not have the equivalent of two years experience in the operation of a nursing home at the time of application. Such program shall provide for supervision of each administrator-in-training by licensed nursing home administrators as preceptors. The board shall have the authority to do all acts necessary for the implementation of such a program, including, but not limited to, conducting education and training programs, establishing standards of qualification for preceptors, establishing criteria for creating and evaluating individual programs, and monitoring such programs to assure compliance with rules and regulations adopted by the board.

(4) To ~~((order the director to))~~ issue licenses to individuals determined by the board, after the application of such techniques, to meet such standards and to order the director to deny licenses to individuals who do not meet such standards or who are in violation of ~~((the provisions of RCW 18.52.120))~~ this chapter or chapter 18.130 RCW.

(5) ~~((To assure that the goals set forth in RCW 18.52.010 are effected the board shall have the authority after any notice and hearing which may be required by law, to order a reprimand of any licensee, or the suspension, refusal to reregister, or revocation of any license. The board may defer any such order or impose conditions thereon to permit continued licensed status when such action is reasonable considering the circumstances of the case,~~

~~the protection of the health and safety of patients, and fairness to the administrator.~~

~~(6) To investigate, and take appropriate action with respect to, any charge or complaint filed with the board or director to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of the standards for licensing.~~

(7)) To conduct a continuing study and investigation of the licensing of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of new administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who are to be licensed.

~~((8))~~ (6) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct and continue such training and instruction courses and programs as will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards for licensing nursing home administrators.

~~((9))~~ (7) To establish and carry out procedures, if required, designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements and standards for licensing set forth in this chapter.

~~((10))~~ (8) To establish appropriate procedures for the issuance in unusual circumstances and without examination of temporary license permits as nursing home administrators. Such permits may be issued and renewed by the director pursuant to rules and regulations which shall be established by the board. Such permits and renewals shall be subject to confirmation or rescission by order of the board upon review at the next board meeting. Any such permit or renewal thereof shall in all events expire six months from the date issued. ~~((No more than three consecutive permits shall be issued to any one person.))~~ Persons receiving such permits need not have passed the required examination but shall meet the other requirements of this chapter, except RCW 18.52.070(2). After hearing before the board and upon order of the board the ~~((director))~~ board may ~~((revoke or suspend any such permit))~~ take appropriate disciplinary action for the reasons provided in this chapter ~~((for suspension or revocation of administrator licenses))~~ or chapter 18.130 RCW.

~~((11))~~ (9) To advise the relevant state agencies regarding receipt and administration of such federal funds as are made available to carry out the educational purposes of this chapter.

~~((12))~~ (10) To advise the director regarding the application forms used by the director under this chapter.

~~((13))~~ To direct the granting of provisional licenses as provided in this chapter.

(14)) (11) To issue rules and regulations which are necessary to carry out the functions of the board specifically assigned to it by this chapter.



NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

- (1) Section 72, chapter 279, Laws of 1984 and RCW 18.52.055;
- (2) Section 37, chapter 279, Laws of 1984 and RCW 18.52.065;
- (3) Section 9, chapter 57, Laws of 1970 ex. sess., section 3, chapter 243, Laws of 1977 ex. sess., section 68, chapter 279, Laws of 1984 and RCW 18.52.090;
- (4) Section 12, chapter 57, Laws of 1970 ex. sess., section 2, chapter 97, Laws of 1975 1st ex. sess., section 5, chapter 243, Laws of 1977 ex. sess., section 70, chapter 279, Laws of 1984 and RCW 18.52.120;
- (5) Section 15, chapter 57, Laws of 1970 ex. sess., section 6, chapter 243, Laws of 1977 ex. sess., section 20, chapter 67, Laws of 1981 and RCW 18.52.150; and
- (6) Section 7, chapter 243, Laws of 1977 ex. sess. and RCW 18.52-.155.

NEW SECTION. Sec. 35. The repeal of RCW 18.52.120 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

### PART XIII OPTOMETRY

Sec. 36. Section 78, chapter 259, Laws of 1986 and RCW 18.53.101 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter and chapter 18.54 RCW.

Sec. 37. Section 79, chapter 259, Laws of 1986 and RCW 18.54.076 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter and chapter 18.53 RCW.

NEW SECTION. Sec. 38. A new section is added to chapter 18.53 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice optometry in this state without first obtaining a license from the director of licensing.

### PART XIV OCULARISTS

Sec. 39. Section 89, chapter 259, Laws of 1986 and RCW 18.55.066 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 40. A new section is added to chapter 18.55 RCW to read as follows:

No person may practice or represent himself or herself as an oculoarist without first having a valid license to do so.

#### PART XV OSTEOPATHY

Sec. 41. Section 92, chapter 259, Laws of 1986 and RCW 18.57.011 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 42. A new section is added to chapter 18.57 RCW to read as follows:

No person may practice or represent himself or herself as an osteopathic physician and surgeon without first having a valid license to do so.

#### PART XVI OCCUPATIONAL THERAPISTS

Sec. 43. Section 100, chapter 259, Laws of 1986 and RCW 18.59.141 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 44. A new section is added to chapter 18.59 RCW to read as follows:

No person may practice or represent himself or herself as an occupational therapist without first having a valid license to do so.

#### PART XVII PHYSICIANS AND PHYSICIANS' ASSISTANTS

Sec. 45. Section 105, chapter 259, Laws of 1986 and RCW 18.71.019 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice and the issuance and denial of licenses under this chapter.

NEW SECTION. Sec. 46. A new section is added to chapter 18.71 RCW to read as follows:

No person may practice or represent himself or herself as practicing medicine without first having a valid license to do so.

PART XVIII  
PHYSICAL THERAPY

Sec. 47. Section 123, chapter 259, Laws of 1986 and RCW 18.74.029 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 48. Section 9, chapter 239, Laws of 1949 as last amended by section 125, chapter 259, Laws of 1986 and RCW 18.74.090 are each amended to read as follows:

A person who is not licensed with the director of licensing as a physical therapist under the requirements of this chapter shall not represent himself as being so licensed and shall not use in connection with his name the words or letters "P.T.", "R.P.T.", "L.P.T.", "physical therapy", "physiotherapy", "physical therapist" or "physiotherapist", or any other letters, words, signs, numbers, or insignia indicating or implying that he is a physical therapist. No person may practice physical therapy without first having a valid license. Nothing in this chapter prohibits any person licensed in this state under any other act from engaging in the practice for which he or she is licensed. It shall be the duty of the prosecuting attorney of each county to prosecute all cases involving a violation of this chapter arising within his county. The attorney general may assist in such prosecution and shall appear at all hearings when requested to do so by the board.

PART XIX  
PRACTICAL NURSES

Sec. 49. Section 128, chapter 259, Laws of 1986 and RCW 18.78.054 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 50. A new section is added to chapter 18.78 RCW to read as follows:

No person may practice or represent himself or herself as a licensed practical nurse without first having a valid license to do so.

PART XX  
PSYCHOLOGY

NEW SECTION. Sec. 51. A new section is added to chapter 18.83 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter, except that the term "unlicensed practice" shall be defined by RCW 18.83.180 rather than RCW 18.130.020.

**NEW SECTION.** Sec. 52. A new section is added to chapter 18.83 RCW to read as follows:

In addition to those acts defined in chapter 18.130 RCW, the board may take disciplinary action under RCW 18.130.160 for the following reasons:

(1) Failing to maintain the confidentiality of information under RCW 18.83.110;

(2) Violating the ethical code developed by the board under RCW 18.83.050;

(3) Failing to inform prospective research subjects or their authorized representatives of the possible serious effects of participation in research; and failing to undertake reasonable efforts to remove possible harmful effects of participation;

(4) Practicing in an area of psychology for which the person is clearly untrained or incompetent;

(5) Failing to exercise appropriate supervision over persons who practice under the supervision of a psychologist;

(6) Using fraud or deceit in the procurement of the psychology license, or knowingly assisting another in the procurement of such a license through fraud or deceit;

(7) Failing to maintain professional liability insurance when required by the board;

(8) Violating any state statute or administrative rule specifically governing the practice of psychology; or

(9) Gross, wilful, or continued overcharging for professional services.

Sec. 53. Section 86, chapter 279, Laws of 1984 and RCW 18.83.135 are each amended to read as follows:

The disciplinary committee shall meet at least once each year or upon the call of the chairperson at such time and place as the chairperson designates. A quorum for transaction of any business shall consist of five members, including at least one public member.

The members of the disciplinary committee shall be immune from suit in any action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the committee.

In addition to the authority prescribed under RCW 18.130.050, the committee shall have the following authority:

~~(1) To order investigation of all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;~~

~~(2) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;~~

~~(3) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;~~

- ~~(4) To compel attendance of witnesses at hearings;~~
- ~~(5) In the course of investigating a complaint of unprofessional conduct, to conduct practice reviews;~~
- ~~(6) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the committee;~~
- ~~(7) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings; however, the disciplining authority shall make the final decision regarding disposition of the license;~~
- ~~(8) To use consultants or individual members of the board to assist in the direction of investigations and issuance of statements of charges; however, the member of the board shall not subsequently participate in the hearing of the case;~~
- ~~(9) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;~~
- ~~(10) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the committee;~~
- ~~(11) To grant or deny license application, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;~~
- ~~(12) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement not to violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;~~
- ~~(13)) To maintain records of all activities, and to publish and distribute to all psychologists at least once each year abstracts of significant activities of the committee; and~~
- ~~((14)) (2) To obtain the written consent of the complaining client or patient or their legal representative, or of any person who may be affected by the complaint, in order to obtain information which otherwise might be confidential or privileged(;~~
- ~~(15) To report, when appropriate, statements of complaints and disposition of cases processed by the committee to:~~
- ~~(a) The person or agency initiating the action;~~
- ~~(b) Appropriate national and state organizations which represent the profession of psychology, including counterpart licensing boards in other states; and~~
- ~~(c) The public.~~

~~This subsection does not require the reporting of any information which is exempt from public disclosure pursuant to chapter 42.17 RCW or is otherwise privileged or confidential.~~

~~The committee has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.04 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions).~~

Sec. 54. Section 89, chapter 279, Laws of 1984 and RCW 18.83.155 are each amended to read as follows:

The committee shall report to appropriate national and state organizations which represent the profession of psychology any action taken pursuant to an investigation or hearing that finds a licensee has committed unprofessional or unethical conduct.

~~((In the event of an order for revocation or suspension of a psychology license, or for restriction or limitation of a licensee's practice, the committee shall report such action to the public. This public notification shall be suspended for thirty days from date of filing of any appeal.~~

~~If the committee finds that a complaint against a licensee is not substantiated, or if there is no finding of unprofessional or unethical conduct, resulting in dismissal of the complaint and exoneration of the licensee, the committee shall attempt to relieve the licensee of any possible odium that may attach by reason of the complaint by such public exoneration as is necessary.))~~

Sec. 55. Section 18, chapter 305, Laws of 1955 as amended by section 18, chapter 70, Laws of 1965 and RCW 18.83.180 are each amended to read as follows:

It shall be a gross misdemeanor and unlicensed practice for any person to:

(1) Use in connection with his or her name any designation tending to imply that he or she is a licensed psychologist unless duly licensed under or specifically excluded from the provisions of this chapter;

(2) Practice as a licensed psychologist during the time his or her license issued under the provisions of this chapter is suspended or revoked.

NEW SECTION. Sec. 56. The following acts or parts of acts are each repealed:

(1) Section 13, chapter 305, Laws of 1955, section 12, chapter 70, Laws of 1965, section 84, chapter 279, Laws of 1984 and RCW 18.83.120;

(2) Section 12, chapter 305, Laws of 1955, section 13, chapter 70, Laws of 1965, section 85, chapter 279, Laws of 1984, section 6, chapter 27, Laws of 1986 and RCW 18.83.130;

(3) Section 88, chapter 279, Laws of 1984 and RCW 18.83.145;

(4) Section 90, chapter 279, Laws of 1984 and RCW 18.83.161; and

(5) Section 91, chapter 279, Laws of 1984 and RCW 18.83.165.

PART XXI  
REGISTERED NURSES

Sec. 57. Section 135, chapter 259, Laws of 1986 and RCW 18.88.086 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

PART XXII  
VETERINARY MEDICINE

Sec. 58. Section 139, chapter 259, Laws of 1986 and RCW 18.92.046 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 59. A new section is added to chapter 18.92 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice the profession of veterinary medicine, surgery, or dentistry in this state, who has not complied with the provisions of this chapter.

PART XXIII  
MASSAGE OPERATORS

Sec. 60. Section 146, chapter 259, Laws of 1986 and RCW 18.108.076 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

PART XXIV  
CREDENTIALING

NEW SECTION. Sec. 61. **LEGISLATIVE INTENT.** The legislature takes note of the burgeoning number of bills proposed to regulate new health and health-related professions and occupations. The legislature further recognizes the number of allied health professions seeking independent practice. Potentially at least one hundred forty-five discrete health professions and occupations are recognized nationally, with at least two hundred fifty secondary job classifications. A uniform and streamlined credentialing process needs to be established to permit the department of licensing to administer the health professional regulatory programs in the most cost-effective, accountable, and uniform manner. The public interest will be served

by establishing uniform administrative provisions for the regulated professions under the jurisdiction of the department of licensing regulated after the effective date of this section.

**NEW SECTION.** Sec. 62. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) To "credential" means to license, certify, or register an applicant.

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

(3) "Director" means the director of licensing or the director's designee.

(4) "Health profession" means a profession providing health services regulated under the laws of this state and under which laws this statute is specifically referenced.

(5) "Credential" means the license, certificate, or registration issued to a person.

**NEW SECTION.** Sec. 63. REGISTRATION, CERTIFICATION, AND LICENSURE. (1) The three levels of professional credentialing as defined in chapter 18.120 RCW are:

(a) Registration, which is the least restrictive, and requires formal notification of the department of licensing identifying the practitioner, and does not require qualifying examinations;

(b) Certification, which is a voluntary process recognizing an individual who qualifies by examination and meets established educational prerequisites, and which protects the title of practice; and

(c) Licensure, which is the most restrictive and requires qualification by examination and educational prerequisites of a practitioner whose title is protected and whose scope of practice is restricted to only those licensed.

(2) No person may practice or represent oneself as a practitioner of a health profession by use of any title or description of services without being registered to practice by the department of licensing, unless otherwise exempted by this chapter.

(3) No person may represent oneself as certified or use any title or description of services without applying for certification, meeting the required qualifications, and being certified by the department of licensing, unless otherwise exempted by this chapter.

(4) No person may represent oneself as licensed, use any title or description of services, or engage in any practice without applying for licensure, meeting the required qualifications, and being licensed by the department of licensing, unless otherwise exempted by this chapter.

**NEW SECTION.** Sec. 64. EXEMPTIONS. Nothing in this chapter shall be construed to prohibit or restrict:



(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within the authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the director, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor.

**NEW SECTION. Sec. 65. DIRECTOR'S POWER AND DUTY.** In addition to any other authority provided by law, the director has the authority to:

(1) Adopt rules under chapter 34.04 RCW necessary to implement this chapter;

(2) Establish all credentialing, examination, and renewal fees in accordance with RCW 43.24.086;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Register any applicants, and to issue certificates or licenses to applicants who have met the education, training, and examination requirements for licensure or certification and to deny a credential to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of credentials based upon unprofessional conduct or impairment shall be governed by the Uniform Disciplinary Act, chapter 18.130 RCW;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals credentialed under this chapter to serve as examiners for any practical examinations;

(6) Determine minimum education requirements and evaluate and designate those educational programs from which graduation will be accepted as proof of eligibility to take a qualifying examination for applicants for certification or licensure;

(7) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification or licensure;

(8) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination;

(9) Determine which states have credentialing requirements equivalent to those of this state, and issue credentials to individuals credentialed in those states without examinations;

(10) Define and approve any experience requirement for credentialing;

- (11) Implement and administer a program for consumer education;
- (12) Adopt rules implementing a continuing competency program;
- (13) Maintain the official department record of all applicants and licensees; and
- (14) Establish by rule the procedures for an appeal of an examination failure.

**NEW SECTION.** Sec. 66. RECORD OF PROCEEDINGS. The director shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for credentialing under this chapter and the results of each application.

**NEW SECTION.** Sec. 67. ADVISORY COMMITTEES. (1) The director has the authority to appoint advisory committees to further the purposes of this chapter. Each such committee shall be composed of five members, one member initially appointed for a term of one year, two for a term of two years, and two for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. Members of an advisory committee shall be residents of this state. Each committee shall be composed of three individuals registered, certified, or licensed in the category designated, and two members who represent the public at large and are unaffiliated directly or indirectly with the profession being credentialled.

(2) The director may remove any member of the advisory committees for cause as specified by rule. In the case of a vacancy, the director shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committees shall each meet at the times and places designated by the director and shall hold meetings during the year as necessary to provide advice to the director. The committee may elect a chair and a vice chair. A majority of the members currently serving shall constitute a quorum.

(4) Each member of an advisory committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committees shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of their committees.

(5) The director, members of advisory committees, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any credentialing or disciplinary proceedings or other official acts performed in the course of their duties.

**NEW SECTION.** Sec. 68. CREDENTIALING REQUIREMENTS. (1) The director shall issue a license or certificate, as appropriate, to any applicant who demonstrates to the director's satisfaction that the following requirements have been met:

- (a) Graduation from an educational program approved by the director or successful completion of alternate training meeting established criteria;
- (b) Successful completion of an approved examination; and
- (c) Successful completion of any experience requirement established by the director.

(2) The director shall establish by rule what constitutes adequate proof of meeting the criteria.

(3) In addition, applicants shall be subject to the grounds for denial of a license or certificate or issuance of a conditional license or certificate under chapter 18.130 RCW.

(4) The director shall issue a registration to any applicant who completes an application which identifies the name and address of the applicant, the registration being requested, and information required by the director necessary to establish whether there are grounds for denial of a registration or issuance of a conditional registration under chapter 18.130 RCW.

**NEW SECTION.** Sec. 69. APPROVAL OF EDUCATIONAL PROGRAMS. The director shall establish by rule the standards and procedures for approval of educational programs and alternative training. The director may utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The director shall establish by rule the standards and procedures for revocation of approval of education programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The director may establish a fee for educational program evaluations.

**NEW SECTION.** Sec. 70. EXAMINATIONS. (1) The date and location of examinations shall be established by the director. Applicants who have been found by the director to meet the other requirements for licensure or certification shall be scheduled for the next examination following the filing of the application. The director shall establish by rule the examination application deadline.

(2) The director or the director's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the director has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the director under RCW 43-.24.086 for each subsequent examination. Upon failing four examinations,

the director may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The director may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

NEW SECTION. Sec. 71. APPLICATIONS. Applications for credentialing shall be submitted on forms provided by the director. The director may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the director under RCW 43.24.086. The fee shall accompany the application.

NEW SECTION. Sec. 72. INITIAL APPLICATIONS. The director shall waive the examination and credential a person authorized to practice within the state of Washington if the director determines that the person meets commonly accepted standards of education and experience for the profession. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice.

NEW SECTION. Sec. 73. RECIPROCITY. An applicant holding a credential in another state may be credentialed to practice in this state without examination if the director determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

NEW SECTION. Sec. 74. RENEWALS. The director shall establish by rule the procedural requirements and fees for renewal of a credential. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a license or certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the director by taking continuing education courses, or meeting other standards determined by the director.

NEW SECTION. Sec. 75. DISCIPLINE. The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of credentials, unauthorized practice, and the discipline of persons credentialed under this chapter. The director shall be the disciplining authority under this chapter.

NEW SECTION. Sec. 76. JURISDICTION. This chapter only applies to a business or profession regulated under the laws of this state if this chapter is specifically referenced in the laws regulating that business or profession.

NEW SECTION. Sec. 77. SECTION CAPTIONS. Section captions as used in this chapter do not constitute any part of the law.

**NEW SECTION.** Sec. 78. Sections 61 through 77 of this act shall constitute a new chapter in Title 18 RCW.

**PART XXV  
MANDATED HEALTH INSURANCE COVERAGE**

Sec. 79. Section 2, chapter 56, Laws of 1984 and RCW 48.42.070 are each amended to read as follows:

Every person or organization which seeks sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. Copies of the report shall be sent to the state health coordinating council for review and comment. The state health coordinating council, in addition to the duties specified in RCW 70.38.065, shall make recommendations based on the report to the extent requested by the legislative committees.

**NEW SECTION.** Sec. 80. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 13, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

**CHAPTER 151**

[House Bill No. 187]

**INDUSTRIAL INSURANCE APPEALS BOARD—EVIDENCE PRESENTATION FOR ALLEGATIONS OF FRAUD REVISED**

AN ACT Relating to industrial insurance appeals; and amending RCW 51.52.050.

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

Sec. 1. Section 51.52.050, chapter 23, Laws of 1961 as last amended by section 10, chapter 200, Laws of 1986 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: **PROVIDED**, That a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision 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; PROVIDED, That in an appeal from an order of the department that alleges fraud, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Passed the House February 25, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 152

[House Bill No. 142]

### CONSUMER PROTECTION ACT VIOLATIONS—ATTORNEY GENERAL GRANTED INVESTIGATIVE POWERS FOR VIOLATIONS OF FEDERAL STATUTES

AN ACT Relating to presuit discovery; and amending RCW 19.86.110.

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

Sec. 1. Section 11, chapter 216, Laws of 1961 as last amended by section 1, chapter 137, Laws of 1982 and RCW 19.86.110 are each amended to read as follows:

(1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map,

chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate, which he believes to be relevant to the subject matter of an investigation of a possible violation of RCW 19.86.020, 19.86-.030, 19.86.040, 19.86.050, or 19.86.060, or federal statutes dealing with the same or similar matters that the attorney general is authorized to enforce, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, he may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of such demands pertaining to such documentary material or information: PROVIDED, That this section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) If the demand is for the production of documentary material, describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a request for deposition upon oral examination issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer or managing agent of the person to be served; or

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if said person has no place of business in this state, to his principal office or place of business.

(5)(a) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude from the place where the examination is held all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony: PROVIDED, That, under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced such material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of such person. The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he determines necessary in the enforcement of this chapter, including presentation before any court: PROVIDED, That any such material, answers to written interrogatories, or transcripts of oral testimony which contain trade secrets shall not be presented except with the approval of the court in which action is pending after



adequate notice to the person furnishing such material, answers to written interrogatories, or oral testimony.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1), stating good cause, may be filed in the superior court for Thurston county, or in such other county where the parties reside. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon him under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his principal place of business, or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the trial court of general jurisdiction of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

Passed the House March 2, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 153

[House Bill No. 205]

### MOTOR VEHICLE TRANSPORTATION COMPANIES—ASSESSMENT AUTHORITY TRANSFERRED FROM REVENUE DEPARTMENT TO COUNTY ASSESSORS

AN ACT Relating to the assessment of motor vehicle transportation companies for property tax purposes; amending RCW 84.12.200, 84.12.280, and 84.12.360; creating a new section; and repealing RCW 84.12.290.

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

Sec. 1. Section 84.12.200, chapter 15, Laws of 1961 as amended by section 159, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.12.200 are each amended to read as follows:

For the purposes of this chapter and unless otherwise required by the context:

(1) "Department" without other designation means the department of revenue of the state of Washington.

(2) "Railroad company" shall mean and include any person owning or operating a railroad, street railway, suburban railroad or interurban railroad in this state, whether its line of railroad be maintained at the surface, or above or below the surface of the earth, or by whatever power its vehicles are transported; or owning any station, depot, terminal or bridge for railroad purposes, as owner, lessee or otherwise.

~~(3) ("Motor vehicle transportation company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by motor propelled vehicles over any public street and/or highway in this state, between fixed termini or over a regular route, and engaged in the business of transporting persons and/or property for compensation as owner, lessee or otherwise.~~

~~(4))~~ "Airplane company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by aircraft, and engaged in the business of transporting persons and/or property for compensation, as owner, lessee or otherwise.

~~((5))~~ (4) "Electric light and power company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the generation, transmission or distribution of electricity in this state, and engaged in the business of furnishing, transmitting, distributing or generating electrical energy for light, heat or power for compensation as owner, lessee or otherwise.

~~((6))~~ (5) "Telegraph company" shall mean and include any person owning, controlling, operating or managing any telegraph or cable line in this state, with appliances for the transmission of messages, and engaged in the business of furnishing telegraph service for compensation, as owner, lessee or otherwise.

~~((7))~~ (6) "Telephone company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the transmission of

communication by telephone in this state through owned or controlled exchanges and/or switchboards, and engaged in the business of furnishing telephonic communication for compensation as owner, lessee or otherwise.

~~((8))~~ (7) "Gas company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the manufacture, transportation, or distribution of natural or manufactured gas in this state, and engaged for compensation in the business of furnishing gas for light, heat, power or other use, as owner, lessee or otherwise.

~~((9))~~ (8) "Pipe line company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance or transportation of oils, natural or manufactured gas and/or other substances, except water, by pipe line in this state, and engaged in such business for compensation, as owner, lessee or otherwise.

~~((10))~~ (9) "Water company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the supply, storage, distribution, diversion or carriage of water in this state, and engaged in the business of furnishing water for power, irrigation, manufacturing, domestic or other uses for compensation, as owner, lessee or otherwise.

~~((11))~~ (10) "Heating company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the generation and/or distribution of steam or hot water for heat, power, manufacturing or other purposes in this state, and engaged principally in business of furnishing, distributing, supplying or generating steam or hot water for heat, power, manufacturing or other purposes for compensation, as owner, lessee or otherwise.

~~((12))~~ (11) "Toll bridge company" shall mean and include any person owning, controlling, operating, or managing real or personal property, used for or in connection with or to facilitate the conveyance or transportation of persons and/or property over a bridge or bridge approach over any stream, river or body of water within, or partly within this state, and operated as a toll bridge for compensation, as owner, lessee, or otherwise.

~~((13))~~ (12) "Steamboat company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by vessel or ferry, upon the waters within this state, including the rivers and lakes and Puget Sound, between fixed termini or over a regular route, and engaged in the business of transporting persons and/or property for compensation as owner, lessee or otherwise.

~~((14))~~ (13) "Logging railroad company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of forest products by rail in this state, and engaged in the business of transporting forest products either as private carrier or carrier for hire.

~~((15))~~ (14) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, corporation, trust, or any other group acting as a unit, whether mutual, cooperative or otherwise, and/or trustees or receivers appointed by any court.

~~((16))~~ (15) "Company" shall mean and include any railroad company, motor vehicle transportation company, airplane company, electric light and power company, telegraph company, telephone company, gas company, pipe line company, water company, heating company, toll bridge company, steamboat company, or logging railroad company; and the term "companies" shall mean and include all of such companies.

~~((17))~~ (16) "Operating property" shall mean and include all property, real and personal, owned by any company, or held by it as occupant, lessee or otherwise, including all franchises and lands, buildings, rights-of-way, water powers, motor vehicles, wagons, horses, aircraft, aerodromes, hangars, office furniture, water mains, gas mains, pipe lines, pumping stations, tanks, tank farms, holders, reservoirs, telephone lines, telegraph lines, transmission and distribution lines, dams, generating plants, poles, wires, cables, conduits, switch boards, devices, appliances, instruments, equipment, machinery, vessels, ferries, landing slips, docks, roadbeds, tracks, terminals, rolling stock equipment, appurtenances and all other property of a like or different kind, situate within the state of Washington, used by the company in the conduct of its operations; and, in case of personal property used partly within and partly without the state, it shall mean and include a proportion of such personal property to be determined as in this chapter provided.

~~((18))~~ (17) "Nonoperating property" shall mean all physical property owned by any company, other than that used during the preceding calendar year in the conduct of its operations. It shall include all lands and/or buildings wholly used by any person other than the owning company. In cases where lands and/or buildings are used partially by the owning company in the conduct of its operations and partially by any other person not assessable under this chapter under lease, sublease, or other form of tenancy, the operating and nonoperating property of the company whose property is assessed hereunder shall be determined by the department of revenue in such manner as will, in its judgment, secure the separate valuation of such operating and nonoperating property upon a fair and equitable basis. The amount of operating revenue received from tenants or occupants of property

of the owning company shall not be considered material in determining the classification of such property.

Sec. 2. Section 84.12.280, chapter 15, Laws of 1961 and RCW 84.12-.280 are each amended to read as follows:

In making the assessment of the operating property of any railroad or logging railroad company and in the apportionment of the values and the taxation thereof, all land occupied and claimed exclusively as the right-of-way for railroads, with all the tracks and substructures and superstructures which support the same, together with all side tracks, second tracks, turn-outs, station houses, depots, round houses, machine shops, or other buildings belonging to the company, used in the operation thereof, without separating the same into land and improvements, shall be assessed as real property. And the rolling stock and other movable property belonging to any railroad or logging railroad company shall be considered as personal property and taxed as such: PROVIDED, That all of the operating property of street railway companies shall be assessed and taxed as personal property.

All of the operating property of airplane companies, telegraph companies, pipe line companies, water companies and toll bridge companies; the ~~((rolling stock of motor vehicle transportation companies and))~~ floating equipment of steamboat companies, and all of the operating property other than lands and buildings of electric light and power companies, telephone companies, gas companies and heating companies shall be assessed and taxed as personal property.

Sec. 3. Section 84.12.360, chapter 15, Laws of 1961 as amended by section 170, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.12.360 are each amended to read as follows:

The actual cash value of the operating property assessed to a company, as fixed and determined by the state board of equalization, shall be apportioned by the department of revenue to the respective counties and to the taxing districts thereof wherein such property is located in the following manner:

(1) Property of steam, suburban, and interurban railroad companies, telegraph companies and pipe line companies—upon the basis of that proportion of the value of the total operating property within the state which the mileage of track, as classified by the department of revenue (in case of railroads), mileage of wire (in the case of telegraph companies) and mileage of pipe line (in the case of pipe line companies) within each county or taxing district bears to the total mileage thereof within the state, at the end of the calendar year last past. For the purpose of such apportionment the department may classify railroad track.

(2) Property of street railroad companies, ~~((motor vehicle transportation companies,))~~ telephone companies, electric light and power companies, gas companies, water companies, heating companies and toll bridge companies—upon the basis of relative value of the operating property within

each county and taxing district to the value of the total operating property within the state to be determined by such factors as the department of revenue shall deem proper.

(3) Planes or other aircraft of airplane companies and watercraft of steamboat companies—upon the basis of such factor or factors of allocation, to be determined by the department of revenue, as will secure a substantially fair and equitable division between counties and other taxing districts.

All other property of airplane companies and steamboat companies—upon the basis set forth in subdivision (2) hereof.

The basis of apportionment with reference to all public utility companies above prescribed shall not be deemed exclusive and the department of revenue in apportioning values of such companies may also take into consideration such other information, facts, circumstances, or allocation factors as will enable it to make a substantially just and correct valuation of the operating property of such companies within the state and within each county thereof.

NEW SECTION. Sec. 4. For the purpose of calculating the limitation on tax levies under chapter 84.55 RCW, the first assessed values established by the county assessor for motor vehicle transportation companies shall be treated the same as increases resulting from new construction. The department shall, upon the effective date of this act, transmit to the respective county assessors the information necessary for the county assessor to identify and assess these properties.

NEW SECTION. Sec. 5. Section 84.12.290, chapter 15, Laws of 1961 and RCW 84.12.290 are each repealed.

Passed the House March 2, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 154

[Substitute House Bill No. 42]

### ARREST WITHOUT A WARRANT—POSSESSION OR CONSUMPTION OF ALCOHOL BY UNDERAGE PERSONS

AN ACT Relating to arrest; and reenacting and amending RCW 10.31.100.

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

Sec. 1. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 3, chapter 267, Laws of 1985 and by section 9, chapter 303, Laws of 1985 and RCW 10.31.100 are each reenacted and 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 (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, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270 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 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) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.02.095 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.

(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 February 25, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

CHAPTER 155

[House Bill No. 44]

MOBILE HOMES—COLLECTION OF PERSONAL PROPERTY TAXES CLARIFIED

AN ACT Relating to the collection of property taxes on mobile homes; and amending RCW 84.04.090 and 84.36.383.

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

Sec. 1. Section 84.04.090, chapter 15, Laws of 1961 as last amended by section 2, chapter 395, Laws of 1985 and RCW 84.04.090 are each amended to read as follows:

The term "real property" for the purposes of taxation shall be held and construed to mean and include the land itself, whether laid out in town lots or otherwise, and all buildings, structures or improvements or other fixtures of whatsoever kind thereon, except improvements upon lands the fee of



which is still vested in the United States, or in the state of Washington, and all rights and privileges thereto belonging or in any wise appertaining, except leases of real property and leasehold interests therein for a term less than the life of the holder; and all substances in and under the same; all standing timber growing thereon, except standing timber owned separately from the ownership of the land upon which the same may stand or be growing; and all property which the law defines or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law for the purposes of taxation. The term real property shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being permanently fixed in location upon land owned or leased by the owner of the mobile home and placed on a permanent foundation (posts or blocks) with fixed pipe connections with sewer, water, or other utilities: **PROVIDED**, That a mobile home located on land leased by the owner of the mobile home shall be subject to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

Sec. 2. Section 2, chapter 182, Laws of 1974 ex. sess. as last amended by section 3, chapter 395, Laws of 1985 and RCW 84.36.383 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080, 84.04.090 or 84.40.250, such a residence shall be deemed real property.

(2) The term "real property" shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities: **PROVIDED**, That a mobile home located on land leased by the owner of the mobile home shall be subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) The term "preceding calendar year" shall mean the calendar year preceding the year in which the claim for exemption is to be made.

(4) "Department" shall mean the state department of revenue.

(5) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the preceding calendar year, less amounts paid by the person claiming the exemption or his or her spouse during the previous year for the treatment or care of either person in a nursing home.

(6) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1980, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

- (a) Capital gains;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits other than attendant-care and medical-aid payments;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

(7) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

Passed the House March 2, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 156

[House Bill No. 96]

### COMPUTATION OF LEVY RATES AND EXTENDING THE TAX ON THE TAX ROLLS OF HIGHLY VALUED PROPERTY WHOSE ASSESSMENT VALUE IS IN DISPUTE

AN ACT Relating to the extension and collection of taxes when the valuation of highly valued property is the subject of an appeal; and adding a new section to chapter 84.52 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 84.52 RCW to read as follows:

Whenever any property value or claim for exemption or cancellation of a property assessment is appealed to the state board of tax appeals and the dollar difference between the total value asserted by the taxpayer and the total value asserted by the opposing party exceeds one-fourth of one percent of the total assessed value of property in the county, the assessor shall use

only that portion of the total value which is not in controversy for purposes of computing the levy rates and extending the tax on the tax roll in accordance with this chapter, unless the state board of tax appeals has issued its determination at the time of extending the tax.

When the state board of tax appeals makes its final determination, the proper amount of tax shall be extended and collected for each taxing district if this has not already been done. The amount of tax collected and extended shall include interest at the rate of nine percent per year on the amount of the board's final determination minus the amount not in controversy. The interest shall accrue from the date the amount not in controversy was first due and payable. Any amount extended in excess of that permitted by chapter 84.55 RCW shall be held in abeyance and used to reduce the levy rates of the next succeeding levy.

Passed the House March 2, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 157

[Substitute House Bill No. 489]

### PROBATE—SUCCESSOR NOTICE NO LONGER REQUIRED TO THE REVENUE DEPARTMENT INHERITANCE TAX DIVISION REGARDING A CLAIM

AN ACT Relating to probate; amending RCW 11.62.010; and declaring an emergency.

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

Sec. 1. Section 4, chapter 117, Laws of 1974 ex. sess. as amended by section 11, chapter 234, Laws of 1977 ex. sess. and RCW 11.62.010 are each amended to read as follows:

(1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ten thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein(~~;~~ and

~~(j) That the claiming successor has mailed to the inheritance tax division of the state department of revenue a notification of his or her claim in such form as the department of revenue may prescribe, and that at least ten days have elapsed since said mailing)).~~

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) Upon receipt of notification from the inheritance tax division of the state department of revenue that an inheritance tax report is requested, the holder of any property subject to claim by a successor hereunder shall withhold payment, delivery, transfer or issuance of such property until provided with an inheritance tax release.

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 4, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 158

[Substitute House Bill No. 697]

### LONG-TERM CARE OMBUDSMAN PROGRAM—STUDY TO BE CONDUCTED BY THE LEGISLATIVE BUDGET COMMITTEE—VOLUNTEER LONG-TERM CARE OMBUDSMAN ROLE CLARIFIED

AN ACT Relating to the long-term care ombudsman program; amending RCW 43.190-.060; creating new sections; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds and declares that there is a need to study and explore ways for the state long-term care ombudsman office to become more effective as a mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities relating to actions which may adversely affect the health, safety, welfare, and rights of these individuals, and in providing information to public agencies regarding the problems of residents of long-term care facilities.

In order to accomplish its statutory purpose, the office should be located in state government with due regard to both accountability and program integrity; and in the resolution of complaints, should conduct its operations in a responsible manner, consistent with the law, the needs of the state, and with respect for the office.

For the purposes specified herein, the legislature authorizes a study with recommendations by the legislative budget committee.

**NEW SECTION.** Sec. 2. The legislative budget committee shall conduct a study in consultation with the senate committee on human services and corrections and the house committee on health care to determine the effectiveness of the long-term care ombudsman program. The study shall include an analysis of the appropriateness of the placement of the office of the state long-term care ombudsman in state government, considering its authority to respond to complaints concerning long-term care facilities consistent with federal and state law. The study shall address its placement within the department of social and health services and alternative agencies such as the attorney general's office, the insurance commissioner, the state auditor, as an independent state agency or in association with an agency by contract.

The study shall also address the appropriateness of exempt status from the state civil service laws for the state ombudsman in consideration of the office's statutory responsibilities and the nature and importance of its mission.

This report, with recommendations shall be submitted to the legislature no later than December 1, 1987.

Sec. 3. Section 6, chapter 290, Laws of 1983 and RCW 43.190.060 are each amended to read as follows:

A long-term care ombudsman shall:

(1) Investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. (~~Volunteers shall not be used for complaint investigation or problem resolution activities authorized in subsection (1) of this section.~~) A volunteer long-term care ombudsman shall be able to identify and resolve problems regarding the care of residents in long-term care facilities and to assist such residents in the assertion of their civil and human rights. However, volunteers shall not be used for complaint investigations but may engage in fact-finding activities to determine whether a formal complaint should be submitted to the department.

**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 March 12, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

---

## CHAPTER 159

[Substitute House Bill No. 55]

### SUSTAINABLE HARVEST OF TIMBER MODIFIED

AN ACT Relating to the sustainable harvest of timber from state-owned lands; amending RCW 79.68.040; adding new sections to chapter 79.68 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. Adequately funding construction of the state's educational facilities represents one of the highest priority uses of state-owned lands. Many existing facilities need replacement and many additional facilities will be needed by the year 2000 to house students entering the educational system. The sale of timber from state-owned lands plays a key role in supporting the construction of school facilities. Currently and in the future, demands for school construction funds are expected to exceed available revenues.

The department of natural resources sells timber on a sustained yield basis. Since 1980, purchasers defaulted on sales contracts affecting over one billion one hundred million board feet of timber. Between 1981 and 1983, the department sold six hundred million board feet of timber less than the sustainable harvest level. As a consequence of the two actions, the department entered their 1984-1993 planning decade with a timber sale arrearage which could be sold without adversely affecting the continued productivity of the state-owned forests.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) "Arrearage" means the summation of the annual sustainable harvest timber volume since July 1, 1979, less the sum of state timber sales contract default volume and the state timber sales volume deficit since July 1, 1979.

(2) "Default" means the volume of timber remaining when a contractor fails to meet the terms of the sales contract on the completion date of the contract or any extension thereof and timber returned to the state under RCW 79.01.1335.

(3) "Deficit" means the summation of the difference between the department's annual planned sales program volume and the actual timber volume sold.

(4) "Planning decade" means the ten-year period covered in the forest land management plan adopted by the board of natural resources.

(5) "Sustainable harvest level" means the volume of timber scheduled for sale from state-owned lands during a planning decade as calculated by the department of natural resources and approved by the board of natural resources.

Sec. 3. Section 4, chapter 234, Laws of 1971 ex. sess. and RCW 79.68.040 are each amended to read as follows:

The department of natural resources shall manage the state-owned lands under its jurisdiction which are primarily valuable for the purpose of growing forest crops on a sustained yield basis insofar as compatible with

other statutory directives. To this end, the department shall periodically adjust the acreages designated for inclusion in the sustained yield management program and calculate a sustainable harvest level.

NEW SECTION. Sec. 4. If an arrearage exists at the end of any planning decade, the department shall conduct an analysis of alternatives to determine the course of action regarding the arrearage which provides the greatest return to the trusts based upon economic conditions then existing and forecast, as well as impacts on the environment of harvesting the additional timber. The department shall offer for sale the arrearage in addition to the sustainable harvest level adopted by the board of natural resources for the next planning decade if the analysis determined doing so will provide the greatest return to the trusts.

NEW SECTION. Sec. 5. Sections 2 and 4 of this act are each added to chapter 79.68 RCW.

Passed the House March 16, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 160

[Substitute House Bill No. 1004]

### CHIROPRACTIC DISCIPLINARY BOARD REAUTHORIZED

AN ACT Relating to reauthorizing the chiropractic disciplinary board; adding new sections to chapter 43.131 RCW; repealing RCW 43.131.295, 43.131.296, 18.26.010, 18.26.020, 18.26.028, 18.26.030, 18.26.040, 18.26.050, 18.26.060, 18.26.070, 18.26.080, 18.26.090, 18.26.110, and 18.26.900; 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 21, chapter 197, Laws of 1983 and RCW 43.131.295; and
- (2) Section 47, chapter 197, Laws of 1983 and RCW 43.131.296.

NEW SECTION. Sec. 2. A new section is added to chapter 43.131 RCW to read as follows:

The chiropractic disciplinary board and its powers and duties shall be terminated on June 30, 1997, 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, as now existing or hereafter amended, are each repealed, effective June 30, 1998:

- (1) Section 1, chapter 171, Laws of 1967 and RCW 18.26.010;
- (2) Section 2, chapter 171, Laws of 1967 and RCW 18.26.020;
- (3) Section 22, chapter 259, Laws of 1986 and RCW 18.26.028;



(4) Section 3, chapter 171, Laws of 1967, section 12, chapter 97, Laws of 1974 ex. sess., section 1, chapter 39, Laws of 1975 1st ex. sess., section 17, chapter 111, Laws of 1979 ex. sess., section 25, chapter 259, Laws of 1986 and RCW 18.26.030;

(5) Section 1, chapter 46, Laws of 1980 and RCW 18.26.040;

(6) Section 5, chapter 171, Laws of 1967, section 21, chapter 158, Laws of 1979 and RCW 18.26.050;

(7) Section 6, chapter 171, Laws of 1967 and RCW 18.26.060;

(8) Section 2, chapter 46, Laws of 1980, section 28, chapter 287, Laws of 1984 and RCW 18.26.070;

(9) Section 8, chapter 171, Laws of 1967 and RCW 18.26.080;

(10) Section 9, chapter 171, Laws of 1967 and RCW 18.26.090;

(11) Section 11, chapter 171, Laws of 1967, section 2, chapter 39, Laws of 1975 1st ex. sess., section 26, chapter 259, Laws of 1986 and RCW 18.26.110; and

(12) Section 31, chapter 171, Laws of 1967 and RCW 18.26.900.

**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, 1987.

Passed the House March 16, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

## CHAPTER 161

[Substitute House Bill No. 188]

### INITIATIVES OR REFERENDUMS—FILING PERIOD

AN ACT Relating to the time for filing initiatives; amending RCW 29.79.020; and declaring an emergency.

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

Sec. 1. Section 29.79.020, chapter 9, Laws of 1965 and RCW 29.79-.020 are each amended to read as follows:

Initiative measures proposed to be submitted to the people must be filed with the secretary of state within ten months prior to the election at which they are to be submitted, and the petitions therefor must be filed with the secretary of state not less than four months before the next general state-wide election.

Initiative measures proposed to be submitted to the legislature must be filed with the secretary of state within ten months prior to the next regular session of the legislature at which they are to be submitted and the petitions

therefor must be filed with the secretary of state not less than ten days before such regular session of the legislature.

A petition ordering that any act or part thereof passed by the legislature be referred to the people must be filed with the secretary of state within ninety days after the final adjournment of the legislative session at which the act was passed. It may be submitted at the next general state-wide election or at a special election ordered by the legislature.

A proposed initiative or referendum measure may be filed no earlier than the opening of the secretary of state's office for business pursuant to RCW 42.04.060 on the first day filings are permitted, and any initiative or referendum petition must be filed not later than the close of business on the last business day in the specified period for submission of signatures. If a filing deadline falls on a Saturday, the office of the secretary of state shall be open on that Saturday for the transaction of business under this section from 8:00 a.m. to 5:00 p.m. on that Saturday.

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 11, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 162

[Substitute House Bill No. 763]

### INFORMED CONSENT FOR HEALTH CARE

AN ACT Relating to consent for health care; and adding a new section to chapter 7.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 7.70 RCW to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(b), to consent may be obtained from a person authorized to consent on behalf of such patient. Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent shall be a member of one of the following classes of persons in the following order of priority:

(a) The appointed guardian of the patient, if any;

(b) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

- (c) The patient's spouse;
- (d) Children of the patient who are at least eighteen years of age;
- (e) Parents of the patient; and
- (f) Adult brothers and sisters of the patient.

(2) If the physician seeking informed consent for proposed health care of the patient who is not competent to consent makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(a) If a person of higher priority under this section has refused to give such authorization; or

(b) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(3) Before any person authorized to provide informed consent on behalf of a patient not competent to consent exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

Passed the House March 19, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 163

[House Bill No. 374]

### VETERINARY BIOLOGICS

AN ACT Relating to the disease control authority of the department of agriculture; and amending RCW 16.36.005 and 16.36.020.

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

Sec. 1. Section 1, chapter 17, Laws of 1953 and RCW 16.36.005 are each amended to read as follows:

As used in (~~RCW 16.36.020 and RCW 16.36.103 through 16.36-110~~) this chapter:

"Director" means the director of agriculture of the state of Washington or his authorized representative.

"Department" means the department of agriculture of the state of Washington.

"Garbage" means the solid animal and vegetable waste and offal together with the natural moisture content resulting from the handling, preparation, or consumption of foods in houses, restaurants, hotels, kitchens, markets, meat shops, packing houses and similar establishments or any other food waste containing meat or meat products.

"Veterinary biologic" means any virus, serum, toxin, and analogous product of natural or synthetic origin, or product prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components intended for use in the diagnosis, treatment, or prevention of diseases in animals.

Sec. 2. Section 1, chapter 165, Laws of 1927 as last amended by section 8, chapter 154, Laws of 1979 and RCW 16.36.020 are each amended to read as follows:

The director (~~(of agriculture)~~) shall have general supervision of the prevention of the spread and the suppression of infectious, contagious, communicable and dangerous diseases affecting animals within, in transit through(~~(;)~~) and(~~(, by means of the division of animal industry,)~~) being imported into the state. The director may establish and enforce quarantine of and against any and all domestic animals (~~(which have been fed garbage or)~~) which are affected with any such disease or that may have been exposed to others thus affected, whether within or without the state, for such length of time as he deems necessary to determine whether any such animal is infected with any such disease. The director shall also enforce and administer the provisions of (~~(RCW 16.36.005, 16.36.020, 16.36.103, 16.36.105, 16.36.107, 16.36.108, 16.36.109 and 16.36.110,)~~) this chapter pertaining to garbage feeding and when garbage has been fed to swine (~~(he)~~), the director may require the disinfection of all facilities, including yard, transportation and feeding facilities, used for keeping such swine.

The director shall also have the authority to regulate the sale, distribution, and use of veterinary biologics in the state and may adopt rules to restrict the sale, distribution, or use of any veterinary biologic in any manner the director determines to be necessary to protect the health and safety of the public and the state's animal population.

Passed the House February 27, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 164

[Substitute House Bill No. 783]  
MILK POOLING

AN ACT Relating to milk pooling; and amending RCW 15.35.240.

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

Sec. 1. Section 24, chapter 230, Laws of 1971 ex. sess. and RCW 15.35.240 are each amended to read as follows:

The director may deny, suspend, or revoke a license upon due notice and an opportunity for a hearing as provided in chapter 34.04 RCW, concerning contested cases, as enacted or hereafter amended, or rules adopted thereunder by the director, when he is satisfied by a preponderance of the evidence of the existence of any of the following facts:

(1) A milk dealer has failed to account and make payments without reasonable cause, for milk purchased from a producer subject to the provisions of this chapter or rules adopted hereunder;

(2) A milk dealer has committed any act injurious to the public health or welfare or to trade and commerce in milk;

(3) A milk dealer has continued in a course of dealing of such nature as to satisfy the director of his inability or unwillingness to properly conduct the business of handling or selling milk, or to satisfy the director of his intent to deceive or defraud producers subject to the provisions of this chapter or rules adopted hereunder;

(4) A milk dealer has rejected without reasonable cause any milk purchased or has rejected without reasonable cause or reasonable advance notice milk delivered in ordinary continuance of a previous course of dealing, except where the contract has been lawfully terminated;

(5) Where the milk dealer is insolvent or has made a general assignment for the benefit of creditors or has been adjudged bankrupt or where a money judgment has been secured against him upon which an execution has been returned wholly or partially satisfied;

(6) Where the milk dealer has been a party to a combination to fix prices, contrary to law; a cooperative association organized under chapter 24.32 RCW and making collective sales and marketing milk pursuant to the provisions of such chapter, directly or through a marketing agent, shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly;

(7) Where there has been a failure either to keep records or to furnish statements or information required by the director;

(8) Where it is shown that any material statement upon which the license was issued is or was false or misleading or deceitful in any particular;

(9) Where the applicant is a partnership or a corporation and any individual holding any position or interest or power of control therein has previously been responsible in whole or in part for any act for which a license may be denied, suspended, or revoked, pursuant to the provisions of this chapter or rules adopted hereunder;

(10) Where the milk dealer has violated any provisions of this chapter or rules adopted hereunder;

(11) Where the milk dealer has ceased to operate the milk business for which the license was issued.

Passed the House March 9, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 165

[Substitute House Bill No. 732]

### AUDIT SERVICES REVOLVING FUND—REVISIONS

AN ACT Relating to the audit services revolving fund; amending RCW 43.09.412 and 43.09.416; and repealing RCW 43.09.320.

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

Sec. 1. Section 2, chapter 336, Laws of 1981 and RCW 43.09.412 are each amended to read as follows:

The amounts to be disbursed from the auditing services revolving fund (~~((from time to time))~~) shall be transferred thereto by the state treasurer from funds appropriated to any and all state departments for auditing services or administrative expenses on a ~~((quarterly))~~ monthly basis. State departments operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving fund such funds as will fully reimburse funds appropriated to the state auditor for any auditing services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the state auditor for the operation of his office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state departments headed by elected officers under chapter 43.88 RCW.

Sec. 2. Section 4, chapter 336, Laws of 1981 and RCW 43.09.416 are each amended to read as follows:

The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and state departments served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and state departments served. ~~((Billings shall be adjusted in line with actual costs incurred at intervals not~~

~~to exceed six months. PROVIDED, That the~~) The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the auditing services revolving fund appropriation. The director of the office of financial management shall establish a committee of at least three certified public accountants with private sector audit experience to prepare general guidelines governing procedures to be used in determining audit costs and standards for measuring auditor productivity. These proposed procedures and productivity standards shall be presented for review by the house and senate committees on ways and means prior to the 1982 regular session of the legislature.

NEW SECTION. Sec. 3. Section 43.09.320, chapter 8, Laws of 1965 and RCW 43.09.320 are each repealed.

Passed the House March 16, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 166

[House Bill No. 199]

### TIMBER EXCISE TAX—TAX LIABILITY THRESHOLD REVISED—SMALL HARVESTER REDEFINED

AN ACT Relating to timber excise tax administrative provisions; and amending RCW 84.33.086 and 84.33.073.

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

Sec. 1. Section 10, chapter 204, Laws of 1984 and RCW 84.33.086 are each amended to read as follows:

(1) The taxes imposed under this chapter shall be computed with respect to timber harvested each calendar quarter and shall be due and payable in quarterly installments. Remittance shall be made on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrues. The taxpayer on or before such date shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of tax for which the taxpayer is liable for the preceding quarterly period and shall sign and transmit the same to the department of revenue, together with a remittance for the amount of tax.

(2) The taxes imposed by this chapter are in addition to any taxes imposed upon the same persons under chapter 82.04 RCW.

(3) Any harvester incurring less than ~~((ten))~~ fifty dollars tax liability under this section in any calendar quarter is excused from the payment of such tax, but may be required by the department of revenue to file a return even though no tax may be due.

Sec. 2. Section 1, chapter 146, Laws of 1981 as last amended by section 2, chapter 315, Laws of 1986 and RCW 84.33.073 are each amended to read as follows:

As used in RCW 84.33.073 and 84.33.074, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Small harvester" means every person who from his 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, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding five hundred thousand board feet in a calendar quarter and not exceeding one million board feet in a calendar year: PROVIDED, That whenever the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in such timber. "Small harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include harvesters of ~~((forest products classified by the department of revenue as special forest products including))~~ Christmas trees ~~((posts, shake boards and bolts, and shingle blocks))~~.

(2) "Timber" means forest trees, standing or down, on privately or publicly owned land.

(3) "Harvesting and marketing costs" means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues but it does not include any other costs which are not directly and exclusively related to harvesting and marketing of the timber such as costs of permanent roads or costs of reforesting the land following harvest.

Passed the House March 2, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.



## CHAPTER 167

[Substitute House Bill No. 706]

## YOUTH EMPLOYMENT—WASHINGTON SERVICE CORPS

AN ACT Relating to youth employment and conservation; amending RCW 50.65.010, 50.65.020, 50.65.030, 50.65.040, 50.65.050, 50.65.060, 50.65.110, 50.65.130, and 50.65.900; adding new sections to chapter 50.65 RCW; 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 50, Laws of 1983 1st ex. sess. and RCW 50.65.010 are each amended to read as follows:

The legislature finds that:

(1) The unemployment rate in the state of Washington is the highest since the great depression, with a significantly higher rate among Washington youth.

(2) The policy of the state is to conserve and protect its natural and urban resources, scenic beauty, and historical and cultural sites.

(3) It is in the public interest to target employment projects to those activities which have the greatest benefit to the local economy.

(4) There are many unemployed young adults without hope or opportunities for entrance into the labor force who are unable to afford higher education and who create a serious strain on tax revenues in community services.

(5) The severe cutbacks in community and human services funding leave many local community service agencies without the resources to provide necessary services to those in need.

(6) The talent and energy of Washington's unemployed young adults are an untapped resource which should be challenged to meet the serious shortage in community services and promote and conserve the valuable resources of the state.

Therefore, the legislature finds it necessary and in the public interest to enact the Washington youth employment and conservation act. As part of this chapter, the Washington (~~youth employment exchange~~) service corps is established as an operating program of the employment security department. The legislature desires to facilitate the potential of youth to obtain available job opportunities in both public and private agencies.

Sec. 2. Section 2, chapter 50, Laws of 1983 1st ex. sess. and RCW 50.65.020 are each amended to read as follows:

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

(1) "Commissioner" means the commissioner of the employment security department.

(2) "Department" means the employment security department.

(3) "Enrollees" means those persons who have completed enrollment forms, completed a work agreement, and who have entered into ~~((service))~~ the Washington service corps following the approval of the director of the supervising agency.

(4) ~~((("Exchange" means the Washington youth employment exchange))~~ "Corps" means the Washington service corps.

(5) "Work agreement" means the written agreement between the department, the enrollee and the supervising agency under this chapter for a period of up to eighteen months.

(6) "Supervising agencies" means those private or public agencies which develop and implement full-time service projects in which enrollees agree to participate.

(7) "Matching funds" means funding that is provided to the employment security department by agencies or individuals as financial support for a portion of the stipend or wage and benefits paid to the enrollee.

(8) "Financial support" means any thing of value contributed by agencies or individuals to the department for a youth employment project which is reasonably calculated to support directly the development and expansion of a particular program under this chapter and which represents an addition to any financial support previously or customarily provided by the individual or agency. "Financial support" includes, but is not limited to funds, equipment, facilities, and training.

(9) "Director" means the individual who shall serve as the director of the exchange.

Sec. 3. Section 3, chapter 50, Laws of 1983 1st ex. sess. and RCW 50-.65.030 are each amended to read as follows:

The Washington ~~((youth employment exchange))~~ service corps is established within the employment security department. The commissioner shall:

(1) Appoint a director for the exchange and other personnel as necessary to carry out the purposes of this chapter;

(2) Coordinate youth employment and training efforts under the department's jurisdiction and cooperate with other agencies or departments providing youth services to ensure that funds appropriated for the purposes of this chapter will not be expended to duplicate existing services, but will increase the services of youth to the state;

(3) The employment security department is authorized to place subgrants with other federal, state, and local governmental agencies and private agencies to provide youth employment projects and to increase the numbers of youth employed;

(4) Determine appropriate financial support levels by private business, community groups, foundations, public agencies, and individuals which will

provide matching funds for enrollees in service projects under work agreements. The matching funds requirement may be waived for public agencies or reduced for private agencies;

(5) Recruit enrollees who are residents of the state unemployed at the time of application and are at least eighteen years of age but have not ((more than twenty-five years of age)) reached their twenty-sixth birthday;

(6) Recruit supervising agencies to host the enrollees in full-time service activities which shall not exceed six months' duration, which may be extended for an additional six months by mutual consent;

(7) Assist supervising agencies in the development of scholarships and matching funds from private and public agencies, individuals, and foundations in order to support a portion of the enrollee's stipend and benefits;

(8) Develop general employment guidelines for placement of enrollees in supervising agencies to establish appropriate authority for hiring, firing, grievance procedures, and employment standards which are consistent with state and federal law;

(9) Match enrollees with appropriate public agencies and available service projects;

(10) Monitor enrollee activities for compliance with this chapter and compliance with work agreements;

(11) Assist enrollees in transition to employment upon termination from the programs, including such activities as orientation to the labor market, on-the-job training, and placement in the private sector;

(12) Establish a program for providing incentives to encourage successful completion of terms of enrollment in the service corps and the continuation of educational pursuits. Such incentives shall be in the form of educational assistance;

(13) Enter into agreements with the state's community college system and other educational institutions or independent nonprofit agencies to provide special education in basic skills, including reading, writing, and mathematics for those participants who may benefit by participation in such classes. Participation is not mandatory but shall be strongly encouraged.

Sec. 4. Section 4, chapter 50, Laws of 1983 1st ex. sess. and RCW 50-.65.040 are each amended to read as follows:

The commissioner may select and enroll in the Washington ((youth employment exchange)) service corps program any person who is at least eighteen years of age but has not ((more than twenty-five years of age)) reached their twenty-sixth birthday, is a resident of the state, and who is not for medical, legal, or psychological reasons incapable of service. In the selection of enrollees of the ((exchange)) service corps, preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment above the state average. Efforts shall be made to enroll youths who are economically, socially, physically, or educationally disadvantaged. The commissioner may prescribe such additional standards

and procedures in consultation with supervising agencies as may be necessary in conformance with this chapter.

Sec. 5. Section 5, chapter 50, Laws of 1983 1st ex. sess. and RCW 50.65.050 are each amended to read as follows:

The commissioner shall use existing local offices of the employment security department or contract with independent, private nonprofit agencies in a local community to establish the ~~((local youth employment exchange))~~ Washington service corps program and to insure coverage of the program state-wide. Each local ~~((youth employment exchange program))~~ office shall maintain a list of available youth employment opportunities in the jurisdiction covered by the local office and the appropriate forms or work agreements to enable the youths to apply for employment in private or public supervising agencies.

Sec. 6. Section 6, chapter 50, Laws of 1983 1st ex. sess. and RCW 50.65.060 are each amended to read as follows:

Placements in the Washington ~~((youth employment exchange))~~ service corps shall be made in supervising agencies under work agreements as provided under this chapter and shall include those assignments which provide for addressing community needs and conservation problems and will assist the community in economic development efforts. Each work agreement shall:

(1) Demonstrate that the service project is appropriate for the enrollee's interests, skills, and abilities and that the project is designed to meet unmet community needs;

(2) Include a requirement of regular performance evaluation. This shall include clear work performance standards set by the supervising agency and procedures for identifying strengths, recommended improvement areas and conditions for probation or dismissal of the enrollee; and

(3) Include a commitment for partial financial support for the enrollee for a private industry, public agency, community group, or foundation. The commissioner may establish additional standards for the development of placements for enrollees with supervising agencies and assure that the work agreements comply with those standards. This section shall not apply to conservation corps programs established by chapter 43.220 RCW.

Agencies of the state may use the youth employment exchange for the purpose of employing youth qualifying under this chapter.

Sec. 7. Section 11, chapter 50, Laws of 1983 1st ex. sess. as amended by section 6, chapter 230, Laws of 1985 and RCW 50.65.110 are each amended to read as follows:

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))~~ service corps 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, old age health and survivor's insurance, state retirement plans, and vacation leave do not apply to enrollees.

Sec. 8. Section 13, chapter 50, Laws of 1983 1st ex. sess. and RCW 50.65.130 are each amended to read as follows:

In addition to any other power, duty, or function described by law or rule, the employment security department, through the program established under this chapter, may accept federal or private sector funds and grants and implement such programs relating to community services or employment programs and may enter into contracts respecting such funds or grants. The department may also use funds appropriated for the purposes of this chapter as matching funds for federal or private source funds to accomplish the purposes of this chapter. The Washington service corps shall be the sole recipient of federal funds for youth employment and conservation corps programs.

Sec. 9. Section 14, chapter 50, Laws of 1983 1st ex. sess. and RCW 50.65.900 are each amended to read as follows:

This chapter shall expire on July 1, (~~1987~~) 1993, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 10. Sixty percent of the general funds available to the service corps program shall be for enrollees 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 preceding 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 preceding 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.

**NEW SECTION.** Sec. 11. (1) Not more than fifteen percent of the funds available for the service corps shall be expended for administrative costs. For the purposes of this chapter, "administrative costs" include, but are not limited to, program planning and evaluation, budget development and monitoring, personnel management, contract administration, administrative payroll, development of program reports, and administrative office space 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 and corpsmembers, counseling, education and job training, equipment, advisory board expenses, and extraordinary recruitment and placement procedures necessary to fill project positions.

(3) The total for all items included under subsection (1) of this section and excluded under subsection (2) of this section shall not: (a) Exceed thirty percent of the appropriated funds available during a fiscal biennium for the service and conservation corps programs; or (b) result in an average cost per enrollee or corpsmember from general funds exceeding seven thousand dollars in the 1987-89 biennium and in succeeding biennia as adjusted by inflation factors established by the office of financial management for state budgeting purposes. The test included in (a) and (b) of this subsection are in the alternative, and it is only required that one of the tests be satisfied.

**NEW SECTION.** Sec. 12. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this chapter is 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 chapter. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION.** Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 14. Sections 10 through 12 of this act shall be added to chapter 50.65 RCW.

**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 June 30, 1987.

Passed the House March 16, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 168

[House Bill No. 197]

## STATE PROPERTY TAX LEVY—ADJUSTMENTS CLARIFIED

AN ACT Relating to the surplus, delinquency, and adjustments to the state property tax levy; and amending RCW 84.48.110, 84.48.120, and 84.56.290.

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

Sec. 1. Section 17, chapter 260, Laws of 1981 as amended by section 4, chapter 132, Laws of 1984 and RCW 84.48.110 are each amended to read as follows:

Within three days after the record of the proceedings of the state board of equalization is certified by the director of the department, the department shall transmit to each county assessor a copy of the record of the proceedings of the board, specifying the amount to be levied and collected on said assessment books for state purposes for such year, and in addition thereto it shall certify to each county assessor the amount due to each state fund and unpaid from such county for the ~~((seventh))~~ fifth preceding year, and such delinquent state taxes shall be added to the amount levied for the current year. The department shall close the account of each county for the ~~((seventh))~~ fifth preceding year and charge the amount of such delinquency to the tax levy of the current year. These delinquent taxes shall not be subject to chapter 84.55 RCW. All taxes collected on and after the first day of July last preceding such certificate, on account of delinquent state taxes for the ~~((seventh))~~ fifth preceding year shall belong to the county and by the county treasurer be credited to the current expense fund of the county in which collected.

~~((For taxes due in 1985, the department shall add the delinquent taxes for the fifth, sixth, and seventh preceding year to the taxes due, and beginning with taxes due in 1986, the department shall add only the delinquent taxes for the fifth preceding year to the amount of taxes due each year.))~~

Sec. 2. Section 84.48.120, chapter 15, Laws of 1961 as last amended by section 5, chapter 86, Laws of 1979 ex. sess. and RCW 84.48.120 are each amended to read as follows:

It shall be the duty of the county assessor of each county, when he shall have received from the state department of revenue the assessed valuation of the property of railroad and other companies assessed by the department of revenue and apportioned to the county, and placed the same on the tax rolls, and received the report of the department of revenue of the amount of taxes levied for state purposes, to compute the required percent on the assessed value of property in the county, and such state taxes shall be extended on the tax rolls in the proper column: PROVIDED, That the rates so computed shall not be such as to raise a surplus of more than five percent

over the total amount required by the state board of equalization: PROVIDED FURTHER, That any surplus raised shall be remitted to the state in accordance with RCW 84.56.280.

Sec. 3. Section 84.56.290, chapter 15, Laws of 1961 as amended by section 8, chapter 86, Laws of 1979 ex. sess. and RCW 84.56.290 are each amended to read as follows:

Whenever any tax shall have been heretofore, or shall be hereafter, canceled, reduced or modified in any final judicial, board of equalization, state board of tax appeals, or administrative proceeding; or whenever any tax shall have been heretofore, or shall be hereafter canceled by sale of property to any irrigation district under foreclosure proceedings for delinquent irrigation district assessments; or whenever any contracts or leases on public lands shall have been heretofore, or shall be hereafter, canceled and the tax thereon remains unpaid for a period of two years, the director of revenue shall, upon receipt from the county (~~auditor~~) treasurer of a certified copy of the final judgment, order, or decree canceling, reducing, or modifying taxes, or of a certificate from the county treasurer of the cancellation by sale to an irrigation district, or of a certificate from the commissioner of public lands and the county treasurer of the cancellation of public land contracts or leases and nonpayment of taxes thereon, as the case may be, make corresponding entries and corrections on his records of the state's portion of reduced or canceled tax (~~and shall notify the county auditor thereof who shall make like entries and corrections on his tax roll records~~).

Upon canceling taxes deemed uncollectible, the county commissioners shall notify the county (~~auditor~~) treasurer of such action, whereupon the county (~~auditor~~) treasurer shall deduct on his records the amount of such uncollectible taxes due the various state funds and shall immediately notify the department of revenue of his action and of the reason therefor; which uncollectible tax shall not then nor thereafter be due or owing the various state funds and the necessary corrections shall be made by the county treasurer upon the quarterly settlement next following.

When any assessment of property is made which does not appear on the assessment list certified by the county board of equalization to the state board of equalization the county assessor shall indicate to the county (~~auditor~~) treasurer the assessments and the taxes due therefrom when the list is delivered to the county (~~auditor~~) treasurer on December 15th. The county (~~auditor~~) treasurer shall then notify the department of revenue of the taxes due the state from the assessments which did not appear on the assessment list certified by the county board of equalization to the state board of equalization. The county treasurer shall make proper accounting (~~to the county auditor~~) of all sums collected as either advance tax, compensating or additional tax, or supplemental or omitted tax (~~whereupon the county auditor~~) and shall notify the department of revenue of the amounts due the various state funds according to the levy used in extending



such tax, and those amounts shall immediately become due and owing to the various state funds, to be paid to the state treasurer in the same manner as taxes extended on the regular tax roll.

Passed the House March 2, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 169

[House Bill No. 643]

### SEWER DISTRICTS AND WATER DISTRICTS—PREPAID SPECIAL ASSESSMENTS MAY BE PLACED IN AN IMPROVEMENT FUND

AN ACT Relating to payment of special assessments prior to the issuance and sale of bonds; and amending RCW 56.20.010 and 57.16.050.

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

Sec. 1. Section 26, chapter 210, Laws of 1941 as amended by section 8, chapter 272, Laws of 1971 ex. sess. and RCW 56.20.010 are each amended to read as follows:

Any sewer district shall have the power to establish utility local improvement districts within its territory as hereinafter provided, and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement, on the basis of the special benefits to pay in whole or in part the damages or costs of any improvements ordered in such sewer district. The levying, collection and enforcement of all ~~((public))~~ special assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection and enforcement of ~~((local improvement))~~ special assessments by cities ~~((of the first class))~~ and towns, insofar as the same shall not be inconsistent with the provisions of this title. The duties devolving upon the city or town treasurer under said laws are imposed upon the county treasurer of each county in which the real property is located for the purposes of this title. The mode of assessment shall be in the manner to be determined by the sewer commissioners by resolution. It must be specified in any petition for the establishment of a utility local improvement district and in the approved general comprehensive ~~((scheme or))~~ plan or approved amendment thereto ~~((previously duly ratified at an election))~~, that, except as provided in this section, the special assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds. Special assessments in any utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of any comprehensive scheme or plan payable by issuance of revenue bonds. No warrants or bonds shall be issued in any such utility local improvement district, but the collection of interest and principal

on all special assessments in such utility local improvement district, when collected, shall be paid into the revenue bond fund, except that special assessments paid before the issuance and sale of bonds may be deposited in a fund for the payment of costs of improvements in the utility local improvement district.

Sec. 2. Section 9, chapter 114, Laws of 1929 as last amended by section 161, chapter 167, Laws of 1983 and RCW 57.16.050 are each amended to read as follows:

(1) A district may establish local improvement districts within its territory; levy special assessments under the mode of annual installments extending over a period not exceeding twenty years, on all property specially benefited by a local improvement, on the basis of special benefits to pay in whole or in part the damage or costs of any improvements ordered in the district; and issue local improvement bonds in the local improvement district to be repaid by the collection of (~~total improvement~~) special assessments. Such bonds may be of any form, including bearer bonds or registered bonds as provided in RCW 39.46.030. The levying, collection and enforcement of such special assessments and issuance of bonds shall be as provided for the levying, collection, and enforcement of (~~total improvement~~) special assessments and the issuance of local improvement district bonds by cities and towns insofar as consistent herewith. The duties devolving upon the city or town treasurer are hereby imposed upon the county treasurer of the county in which the real property is located for the purposes hereof. The mode of assessment shall be determined by the water commissioners by resolution. When in the petition or resolution for the establishment of a local improvement district, and in the approved comprehensive plan or approved amendment thereto or plan providing for additions and betterments to the original plan, previously adopted, it is provided that, except as set forth in this section, the special assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds, then the local improvement district shall be designated as a "utility local improvement district." No warrants or bonds shall be issued in a utility local improvement district, but the collection of interest and principal on all special assessments in the utility local improvement district shall be paid into the revenue bond fund, except that special assessments paid before the issuance and sale of bonds may be deposited in a fund for the payment of costs of improvements in the utility local improvement district.

(2) Such bonds may also be issued and sold in accordance with chapter 39.46 RCW.

Passed the House March 9, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 170

[Second Substitute House Bill No. 480]

## INDIAN CHILD WELFARE

AN ACT Relating to Indian child welfare; amending RCW 13.04.030, 26.33.080, 26.33-.090, 26.33.110, 26.33.120, 26.33.160, 26.33.240, 26.33.310, 74.13.031, 74.13.080, 74.15.020, and 74.15.090; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.15 RCW; and providing an effective date.

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

Sec. 1. Section 2, chapter 160, Laws of 1913 as last amended by section 29, chapter 354, Laws of 1985 and RCW 13.04.030 are each amended to read as follows:

The juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(1) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170, as now or hereafter amended;

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

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

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

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

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

(c) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or subsection (5)(a) of this section: PROVIDED FURTHER,

That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(6) Under the interstate compact on juveniles as provided in chapter 13.24 RCW; ~~((and))~~

(7) Relating to termination of a diversion agreement under RCW 13.40.080 as now or hereafter amended, including a proceeding in which the divertee has attained eighteen years of age; and

(8) Relating to court validation of a voluntary consent to foster care placement under chapter 13.34 RCW or relinquishment or consent to adoption under chapter 26.33 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction.

NEW SECTION. Sec. 2. A new section is added to chapter 13.34 RCW to read as follows:

(1) Where any parent or Indian custodian voluntarily consents to foster care placement of an Indian child and a petition for dependency has not been filed regarding the child, such consent shall not be valid unless executed in writing before the court and filed with the court. The consent shall be accompanied by the written certification of the court that the terms and consequences of the consent were fully explained in detail to the parent or Indian custodian during the court proceeding and were fully understood by the parent or Indian custodian. The court shall also certify in writing either that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) To obtain court validation of a voluntary consent to foster care placement, any person may file a petition for validation alleging that there is located or residing within the county an Indian child whose parent or Indian custodian wishes to voluntarily consent to foster care placement of the child and requesting that the court validate the consent as provided in this section. The petition shall contain the name, date of birth, and residence of the child, the names and residences of the consenting parent or Indian custodian, and the name and location of the Indian tribe in which the child is a member or eligible for membership. The petition shall state whether the placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be followed. Reasonable attempts shall be made by the petitioner to ascertain and set forth in the petition the identity, location, and custodial status of any parent or Indian custodian who has not consented to foster care placement and why that parent or Indian custodian cannot assume custody of the child.

(3) Upon filing of the petition for validation, the clerk of the court shall schedule the petition for a hearing on the court validation of the voluntary consent no later than forty-eight hours after the petition has been filed, excluding Saturdays, Sundays, and holidays. Notification of time, date, location, and purpose of the validation hearing shall be provided as soon as possible to the consenting parent or Indian custodian, the department or other child-placing agency which is to assume custody of the child pursuant to the consent to foster care placement, and the Indian tribe in which the child is enrolled or eligible for enrollment as a member. If the identity and location of any nonconsenting parent or Indian custodian is known, reasonable attempts shall be made to notify the parent or Indian custodian of the consent to placement and the validation hearing. Notification under this subsection may be given by the most expedient means, including, but not limited to, mail, personal service, telephone, and telegraph.

(4) Any parent or Indian custodian may withdraw consent to a voluntary foster care placement, made under this section, at any time. Unless the Indian child has been taken in custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the Indian child shall be returned to the parent or Indian custodian upon withdrawal of consent to foster care placement of the child.

(5) Upon termination of the voluntary foster care placement and return of the child to the parent or Indian custodian, the department or other child placing agency which had assumed custody of the child pursuant to the consent to foster care placement shall file with the court written notification of the child's return and shall also send such notification to the Indian tribe in which the child is enrolled or eligible for enrollment as a member and to any other party to the validation proceeding including any noncustodial parent.

Sec. 3. Section 8, chapter 155, Laws of 1984 as amended by section 1, chapter 421, Laws of 1985 and RCW 26.33.080 are each amended to read as follows:

(1) A parent, an alleged father, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.

(2) A parent, alleged father, or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.

(3) A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. If the child is an Indian child as defined in 25 U.S.C. Sec. 1903(4), the petition and consent shall not be signed until at least ten days after the child's birth and shall be recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

Sec. 4. Section 9, chapter 155, Laws of 1984 as amended by section 2, chapter 421, Laws of 1985 and RCW 26.33.090 are each amended to read as follows:

(1) The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth or the signing of all necessary consents to adoption, whichever is later. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth, and no consent shall be valid unless signed at least ten days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Except where the child is an Indian child, the court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a preplacement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition. If the child is an Indian child, the court may enter a temporary custody order under this subsection only if the requirements of 25 U.S.C. Sec. 1913(a) regarding voluntary foster care placement have been satisfied.

(2) Notice of the hearing shall be served on any relinquishing parent or alleged father, and the department or agency in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by RCW 26.33.310.

(3) The court may require the parent to appear personally and enter his or her consent to adoption on the record. However, if the child is an Indian child, the court shall require the consenting parent to appear personally before a court of competent jurisdiction to enter on the record his or her consent to the relinquishment or adoption. The court shall determine that any written consent has been validly executed, and if the child is an Indian child, such court shall further certify that the requirements of 25 U.S.C. Sec. 1913(a) have been satisfied. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.

(4) If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW 26.33.130 terminating the parent-child relationship of the parent and the child.

(5) An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent.

Sec. 5. Section 11, chapter 155, Laws of 1984 as amended by section 4, chapter 421, Laws of 1985 and RCW 26.33.110 are each amended to read as follows:

(1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or alleged father, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged father that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged father that failure to file a claim of paternity under chapter 26.26 RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his parent-child relationship with respect to the child;

(d) Inform an alleged father of an Indian child that if he acknowledges paternity of the child or if his paternity of the child is established prior to the termination of the parent-child relationship, that his parental rights may not be terminated unless he: (i) Gives valid consent to termination, or (ii) his parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW.

Sec. 6. Section 12, chapter 155, Laws of 1984 and RCW 26.33.120 are each amended to read as follows:

(1) Except in the case of an Indian child and his or her parent, the parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the

child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

(2) Except in the case of an Indian child and his or her alleged father, the parent-child relationship of an alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:

(a) The alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or

(b) He is not the father.

(3) The parent-child relationship of a parent or an alleged father may be terminated if the parent or alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310.

(4) The parent-child relationship of an Indian child and his or her parent or alleged father where paternity has been claimed or established, may be terminated only pursuant to the standards set forth in 25 U.S.C. Sec. 1912(f).

Sec. 7. Section 16, chapter 155, Laws of 1984 as amended by section 5, chapter 421, Laws of 1985 and RCW 26.33.160 are each amended to read as follows:

(1) Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:

(a) The adoptee, if fourteen years of age or older;

(b) The parents and any alleged father of an adoptee under eighteen years of age;

(c) An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and

(d) The legal guardian of the adoptee.

(2) Except as otherwise provided in subsection (4)(g) of this section, consent to adoption is revocable by the consenting party at any time before the consent is approved by the court. The revocation may be made in either of the following ways:

(a) Written revocation may be delivered or mailed to the clerk of the court before approval; or

(b) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written.



(3) Except as provided in subsection (2)(b) and (4)(g) of this section and in this subsection, a consent to adoption may not be revoked after it has been approved by the court. Within one year after approval, a consent may be revoked for fraud or duress practiced by the person, department, or agency requesting the consent, or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court.

(4) Except as provided in (g) of this subsection, the written consent to adoption shall be signed under penalty of perjury and shall state that:

(a) It is given subject to approval of the court;

(b) It has no force or effect until approved by the court;

(c) The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;

(d) It is revocable by the consenting party at any time before its approval by the court. It may be revoked in either of the following ways:

(i) Written revocation may be delivered or mailed to the clerk of the court before approval of the consent by the court; or

(ii) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written;

(e) The address of the clerk of court where the consent will be presented is included; ~~((and))~~

(f) Except as provided in (g) of this subsection, after it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court; and

(g) In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to

the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

(5) A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent is valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent.

Sec. 8. Section 23, chapter 155, Laws of 1984 and RCW 26.33.240 are each amended to read as follows:

(1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of 25 U.S.C. Sec. 1915 or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child.

Sec. 9. Section 31, chapter 155, Laws of 1984 as amended by section 6, chapter 421, Laws of 1985 and RCW 26.33.310 are each amended to read as follows:

(1) Petitions governed by this chapter shall be served in the same manner as a complaint in a civil action under the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on the parent or any alleged father, either within or without this state, cannot be given, notice shall be given: (a) By registered mail, mailed at least twenty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the first publication date at least twenty-five days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(3) Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(4) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(5) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business days prior to the hearing by registered mail return receipt requested.

Sec. 10. Section 17, chapter 172, Laws of 1967 as last amended by section 4, chapter 246, Laws of 1983 and RCW 74.13.031 are each amended to read as follows:

The department shall have the duty to provide child welfare services as defined in RCW 74.13.020, and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) Develop a recruiting plan for recruiting an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, and annually submit the plan for review to the house and senate committees on social and health services. The plan shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of neglect, abuse, or abandonment of children, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report delineating the results to the house and senate committees on social and health services.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, day care, licensing of child care agencies, and services related thereto. At least one-third of the membership shall be composed of child care providers.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

(11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally

recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and RCW 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93-415; 42 U.S.C. 5634 et seq.; and 42 U.S.C. 5701 note as amended by P.L. 94-273, 94-503, and 95-115).

Sec. 11. Section 2, chapter 118, Laws of 1982 and RCW 74.13.080 are each amended to read as follows:

The department shall not make payment for any child in group care placement unless the group home is licensed and the department has the custody of the child and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations. However, this requirement shall not be construed to prohibit the department from making or mandate the department to make payment for Indian children placed in facilities licensed by federally recognized Indian tribes pursuant to chapter 74.15 RCW.

Sec. 12. Section 2, chapter 172, Laws of 1967 as last amended by section 5, chapter 118, Laws of 1982 and RCW 74.15.020 are each amended to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Department" means the state department of social and health services;

(2) "Secretary" means the secretary of social and health services;

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or developmentally disabled persons for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or developmentally disabled persons for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or developmentally disabled persons for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or developmentally disabled person is placed;

(f) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036.

(4) "Agency" shall not include the following:

(a) Persons related by blood or marriage to the child, expectant mother or developmentally disabled persons in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, and/or first cousin;

(b) Persons who are legal guardians of the child, expectant mother or developmentally disabled persons;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person does not engage in such activity on a regular basis, or where parents on a mutually cooperative basis exchange care of one another's children, or persons who have the care of an exchange student in their own home;

(d) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(e) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(f) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under

chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(j) Facilities approved and certified under RCW 72.33.810;

(k) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(l) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a preplacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(m) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(5) "Requirement" means any rule, regulation or standard of care to be maintained by an agency.

NEW SECTION. Sec. 13. A new section is added to chapter 74.15 RCW to read as follows:

The state of Washington recognizes the authority of Indian tribes within the state to license agencies, located within the boundaries of a federally recognized Indian reservation, to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care or adoption. The department and state licensed child-placing agencies may place children in tribally licensed facilities if the requirements of RCW 74.15.030(2)(b) and (3) and supporting rules are satisfied before placing the children in such facilities by the department or any state licensed child-placing agency.

Sec. 14. Section 9, chapter 172, Laws of 1967 as last amended by section 10, chapter 118, Laws of 1982 and RCW 74.15.090 are each amended to read as follows:

Except as provided in section 13 of this 1987 act, it shall hereafter be unlawful for any agency to receive children, expectant mothers or developmentally disabled persons for supervision or care, or arrange for the placement of such persons, unless such agency is licensed as provided in chapter 74.15 RCW.

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.

NEW SECTION. Sec. 16. Sections 10 and 11 of this act shall take effect July 1, 1988.

Passed the House March 18, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 171

[Substitute House Bill No. 656]

### JOB SERVICE PROGRAM FOR THE UNEMPLOYED

AN ACT Relating to service for the unemployed; amending RCW 50.62.010, 50.62.030, 50.29.025, and 50.24.014; creating a new section; repealing section 14, chapter 5, Laws of 1985 ex. sess. (uncodified); and making an appropriation.

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

Sec. 1. Section 1, chapter 5, Laws of 1985 ex. sess. and RCW 50.62-.010 are each amended to read as follows:

The legislature finds and declares that:

(1) The number of persons unemployed in the state is significantly above the national average.

(2) Persons who are unemployed represent a skilled resource to the economy and the quality of life for all persons in the state.

(3) There are jobs available in the state that can be filled by unemployed persons.

(4) A public labor exchange can appreciably expedite the employment of unemployed job seekers and filling employer vacancies thereby contributing to the overall health of the state and national economies.

(5) The Washington state job service of the employment security department has provided a proven service of assisting persons to find employment for the past fifty years.

(6) Expediting the reemployment of unemployment insurance claimants will reduce payment of claims drawn from the state unemployment insurance trust fund.

(7) Increased emphasis on assisting in the reemployment of claimants and monitoring claimants' work search efforts will positively impact employer tax rates resulting from the recently enacted experience rating legislation, chapter 205, Laws of 1984.



(8) Special employment service efforts are necessary to adequately serve agricultural employers who have unique needs in the type of workers, recruitment efforts, and the urgency of obtaining sufficient workers.

(9) Study and research of issues related to employment and unemployment provides economic information vital to the decision-making process.

The legislature finds it necessary and in the public interest to ~~((establish))~~ have a program of job service to assist persons drawing unemployment insurance claims to find employment, to provide employment assistance to the agricultural industry, and to conduct research into issues related to employment and unemployment.

Sec. 2. Section 3, chapter 5, Laws of 1985 ex. sess. and RCW 50.62-.030 are each amended to read as follows:

Job service resources shall be used to assist with the reemployment of unemployed workers using the most efficient and effective means of service delivery. The job service program of the employment security department may undertake any program or activity for which funds are available and which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Supplementing basic employment services, with special job search and claimant placement assistance designed to assist unemployment insurance claimants to obtain employment;

(2) Providing employment services, such as recruitment, screening, and referral of qualified workers, to agricultural areas where these services have in the past contributed to positive economic conditions for the agricultural industry; and

(3) Providing otherwise unobtainable information and analysis to the legislature and program managers about issues related to employment and unemployment ~~((; and~~

~~(4) To research and consider the degree to which the employment security department can contract with private employment agencies, private for-profit and not-for-profit organizations in the fields of job placement, vocational counseling, career development, career change and employment preparation on a fee for service-performance basis)).~~

Sec. 3. Section 5, chapter 205, Laws of 1984 as amended by section 7, chapter 5, Laws of 1985 ex. sess. and RCW 50.29.025 are each amended to read as follows:

~~((For the rate year 1984 and each rate year thereafter,))~~ The contribution rate for each employer shall be determined under this section.

(1) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the June 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division

shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

(2) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in subsection (5) (~~(or (6))~~) of this section shall be in effect for assigning tax rates for the rate year (~~(: PROVIDED, That a uniform tax rate of 3.3 percent shall be in effect for the rate year 1984)~~). The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
3.40 and above	A
2.90 to 3.39	B
2.40 to 2.89	C
1.90 to 2.39	D
1.40 to 1.89	E
Less than 1.40	F

(3) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (a) Identification number; (b) benefit ratio; (c) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (d) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (e) the percentage equivalent of the cumulative total of taxable payrolls.

(4) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in subsection (5) (~~(or (6))~~) of this section: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

(5) (~~Except as provided in subsection (6) of this section, the contribution rate for each employer in the array shall be the rate specified in the following table for the rate class to which he or she has been assigned, as determined under subsection (4) of this section, within the tax schedule which is to be in effect during the rate year:~~

— Percent of	
— Cumulative	— Schedule of Contribution Rates for
— Taxable Payrolls	— Effective Tax Schedule
— Rate	

From	To	Class	A	B	C	D	E	F
<del>0.00</del>	<del>5.00</del>	<del>1</del>	<del>0.5</del>	<del>0.6</del>	<del>1.0</del>	<del>1.5</del>	<del>1.9</del>	<del>2.5</del>
<del>5.01</del>	<del>10.00</del>	<del>2</del>	<del>0.5</del>	<del>0.8</del>	<del>1.2</del>	<del>1.7</del>	<del>2.1</del>	<del>2.7</del>
<del>10.01</del>	<del>15.00</del>	<del>3</del>	<del>0.6</del>	<del>1.0</del>	<del>1.4</del>	<del>1.8</del>	<del>2.3</del>	<del>2.9</del>
<del>15.01</del>	<del>20.00</del>	<del>4</del>	<del>0.8</del>	<del>1.2</del>	<del>1.6</del>	<del>2.0</del>	<del>2.5</del>	<del>3.1</del>
<del>20.01</del>	<del>25.00</del>	<del>5</del>	<del>1.0</del>	<del>1.4</del>	<del>1.8</del>	<del>2.2</del>	<del>2.7</del>	<del>3.2</del>
<del>25.01</del>	<del>30.00</del>	<del>6</del>	<del>1.2</del>	<del>1.6</del>	<del>2.0</del>	<del>2.4</del>	<del>2.8</del>	<del>3.3</del>
<del>30.01</del>	<del>35.00</del>	<del>7</del>	<del>1.4</del>	<del>1.8</del>	<del>2.2</del>	<del>2.6</del>	<del>3.0</del>	<del>3.4</del>
<del>35.01</del>	<del>40.00</del>	<del>8</del>	<del>1.6</del>	<del>2.0</del>	<del>2.4</del>	<del>2.8</del>	<del>3.2</del>	<del>3.6</del>
<del>40.01</del>	<del>45.00</del>	<del>9</del>	<del>1.8</del>	<del>2.2</del>	<del>2.6</del>	<del>3.0</del>	<del>3.4</del>	<del>3.8</del>
<del>45.01</del>	<del>50.00</del>	<del>10</del>	<del>2.0</del>	<del>2.4</del>	<del>2.8</del>	<del>3.2</del>	<del>3.6</del>	<del>4.0</del>
<del>50.01</del>	<del>55.00</del>	<del>11</del>	<del>2.3</del>	<del>2.6</del>	<del>3.0</del>	<del>3.4</del>	<del>3.8</del>	<del>4.1</del>
<del>55.01</del>	<del>60.00</del>	<del>12</del>	<del>2.5</del>	<del>2.8</del>	<del>3.2</del>	<del>3.6</del>	<del>4.0</del>	<del>4.3</del>
<del>60.01</del>	<del>65.00</del>	<del>13</del>	<del>2.7</del>	<del>3.0</del>	<del>3.4</del>	<del>3.8</del>	<del>4.2</del>	<del>4.5</del>
<del>65.01</del>	<del>70.00</del>	<del>14</del>	<del>2.9</del>	<del>3.2</del>	<del>3.6</del>	<del>4.0</del>	<del>4.4</del>	<del>4.7</del>
<del>70.01</del>	<del>75.00</del>	<del>15</del>	<del>3.1</del>	<del>3.4</del>	<del>3.8</del>	<del>4.2</del>	<del>4.6</del>	<del>4.8</del>
<del>75.01</del>	<del>80.00</del>	<del>16</del>	<del>3.3</del>	<del>3.6</del>	<del>4.0</del>	<del>4.4</del>	<del>4.7</del>	<del>4.9</del>
<del>80.01</del>	<del>85.00</del>	<del>17</del>	<del>3.5</del>	<del>3.8</del>	<del>4.2</del>	<del>4.6</del>	<del>4.9</del>	<del>5.0</del>
<del>85.01</del>	<del>90.00</del>	<del>18</del>	<del>3.9</del>	<del>4.2</del>	<del>4.6</del>	<del>4.9</del>	<del>5.0</del>	<del>5.2</del>
<del>90.01</del>	<del>95.00</del>	<del>19</del>	<del>4.3</del>	<del>4.6</del>	<del>5.0</del>	<del>5.1</del>	<del>5.2</del>	<del>5.4</del>
<del>95.01</del>	<del>100.00</del>	<del>20</del>	<del>5.4</del>	<del>5.4</del>	<del>5.4</del>	<del>5.4</del>	<del>5.4</del>	<del>5.4</del>

(6) ~~For rate years 1986 and 1987;~~) The contribution rate for each employer in the array shall be the rate specified in the following table for the rate class to which he or she has been assigned, as determined under subsection (4) of this section, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls			Schedule of Contribution Rates for Effective Tax Schedule					
From	To	Rate Class	A	B	C	D	E	F
0.00	5.00	1	0.48	0.58	0.98	1.48	1.88	2.48
5.01	10.00	2	0.48	0.78	1.18	1.68	2.08	2.68
10.01	15.00	3	0.58	0.98	1.38	1.78	2.28	2.88
15.01	20.00	4	0.78	1.18	1.58	1.98	2.48	3.08
20.01	25.00	5	0.98	1.38	1.78	2.18	2.68	3.18
25.01	30.00	6	1.18	1.58	1.98	2.38	2.78	3.28
30.01	35.00	7	1.38	1.78	2.18	2.58	2.98	3.38
35.01	40.00	8	1.58	1.98	2.38	2.78	3.18	3.58
40.01	45.00	9	1.78	2.18	2.58	2.98	3.38	3.78
45.01	50.00	10	1.98	2.38	2.78	3.18	3.58	3.98

50.01	55.00	11	2.28	2.58	2.98	3.38	3.78	4.08
55.01	60.00	12	2.48	2.78	3.18	3.58	3.98	4.28
60.01	65.00	13	2.68	2.98	3.38	3.78	4.18	4.48
65.01	70.00	14	2.88	3.18	3.58	3.98	4.38	4.68
70.01	75.00	15	3.08	3.38	3.78	4.18	4.58	4.78
75.01	80.00	16	3.28	3.58	3.98	4.38	4.68	4.88
80.01	85.00	17	3.48	3.78	4.18	4.58	4.88	4.98
85.01	90.00	18	3.88	4.18	4.58	4.88	4.98	5.18
90.01	95.00	19	4.28	4.58	4.98	5.08	5.18	5.38
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40

~~((7))~~ (6) The contribution rate for each employer not qualified to be in the array shall be a rate equal to the average industry tax rate as determined by the commissioner; however, the rate may not be less than one percent: PROVIDED, That employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned the contribution rate of five and four-tenths percent. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the Standard Industrial Classification code.

Sec. 4. Section 8, chapter 5, Laws of 1985 ex. sess. and RCW 50.24-.014 are each amended to read as follows:

A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. Contributions to this account shall accrue and become payable by each employer, except 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, at the rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

If the commissioner determines that federal funding has been increased to provide financing for the services specified in ~~((this act))~~ chapter 50.62

RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

~~((Contributions under this section shall be payable only for calendar years 1986 and 1987.))~~

NEW SECTION. Sec. 5. Section 14, chapter 5, Laws of 1985 ex. sess. (uncodified) is repealed.

NEW SECTION. Sec. 6. The sum of six million three hundred fifty thousand dollars, or so much thereof as may be necessary, is appropriated from the special account of the administrative contingency fund of the employment security department to the employment security department to support the job service program under chapter 50.62 RCW for the biennium ending June 30, 1989. However, if federal funding is increased to provide for the financing of the services specified in this act, this appropriation shall be reduced by the amount that federal funding is increased specifically for such services. This portion of the state appropriation shall be deposited in the unemployment compensation fund.

NEW SECTION. Sec. 7. 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. 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 March 12, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 172

[Engrossed Substitute House Bill No. 465]

### WAGE CLAIMS—LABOR AND INDUSTRIES DEPARTMENT AUTHORITY REVISED

AN ACT Relating to collection of wages; amending RCW 49.48.040; and prescribing penalties.

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

Sec. 1. Section 1, chapter 96, Laws of 1935 and RCW 49.48.040 are each amended to read as follows:

~~((The director of labor and industries by and through the division of industrial relations shall have the power and authority, when in his judgment he deems it necessary, to take assignments of wage claims and prosecute actions for the collection of wages of persons who are financially unable to employ counsel in cases in which, in the judgment of the director, the claims for wages are valid and enforceable in the courts, and the said director, and any supervisor and any other person in the employ of the department of labor and industries, duly designated by them, or either or any of them, shall have authority to issue subpoenas, to compel the attendance of witnesses or parties and the production of books, papers or records, and to administer oaths and to examine witnesses under oath, and to take the verification of proof of instruments of writing and to take depositions and affidavits for the purpose of carrying out the provisions of RCW 49.48.040 through 49.48.080. When such assignments for wage claims are taken, no court costs shall be payable by said director for prosecuting such suits. The director shall have a seal inscribed "Department of Labor and Industries—State of Washington" and all courts shall take judicial notice of such seal. Obedience to subpoenas issued by the director, a supervisor or a duly authorized representative shall be enforced by the courts in any county. The director, the supervisors and the authorized representatives shall have free access to all places and works of labor, and any employer, or any agent or employee of such employer, who shall refuse them, or any of them, admission therein, or who shall, when requested by them, or any of them, wilfully neglect or refuse to furnish them, or any of them, any statistics or information pertaining to his lawful duties, which may be in his possession or under the control of said employer, or agent, shall be guilty of a misdemeanor.)) (1) The department of labor and industries may:~~

(a) Upon obtaining information indicating an employer may be committing a violation under chapters 39.12, 49.46, and 49.48 RCW, conduct investigations to ensure compliance with chapters 39.12, 49.46, and 49.48 RCW;

(b) Order the payment of all wages owed the workers and institute actions necessary for the collection of the sums determined owed; and

(c) Take assignments of wage claims and prosecute actions for the collection of wages of persons who are financially unable to employ counsel when in the judgment of the director of the department the claims are valid and enforceable in the courts.

(2) The director of the department or any authorized representative may, for the purpose of carrying out RCW 49.48.040 through 49.48.080: (a) Issue subpoenas to compel the attendance of witnesses or parties and the production of books, papers, or records; (b) administer oaths and examine witnesses under oath; (c) take the verification of proof of instruments of

writing; and (d) take depositions and affidavits. If assignments for wage claims are taken, court costs shall not be payable by the department for prosecuting such suits.

(3) The director shall have a seal inscribed "Department of Labor and Industries—State of Washington" and all courts shall take judicial notice of such seal. Obedience to subpoenas issued by the director or authorized representative shall be enforced by the courts in any county.

(4) The director or authorized representative shall have free access to all places and works of labor. Any employer or any agent or employee of such employer who refuses the director or authorized representative admission therein, or who, when requested by the director or authorized representative, wilfully neglects or refuses to furnish the director or authorized representative any statistics or information pertaining to his or her lawful duties, which statistics or information may be in his or her possession or under the control of the employer or agent, shall be guilty of a misdemeanor.

Passed the House March 12, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 173

[Engrossed House Bill No. 248]

### STATE PATROL RETIREMENT ALLOWANCES REVISED

AN ACT Relating to state patrol retirement allowances; amending RCW 43.43.275; adding a new section to chapter 43.43 RCW; making an appropriation; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 3, chapter 96, Laws of 1979 ex. sess. and RCW 43.43-.275 are each amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, effective July 1, ~~((1979))~~ 1987, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive less than ~~((ten))~~ thirteen dollars per month for each year of service creditable to the person whose service is the basis of the retirement allowance. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ~~((ten))~~ thirteen dollars. Where the retirement allowance was adjusted at the time benefit payments to the beneficiary commenced, the minimum retirement allowance provided in this subsection shall be adjusted in a manner consistent with that adjustment. The minimum retirement allowance provided in this subsection shall not be applicable to those receiving benefits pursuant to RCW 43.43.040 or 43.43.270 (3) or (4).

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 43.43.270 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 43.43.260(5) as of July 1, 1979, or July 1, 1980, for the affected beneficiaries, except that in no case shall such adjustment be less than the total of those which would be provided under RCW 43.43.260(5) as of July 1, 1979, and July 1, 1980. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.43 RCW to read as follows:

(1) The benefits provided under subsection (2) of this section shall be available only to surviving spouses whose allowances commenced before January 1, 1970, and who are not receiving and are not eligible for federal old age, survivors, or disability benefits.

(2) Effective July 1, 1987, the minimum retirement benefit provided pursuant to RCW 43.43.275(1) to surviving spouses who meet the qualifications in subsection (1) of this section shall be twenty-three dollars per month per year of service. However, the minimum benefit for the surviving spouse of a member who died in service who meets the qualifications in subsection (1) of this section shall be calculated using twenty years of service or the member's actual years of service, whichever is greater.

**NEW SECTION.** Sec. 3. The sum of fifty-one thousand dollars, or so much thereof as may be necessary, is appropriated from the motor vehicle fund to the Washington state patrol fund for the biennium ending June 30, 1989, to carry out the purposes of paying the cost-of-living adjustments provided by this act.



**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, 1987.

Passed the House March 13, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 174

[Substitute House Bill No. 347]

### MOTOR VEHICLES AND SPECIAL FUEL TAXES—PAYMENT PROVISIONS MODIFIED—ELECTRONIC FUNDS TRANSFER—PENALTIES

AN ACT Relating to motor vehicle and special fuel tax payments; amending RCW 82.36.010, 82.36.030, 82.36.040, 82.38.160, and 82.38.170; adding new sections to chapter 82.36 RCW; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 82.36.010, chapter 15, Laws of 1961 as last amended by section 25, chapter 49, Laws of 1983 1st ex. sess. and RCW 82.36.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Motor vehicle" means every vehicle that is in itself a self-propelled unit, equipped with solid rubber, hollow-cushion rubber, or pneumatic rubber tires and capable of being moved or operated upon a public highway, except motor vehicles used as motive power for or in conjunction with farm implements and machines or implements of husbandry;

(2) "Motor vehicle fuel" means gasoline or any other inflammable gas or liquid, by whatsoever name such gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats;

(3) "Distributor" means every person who refines, manufactures, produces, or compounds motor vehicle fuel and sells, distributes, or in any manner uses it in this state; also every person engaged in business as a bona fide wholesale merchant dealing in motor vehicle fuel who either acquires it within the state from any person refining it within or importing it into the state, on which the tax has not been paid, or imports it into this state and sells, distributes, or in any manner uses it in this state;

(4) "Service station" means a place operated for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

(5) "Department" means the department of licensing;

(6) "Director" means the director of licensing;

(7) "Dealer" means any person engaged in the retail sale of liquid motor vehicle fuels;

(8) "Person" means every natural person, firm, partnership, association, or private or public corporation;

(9) "Highway" means every way or place open to the use of the public, as a matter of right, for purposes of vehicular travel;

(10) "Broker" means every person, other than a distributor, engaged in business as a broker, jobber, or wholesale merchant dealing in motor vehicle fuel or other petroleum products used or usable in propelling motor vehicles, or in other petroleum products which may be used in blending, compounding, or manufacturing of motor vehicle fuel;

(11) "Producer" means every person, other than a distributor, engaged in the business of producing motor vehicle fuel or other petroleum products used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel;

(12) "Distribution" means all withdrawals of motor vehicle fuel for delivery to others, to retail service stations, or to unlicensed bulk storage plants;

(13) "Bulk storage plant" means, pursuant to the licensing provisions of RCW 82.36.070, any plant, under the control of the distributor, used for the storage of motor vehicle fuel to which no retail outlets are directly connected by pipe lines;

(14) "Marine fuel dealer" means any person engaged in the retail sale of liquid motor vehicle fuel whose place of business and or sale outlet is located upon a navigable waterway;

(15) "Aggregate motor vehicle fuel tax revenues" means the amount of excise taxes to be paid by distributors, retailers, and users pursuant to chapters 82.36, 82.37, and 82.38 RCW for any designated fiscal period, whether or not such amounts are actually received by the department of licensing. The phrase does not include fines or penalties assessed for violations;

(16) "Fiscal year" means a twelve-month period ending June 30th;

(17) "State personal income" means the dollar amount published as total personal income of persons in the state for the calendar year by the United States department of commerce or its successor agency;

(18) "State personal income ratio" for any calendar year means that ratio expressed in percentage terms that is the sum of one hundred percent, plus seventy percent of the percentage increase or decrease in state personal income for the calendar year under consideration as compared to state personal income for the immediately preceding calendar year;

(19) "Motor vehicle fund revenue" means all state taxes, fees, and penalties deposited in the motor vehicle fund and all other state revenue required by statute to be deposited in the motor vehicle fund, but does not include (a) moneys derived from nonfuel tax sources which are deposited directly in the several accounts, (b) interest deposited directly in the several accounts within the motor vehicle fund, (c) federal funds, (d) proceeds from

the sale of bonds, or (e) reimbursements to the motor vehicle fund for services performed by the department of transportation for others((-));

(20) "Alcohol" means alcohol that is produced from renewable resources and is produced in this state or in a state that extends a tax exemption or credit for the sale of alcohol produced in this state for use in motor vehicle fuel that is at least equal to a tax exemption or credit for the sale of alcohol produced in the other state for use in motor vehicle fuel;

(21) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

Sec. 2. Section 82.36.030, chapter 15, Laws of 1961 and RCW 82.36-.030 are each amended to read as follows:

Every distributor shall on or before the twenty-fifth day of each calendar month file, on forms furnished by the director, a statement signed by the distributor or his authorized agent showing the total number of gallons of motor vehicle fuel sold, distributed, or used by such distributor within this state during the preceding calendar month.

If any distributor fails to file such report, the director shall proceed forthwith to determine from the best available sources, the amount of motor vehicle fuel sold, distributed, or used by such distributor for the unreported period, and said determination shall be presumed to be correct for that period until proved by competent evidence to be otherwise. The director shall immediately assess the excise tax in the amount so determined, adding thereto a penalty of ten percent for failure to report. Such penalty shall be cumulative of other penalties herein provided. All statements filed with the director, as required in this section, shall be public records.

If any distributor establishes by a fair preponderance of evidence that his or her failure to file a report by the due date was attributable to reasonable cause and was not intentional or wilful, the department may waive the penalty imposed by this section.

NEW SECTION. Sec. 3. A new section is added to chapter 82.36 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, the tax due on motor vehicle fuel that is sold, distributed, or used during a month shall be paid on or before the twenty-fifth day of the following month.

(2) If payment of the tax due on motor vehicle fuel that is sold, distributed, or used during a month is made by electronic funds transfer, it shall be made on or before the state business day immediately preceding the last state business day of the following month.

(3) The tax shall be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

Sec. 4. Section 82.36.040, chapter 15, Laws of 1961 as amended by section 1, chapter 28, Laws of 1977 and RCW 82.36.040 are each amended to read as follows:

~~((The amount of excise tax for each month shall be paid to the director on or before the twenty-fifth day of the next month thereafter, and if not paid prior thereto, shall become delinquent at the close of business on that day, and a penalty of one percent of such excise tax must be added thereto for delinquency. PROVIDED, That in no case shall the penalty be more than five hundred dollars. If such tax and penalty is not received on or before the close of business on the last day of the month in which the payment is due an additional penalty of ten percent must be added thereto in addition to penalty above provided for.))~~ If payment of any tax due is not received by the due date, there shall be assessed a penalty of two percent of the amount of the tax. If any distributor establishes by a fair preponderance of evidence that his or her failure to pay the amount of tax due by the due date was attributable to reasonable cause and was not intentional or wilful, the department may waive the penalty imposed by this section.

Any motor vehicle fuel tax, penalties, and interest payable under the provisions of this chapter shall bear interest at the rate of ~~((one-half of))~~ one percent per month, or fraction thereof, from the first day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been paid until the date of payment ~~((: PROVIDED, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars. AND PROVIDED FURTHER, That))~~. The department may waive the interest ((on the unpaid excise tax)) when ((the interest exceeds five dollars and)) the department determines that the cost of processing the collection of the interest exceeds the amount of interest due.

In any suit brought to enforce the rights of the state ~~((hereunder))~~ under this chapter, the certificate of the director showing the amount of taxes, penalties, interest and cost unpaid by any distributor and that the same are due and unpaid to the state shall be prima facie evidence of the facts as shown.

Sec. 5. Section 17, chapter 175, Laws of 1971 ex. sess. as amended by section 12, chapter 40, Laws of 1979 and RCW 82.38.160 are each amended to read as follows:

(1) The tax imposed by this chapter shall be computed as follows:  
~~((1))~~ (a) With respect to special fuel upon which the tax has been collected by the seller thereof as a special fuel dealer, by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel delivered subject to the special fuel tax; ~~((2))~~ (b) with respect to special fuel on which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this chapter by

the number of gallons of special fuel consumed by him in the propulsion of a motor vehicle on the highways of this state.

(2) Except as provided in subsection (3) of this section, the tax return shall be accompanied by a remittance payable to the state treasurer covering the tax moneys collected by the special fuel dealer or the amount determined to be due hereunder by licensed users of special fuels during the preceding reporting period.

(3) If the tax is paid by electronic funds transfer and the reporting period ends on the last day of a calendar month, the tax shall be paid on or before the state business day immediately preceding the last state business day of the month following the end of the reporting period. If the tax is paid by electronic funds transfer and the reporting period ends on a day other than the last day of a calendar month as provided in RCW 82.38.150, the tax shall be paid on or before the state business day immediately preceding the last state business day of the thirty-day period following the end of the reporting period.

(4) The tax shall be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

Sec. 6. Section 18, chapter 175, Laws of 1971 ex. sess. as last amended by section 4, chapter 242, Laws of 1983 and RCW 82.38.170 are each amended to read as follows:

(1) If any special fuel dealer or special fuel user fails to pay any taxes collected or due the state of Washington by said dealer or user within the time prescribed by RCW 82.38.150 and 82.38.160, said dealer or user shall pay in addition to such tax a penalty of ten percent of the amount thereof.

(2) If it be determined by the department that the tax reported by any special fuel dealer or special fuel user is deficient it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency.

(3) If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax report, the department shall, on the basis of information available to it, determine the tax liability of the special fuel dealer or the special fuel user for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(4) If any special fuel dealer or special fuel user shall establish by a fair preponderance of evidence that his failure to file a report or pay the

proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or wilful, the department may waive the penalty prescribed in subsections (1), (2), and (3) of this section.

(5) If any special fuel dealer or special fuel user shall file a false or fraudulent report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsection (2) of this section and all other penalties prescribed by law.

(6) Any fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment: PROVIDED, That the department may waive the interest when it determines that the cost of processing the collection of the interest exceeds the amount of interest due.

(7) Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (2) of this section within three years from the twenty-fifth day of the next succeeding calendar month following the reporting period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(8) Any special fuel dealer or special fuel user against whom an assessment is made under the provisions of subsections (2) or (3) of this section may petition for a reassessment thereof within thirty days after service upon the special fuel dealer or special fuel user of notice thereof. If such petition is not filed within such thirty day period, the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within the thirty day period, the department shall reconsider the assessment and, if the special fuel dealer or special fuel user has so requested in his petition, shall grant such special fuel dealer or special fuel user an oral hearing and give the special fuel dealer or special fuel user ten days' notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment shall become final thirty days after service upon the special fuel dealer or special fuel user of notice thereof.

Every assessment made by the department shall become due and payable at the time it becomes final and if not paid to the department when due and payable, there shall be added thereto a penalty of ten percent of the amount of the tax.

(9) Any notice of assessment required by this section shall be served personally or by mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the special

fuel dealer or special fuel user at his address as the same appears in the records of the department.

(10) Any licensee who has had their special fuel user license, special fuel dealer license, special fuel supplier license, or combination thereof revoked shall pay a one hundred dollar penalty prior to the issuance of a new license.

(11) Any person who, upon audit or investigation by the department, is found to have not paid special fuel taxes as required by this chapter shall be subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who shall hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

NEW SECTION. Sec. 7. A new section is added to chapter 82.36 RCW to read as follows:

If any distributor files a fraudulent monthly gallonage return with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to all other penalties prescribed by law.

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 June 1, 1987.

Passed the House March 12, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 175

[Engrossed House Bill No. 559]  
RIDE-SHARING VEHICLES

AN ACT Relating to ride-sharing vehicles; amending RCW 51.08.180; amending section 5, chapter 166, Laws of 1980 (uncodified); adding a new section to chapter 46.16 RCW; and providing an effective date.

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

Sec. 1. Section 5, chapter 166, Laws of 1980 (uncodified) is amended to read as follows:

~~((Sections 1 through 3 of this act))~~ RCW 82.08.0287, 82.12.0282, and 82.44.015 shall expire on ((January 1, 1988)) June 30, 1995.

NEW SECTION. Sec. 2. A new section is added to chapter 46.16 RCW to read as follows:

(1) Every owner or lessee of a vehicle seeking to apply for an excise tax exemption under RCW 82.08.0287, 82.12.0282, or 82.44.015 shall apply to the director for, and upon satisfactory showing of eligibility, receive in lieu of the regular motor vehicle license plates for that vehicle, special plates of a distinguishing separate numerical series or design, as the director shall prescribe. In addition to paying all other initial fees required by law, each applicant for the special license plates shall pay an additional license fee of twenty-five dollars upon the issuance of such plates. The special fee shall be deposited in the motor vehicle fund. Application for renewal of the license plates shall be as prescribed for the renewal of other vehicle licenses. No renewal is required for vehicles exempted under RCW 46.16.020.

(2) Whenever the ownership of a vehicle receiving special plates under subsection (1) of this section is transferred or assigned, the plates shall be removed from the motor vehicle, and if another vehicle qualifying for special plates is acquired, the plates shall be transferred to that vehicle for a fee of five dollars, and the director shall be immediately notified of the transfer of the plates. Otherwise the removed plates shall be immediately forwarded to the director to be cancelled. Whenever the owner or lessee of a vehicle receiving special plates under subsection (1) of this section is for any reason relieved of the tax-exempt status, the special plates shall immediately be forwarded to the director along with an application for replacement plates and the required fee. Upon receipt the director shall issue the license plates that are otherwise provided by law.

Sec. 3. Section 51.08.180, chapter 23, Laws of 1961 as last amended by section 1, chapter 97, Laws of 1983 and RCW 51.08.180 are each amended to read as follows:

(1) "Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment: PROVIDED, That a person is not a worker for the purpose of this title, with respect to his or her activities attendant to operating a truck which he or she owns, and which is leased to a common or contract carrier.

(2) For the purposes of this title, any person, firm, or corporation currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW is not a worker when:

(a) Contracting to perform work for any contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(b) The person, firm, or corporation has a principal place of business which would be eligible for a business deduction for internal revenue service



tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(c) The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(d) The work which the person, firm, or corporation has contracted to perform is:

(i) The work of a contractor as defined in RCW 18.27.010; or

(ii) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW.

(3) Any person, firm, or corporation registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW including those performing work for any contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW is a worker when the contractor supervises or controls the means by which the result is accomplished or the manner in which the work is performed.

(4) For the purposes of this title, any person participating as a driver or back-up driver in commuter ride sharing, as defined in RCW 46.74.010(1), is not a worker while driving a ride-sharing vehicle on behalf of the owner or lessee of the vehicle.

NEW SECTION. Sec. 4. Section 2 of this act shall take effect on January 1, 1988.

Passed the House March 16, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 176

[House Bill No. 431]

### EMERGENCY VEHICLES—MOTOR VEHICLE EQUIPMENT REQUIREMENTS REVISED

AN ACT Relating to motor vehicle equipment; and amending RCW 46.37.480.

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

Sec. 1. Section 46.37.480, chapter 12, Laws of 1961 as amended by section 40, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.480 are each amended to read as follows:

(1) No person shall drive any motor vehicle equipped with any television viewer, screen, or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle.

(2) No person shall operate any motor vehicle on a public highway while wearing any headset or earphones connected to any electronic device capable of receiving a radio broadcast or playing a sound recording for the purpose of transmitting a sound to the human auditory senses and which headset or earphones muffle or exclude other sounds.

(3) This section does not apply to authorized emergency vehicles.

Passed the House February 25, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 177

[Engrossed Substitute House Bill No. 665]

### PILOT SUPPLEMENTAL SECURITY INCOME REFERRAL PROGRAM

AN ACT Relating to public assistance; creating new sections; 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 many clients who apply for and receive state general assistance have long-term disabilities that would qualify them for federal supplemental security income benefits. Further, these clients, because of their disabilities, need assistance in making application for supplemental security income benefits and filing appeals to unfavorable eligibility determinations in a timely manner.

It is the intent of the legislature that the department of social and health services assist state general assistance clients with long-term disabilities in taking the steps necessary to apply for and receive federal supplemental security income benefits.

NEW SECTION. Sec. 2. The department of social and health services shall establish a pilot supplemental security income referral program to begin July 1, 1987. The pilot program shall be located in at least two urban areas of the state and one rural which shall be in eastern Washington. The program shall assist state general assistance clients in qualifying for supplemental security income benefits, including, as necessary, obtaining required medical information, filing timely appeals, and obtaining appropriate legal assistance. The department shall designate a supplemental security income referral program facilitator in each community service office in the pilot program. The program facilitator shall have the following responsibilities:

(1) Prepare and present information regarding the benefits of the federal supplemental security income program and its eligibility determination process to all general assistance applicants and recipients;

(2) Assist general assistance applicants and recipients in compiling necessary medical information on all disabilities, applying for supplemental

security income benefits, filing timely appeals, and obtaining legal assistance. The program facilitator shall provide each general assistance applicant or recipient with a release form which, if signed by the client, authorizes the department to provide pertinent information to a legal representative. Failure to authorize such a release shall not affect the client's eligibility for general assistance benefits;

(3) Immediately upon denial of reconsideration, refer all applicants and recipients who may be eligible for supplemental security income benefits to legal representatives with expertise in social security disability law, and facilitate setting of appointments and supplying records or other necessary information to such legal representatives. When an attorney-client relationship is established, pertinent medical information shall be supplied directly to the legal representative. If a referral does not result in an attorney-client relationship, the client shall be rereferred to a different legal representative. Failure to establish such a relationship shall not affect the client's eligibility for general assistance benefits; and

(4) Provide educational materials to physicians and other medical professionals describing the supplemental security income assistance program and the kinds of medical information required to be determined eligible.

**NEW SECTION.** Sec. 3. The department shall contract with an individual or group with expertise in social security disability law for supplemental security income referral program coordination services. The program coordinator shall have the following duties:

(1) To develop and coordinate a referral panel from which the names of competent practitioners having expertise in social security disability law can be made available to clients by the supplemental security income referral program facilitators; to coordinate referrals and ensure that attorneys to whom clients are referred are willing to represent general assistance clients on a contingency fee basis and can demonstrate adequate malpractice insurance coverage;

(2) To monitor each community service office referral program and assess effectiveness of the referral process for clients disabled because of developmental disability or mental illness, including overseeing activities of legal representatives to assure their timely and appropriate response to referrals;

(3) To develop and present training materials for community service office caseworkers, supplemental security income referral program facilitators, and health care and legal professionals to promote accurate and complete medical assessment and reporting of the clients' disabilities, and to expand the availability of legal representation for general assistance clients; and

(4) To report to the department of social and health services by November 1, 1988, its findings regarding the administration of the supplemental security income referral program and any recommendations for program improvement.

NEW SECTION. Sec. 4. (1) By December 1, 1988, the department shall submit a written report to the ways and means committees of the senate and house of representatives, including the following information:

(a) The number and acceptance rate of referrals made to legal representatives;

(b) The number and outcome of appeals made to the administrative hearings level of the social security administration;

(c) An accounting of cost savings attributable to the supplemental security income referral program;

(d) A general evaluation and any recommendations for changes to the program.

(2) The department shall incorporate the findings and recommendations of the program coordinator in its report to the legislature.

NEW SECTION. Sec. 5. No acts or omissions by the department, its employees or agents, nor acts or omissions by the supplemental security income referral coordinator, its employees or agents may give rise to liability for negligent referrals.

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, 1987.

Passed the House March 16, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

CHAPTER 178

[House Bill No. 261]

CENTENNIAL LICENSE PLATES

AN ACT Relating to state centennial license plates; reenacting and amending RCW 46.16.650 and 46.16.270; and declaring an emergency.

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

Sec. 1. Section 1, chapter 280, Laws of 1986 and RCW 46.16.650 are each reenacted and amended to read as follows:

In order to help publicize and commemorate the state's 1989 anniversary celebration of its admission to the Union, a new centennial design shall

be developed by the department for vehicle license plates that uses reflectorized materials necessary to provide adequate visibility and legibility at night.

The centennial plates shall be developed in cooperation with the design selection committee appointed by the director. The committee shall include representation from the Washington centennial commission.

Registration numbers and letters for the centennial plate shall be assigned by the department in accordance with established procedures. Distribution of the centennial license plates shall commence January 1, 1987, to all new vehicle registrations and license plate replacements. In addition, the centennial plate shall be available for purchase by all other vehicle owners at the owner's option.

Revenues generated from the centennial plate shall go in part to support local and state centennial activities as provided in RCW 27.60.080. In addition to the basic fees for new vehicle registrations provided in RCW 46.16.060, 46.16.065, 46.16.505, and 46.16.630 and the license fees for new vehicle registrations provided in RCW 46.16.070 and 46.16.085, persons purchasing centennial plates shall pay an additional fee of one dollar per plate to be distributed as follows: From January 1, 1987, through June 30, 1989, one-half of the fee shall be deposited in the centennial commission account ((of the general fund)), and the remainder shall be deposited in the motor vehicle fund. Commencing July 1, 1989, the total one dollar per plate fee shall be deposited in the motor vehicle fund.

Sec. 2. Section 46.16.270, chapter 12, Laws of 1961 as last amended by section 3, chapter 30, Laws of 1986 and by section 4, chapter 280, Laws of 1986 and RCW 46.16.270 are each reenacted and amended to read as follows:

Replacement plates issued after January 1, 1987, will be centennial plates as described in RCW 46.16.650. Revenues generated from the centennial plate shall go in part to support local and state centennial activities as provided in RCW 27.60.080. One dollar per plate of the replacement plate fee(s) will be distributed as follows: From January 1, 1987, through June 30, 1989, one-half of the fee shall be deposited in the centennial commission account, and the remainder shall be deposited in the motor vehicle fund. Commencing July 1, 1989, the total replacement plate fee including the one dollar per plate centennial plate fee shall be deposited in the motor vehicle fund.

Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, or upon the owner's option, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director, upon which form it shall be

required that the owner, if appropriate and in addition to other requirements, make a complete statement as to the cause of the loss, defacement, or destruction of the original plate or plates, which statement shall be subscribed and sworn to before a notary public or other person authorized to certify to statements upon vehicle license applications. Such application shall be filed with the director or the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of three dollars per plate, whereupon the director, or the director's authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement, or destruction of the tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs or a windshield emblem to replace those lost, defaced, or destroyed. For those vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, or owned or leased by the governing body of an Indian tribe as defined in RCW 46.16.020, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.061, 46.16.237, and 46.01.140. For those vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required.

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 6, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 179

[House Bill No. 352]

### HIGHWAY PRIORITY PROGRAMMING—CATEGORY H

AN ACT Relating to priority programming for highway development; and amending RCW 47.01.101, 47.05.030, 47.05.035, 47.05.040, and 47.05.051.

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

Sec. 1. Section 10, chapter 151, Laws of 1977 ex. sess. as amended by section 30, chapter 53, Laws of 1983 1st ex. sess. and RCW 47.01.101 are each amended to read as follows:

The secretary shall have the authority and it shall be his or her duty, subject to policy guidance from the commission:

(1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;

(2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;

(3) To designate and establish such transportation district or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee of the department as deemed necessary to administer the department efficiently;

(4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;

(5) To adopt all department rules that are subject to the adoption procedures contained in the state administrative procedure act, except rules subject to adoption by the commission pursuant to statute;

(6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;

(7) To provide full staff support to the commission to assist it in carrying out its functions, powers, and duties and to execute the policy established by the commission pursuant to its legislative authority;

(8) To execute and implement the biennial operating budget for the operation of the department in accordance with chapter 43.88 RCW and with legislative appropriation and, in such manner as prescribed therein, to make and report to the commission and the legislature deviations from the planned biennial category A and H highway construction programs necessary to adjust to unexpected delays or other unanticipated circumstances.

(9) To exercise all other powers and perform all other duties as are now or hereafter provided by law.

Sec. 2. Section 3, chapter 173, Laws of 1963 as last amended by section 2, chapter 122, Laws of 1979 ex. sess. and RCW 47.05.030 are each amended to read as follows:

The transportation commission shall adopt and periodically revise, after consultation with the legislative transportation committee, a comprehensive six-year program and financial plan for highway improvements specifying program objectives for each of the highway categories, "A," "B," ((and)) "C," and "H," defined in this section, and within the framework of estimated funds for such period. The program and plan shall be based upon

the improvement needs for state highways as determined by the department from time to time.

With such reasonable deviations as may be required to effectively utilize the estimated funds and to adjust to unanticipated delays in programmed projects, the commission shall allocate the estimated funds among the following described categories of highway improvements, so as to carry out the commission's program objectives:

(1) Category A shall consist of those improvements necessary to sustain the structural, safety, and operational integrity of the existing state highway system (other than improvements to the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations, and improvements designated in subsections (2) through (4) of this section).

(2) Category B shall consist of improvements for the continued development of the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations.

(3) Category C shall consist of the development of major transportation improvements (other than improvements to the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations) including designated but unconstructed highways which are vital to the state-wide transportation network.

(4) Category H shall consist of those improvements necessary to sustain the structural and operational integrity of existing bridges on the highway system (other than bridges on the interstate system or bridge work included in another category because of its association with a highway project in such category).

Projects which are financed one hundred percent by federal funds or other agency funds shall, if the commission determines that such work will improve the state highway system, be managed separately from the above categories.

Sec. 3. Section 2, chapter 143, Laws of 1975 1st ex. sess. as amended by section 3, chapter 122, Laws of 1979 ex. sess. and RCW 47.05.035 are each amended to read as follows:

(1) The transportation commission, in preparing the comprehensive six-year program and financial plan for highway improvements, shall allocate the estimated funds among categories A, B, ~~((and))~~ C, and H giving primary consideration to the following factors:

(a) The relative needs in each of the categories of improvements;  
(b) The need to provide adequate funding for category A improvements to protect the state's investment in its existing highway system;  
~~((and))~~

(c) The continuity of future highway development of all categories of improvements with those previously programmed; and



(d) The availability of special categories of federal funds for specific work.

(2) The commission in preparing the comprehensive six-year program and financial plan shall establish program objectives for each of the highway categories, A, B, ~~((and))~~ C, and H.

Sec. 4. Section 4, chapter 173, Laws of 1963 as last amended by section 4, chapter 122, Laws of 1979 ex. sess. and RCW 47.05.040 are each amended to read as follows:

(1) Prior to October 1st of each even-numbered year, the transportation commission as provided in subsections (2), (3), ~~((and))~~ (4), and (5) of this section shall adopt and thereafter shall biennially revise, after consultation with the legislative transportation committee, the comprehensive six-year program and financial plan for highway improvements, including program objectives, as specified in RCW 47.05.030 as now or hereafter amended.

(2) The commission shall first allocate to category A improvements as a whole the estimated construction funds as will be necessary to accomplish the commission's program objectives for category A highway improvements throughout the state. The commission shall then apportion the allocated category A construction funds among the several transportation districts considering the improvement needs of each district in relation to such needs in all districts.

(3) The commission shall next allocate to category B improvements the estimated federal aid interstate funds and state matching funds as necessary to accomplish the commission's program objectives for category B highway improvements throughout the state.

(4) The commission shall next allocate to category H the federal bridge replacement funds and required state funds necessary to accomplish the commission's objectives for category H throughout the state.

(5) The commission shall then allocate to category C improvements the remaining estimated construction funds to accomplish the commission's program objectives for category C highway improvements throughout the state.

Sec. 5. Section 4, chapter 143, laws of 1975 1st ex. sess. as amended by section 5, chapter 122, Laws of 1979 ex. sess. and RCW 47.05.051 are each amended to read as follows:

(1) The comprehensive six-year program and financial plan for each category of highway improvements shall be based upon a priority selection system within the program objectives established for each category. The commission using the criteria set forth in RCW 47.05.030, as now or hereafter amended, shall determine the category of each highway improvement.

(2) Selection of specific category A and H projects for the six-year program shall take into account the criteria set forth in subsection (4) of this section.

(3) Selection of specific category B projects for the six-year program shall be based on ((completion)) commission established priorities for completion and preservation of the interstate system.

(4) In selecting each category A and H project as provided in subsection (2) of this section, the following criteria (not necessarily in order of importance) shall be taken into consideration:

(a) Its structural ability to carry loads imposed upon it;

(b) Its capacity to move traffic at reasonable speeds without undue congestion;

(c) Its adequacy of alignment and related geometrics;

(d) Its accident experience; and

(e) Its fatal accident experience.

(5) The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select category A ((and)), B, and H improvements to be included in the six-year program.

(6) Selection of specific category C projects for the six-year program shall be based on the priority of each highway section proposed to be improved in relation to other highway sections within the state with full regard to the structural, geometric, safety, and operational adequacy of the existing highway section taking into account the following:

(a) Continuity of development of the highway transportation network;

(b) Coordination with the development of other modes of transportation;

(c) The stated long range goals of the local area and its transportation plan;

(d) Its potential social, economic, and environmental impacts;

(e) Public views concerning proposed improvements;

(f) The conservation of energy resources and the capacity of the transportation corridor to move people and goods safely and at reasonable speeds; and

(g) Feasibility of financing the full proposed improvement.

(7) The commission in selecting any project for improvement in categories A, B, ((or)) C, or H may depart from the priority of projects so established (a) to the extent that otherwise funds cannot be utilized feasibly within the program, (b) as may be required by a court judgment, legally binding agreement, or state and federal laws and regulations, (c) as may be required to coordinate with federal, local, or other state agency construction projects, (d) to take advantage of some substantial financial benefit that may be available, (e) for continuity of route development, or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority of projects.

(8) The comprehensive six-year program and financial plan for highway improvements shall be revised biennially pursuant to RCW 47.05.040 as now or hereafter amended. The adopted program and plan shall be extended for an additional two years, to six years in the future, effective on July 1st of each odd-numbered year.

Passed the House February 18, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 180

[Substitute House Bill No. 329]

### CONSERVATION COMMISSION MEMBERSHIP MODIFIED

AN ACT Relating to the conservation commission; and amending RCW 89.08.030.

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

Sec. 1. Section 3, chapter 304, Laws of 1955 as last amended by section 13, chapter 248, Laws of 1983 and RCW 89.08.030 are each amended to read as follows:

There is hereby established to serve as an agency of the state and to perform the functions conferred upon it by law, the state conservation commission, which shall succeed to all powers, duties and property of the state soil and water conservation committee.

The commission shall consist of ~~((eight))~~ ten members, ~~((three))~~ five of whom are ex officio. Two members shall be appointed by the governor, one of whom shall be a landowner or operator of a farm. At least two of the three elected members shall be landowners or operators of a farm and shall be elected as herein provided. The appointed members shall serve for a term of four years.

The three elected members shall be elected for three-year terms, one shall be elected each year by the district supervisors at their annual state-wide meeting. One of the members shall reside in eastern Washington, one in central Washington and one in western Washington, the specific boundaries to be determined by district supervisors. At the first such election, the term of the member from western Washington shall be one year, central Washington two years and eastern Washington three years, and successors shall be elected for three years.

Unexpired term vacancies in the office of appointed commission members shall be filled by appointment by the governor in the same manner as full-term appointments. Unexpired terms of elected commission members shall be filled by the regional vice president of the Washington association

of conservation districts who is serving that part of the state where the vacancy occurs, such term to continue only until district supervisors can fill the unexpired term by electing the commission member.

The director of the department of ecology, the director of the department of agriculture, the commissioner of public lands, the president of the Washington association of conservation districts, and the dean of the college of agriculture at Washington State University shall be ex officio members of the commission. An ex officio member of the commission shall hold office so long as he or she retains the office by virtue of which he or she is a member of the commission. Ex officio members may delegate their authority.

The commission may invite appropriate officers of cooperating organizations, state and federal agencies to serve as advisers to the conservation commission.

Passed the House February 18, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 181

[Substitute House Bill No. 415]

### DRIVING ABSTRACTS AND RECORDS—ALCOHOL/DRUG ASSESSMENT OR TREATMENT AGENCIES

AN ACT Relating to driving records; amending RCW 46.52.130 and 46.63.020; and prescribing penalties.

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

Sec. 1. Section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 74, Laws of 1986 and RCW 46.52.130 are each amended to read as follows:

Any request for a certified abstract must specify which part is requested, and only the part requested shall be furnished. The employment driving record part shall be furnished only to the individual named in the abstract, an employer, the insurance carrier that has insurance in effect covering the employer, or a prospective employer. The other part shall be furnished only to the individual named in the abstract, the insurance carrier that has insurance in effect covering the named individual, or the insurance carrier to which the named individual has applied. Both parts shall be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment. City attorneys and county prosecuting attorneys may provide both parts of the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or

been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years(~~(, and)~~) to individuals, insurance companies, or employers, and covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; and any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

The abstract provided to an insurance company shall have excluded from it any information pertaining to any occupational driver's license when the license is issued to any person employed by another or self-employed as a motor vehicle driver who during the five years preceding the request has been issued such a license by reason of a conviction or finding of a traffic infraction involving a motor vehicle offense outside the scope of his principal employment, and who has during that period been principally employed as a motor vehicle driver deriving the major portion of his income therefrom. The abstract provided to the insurance company shall also exclude any information pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any member of the Washington state patrol, while driving official vehicles in the performance of occupational duty during an emergency situation if the chief of the officer's or fire fighter's department certifies on the accident report that the actions of the officer or fire fighter were reasonable under the circumstances as they existed at the time of the accident.

The director shall collect for each abstract the sum of three dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, or denied on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment.

Any employer or prospective employer receiving the certified abstract shall use it exclusively for his own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon

the public highways of this state and shall not divulge any information contained in it to a third party.

Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Any violation of this section is a gross misdemeanor.

Sec. 2. Section 3, chapter 186, Laws of 1986 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 46.16.010 relating to initial registration of motor vehicles;
- (7) RCW 46.16.160 relating to vehicle trip permits;
- (8) RCW 46.20.021 relating to driving without a valid driver's license;
- (9) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (10) RCW 46.20.342 relating to driving with a suspended or revoked license;
- (11) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (12) RCW 46.20.416 relating to driving while in a suspended or revoked status;
- (13) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (14) Chapter 46.29 RCW relating to financial responsibility;

- (15) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (16) RCW 46.48.175 relating to the transportation of dangerous articles;
- (17) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (18) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (19) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (20) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (21) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company ((and)), an employer, and an alcohol/drug assessment or treatment agency;
- (22) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (23) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (24) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (25) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (26) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (27) RCW 46.61.500 relating to reckless driving;
- (28) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (29) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (30) RCW 46.61.522 relating to vehicular assault;
- (31) RCW 46.61.525 relating to negligent driving;
- (32) RCW 46.61.530 relating to racing of vehicles on highways;
- (33) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (34) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (35) RCW 46.64.020 relating to nonappearance after a written promise;
- (36) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (37) Chapter 46.65 RCW relating to habitual traffic offenders;
- (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;

(39) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(40) Chapter 46.80 RCW relating to motor vehicle wreckers;

(41) Chapter 46.82 RCW relating to driver's training schools.

Passed the House March 6, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

---

## CHAPTER 182

[Substitute House Bill No. 669]

### UNCLAIMED BICYCLES HELD BY POLICE OR SHERIFF MAY BE DONATED TO NONPROFIT CHARITABLE ORGANIZATIONS

AN ACT Relating to unclaimed bicycles held by the police or sheriff; adding a new section to chapter 63.32 RCW; and adding a new section to chapter 63.40 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 63.32 RCW to read as follows:

In addition to any other method of disposition of unclaimed property provided under this chapter, the police authorities of a city or town may donate unclaimed bicycles, tricycles, and toys to nonprofit charitable organizations for use by needy persons.

NEW SECTION. Sec. 2. A new section is added to chapter 63.40 RCW to read as follows:

In addition to any other method of disposition of unclaimed property provided under this chapter, the county sheriff may donate unclaimed bicycles, tricycles, and toys to nonprofit charitable organizations for use by needy persons.

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 House March 12, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.



## CHAPTER 183

[Substitute House Bill No. 746]

## PASSENGER-ONLY FERRIES

AN ACT Relating to acquisition by the department of transportation of new passenger-only vessels; adding new sections to chapter 47.60 RCW; and repealing RCW 39.08.090 and 47.60.650.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.60 RCW to read as follows:

Whenever the department is authorized to purchase one or more new passenger-only ferry vessels of a proven and operational design pursuant to this section, it shall publish a notice of its intent once a week for at least two consecutive weeks in at least one trade paper and one other paper, both of general circulation in the state. The department shall mail the notice to any firm known to the department that has constructed and has had placed in operation within the previous five years a vessel meeting the department's performance criteria. The notice shall contain, but not be limited to, the following information:

(1) The number of passenger-only ferry vessels to be purchased, their passenger capacity, and the proposed delivery date for each vessel;

(2) A short summary of the requirements for prequalification of bidders including a statement that prequalification is a prerequisite to consideration by the department of any proposal, and a statement that in order to be prequalified a firm must, in addition to the requirements contained in RCW 47.60.680 and applicable rules, (a) submit complete plans and specifications for its proposed vessel and obtain the certification of the department's marine architect as to the completeness of these plans and specifications, and (b) submit evidence that its proposed vessel has a history of successful operation within the last five years;

(3) An address and telephone number that may be used to obtain the request for proposal.

NEW SECTION. Sec. 2. A new section is added to chapter 47.60 RCW to read as follows:

The department shall send to any firm that requests it, a request for proposal outlining the criteria for the passenger-only ferry vessels. The request for proposal shall include, but not be limited to, the following information:

(1) Solicitation of a proposal to sell to the department vessels of proven and operational design that meet or exceed specified performance criteria;

(2) The number of vessels to be contracted for (if more than one vessel is to be contracted for, the request for proposal shall provide for the initial purchase of one vessel with an option to purchase additional vessels);

(3) The proposed delivery date for each vessel, the port on Puget Sound where delivery will be taken, and the location where acceptance trials will be held;

(4) The maximum purchase price, and an explanation that no proposal will be considered that quotes a price greater than that amount;

(5) The amount of the required contractor's bond;

(6) A copy of the vessel construction contract that will be signed by the winning bidder;

(7) The date by which proposals for ferry vessel procurement must be received by the department in order to be considered;

(8) A requirement that all vessels proposed for purchase shall conform to the American Bureau of Shipping (ABS) and the United States Coast Guard standards for the design of passenger vessels;

(9) A statement that any proposal submitted constitutes an offer and remains open until ninety days after the deadline for submitting proposals, unless the firm submitting it withdraws it by formal written notice received by the department before the department's selection of the firm submitting the most advantageous proposal, together with an explanation of the requirement that all proposals submitted be accompanied by a deposit in the amount of five percent of the proposed cost of the first vessel to be purchased.

NEW SECTION. Sec. 3. A new section is added to chapter 47.60 RCW to read as follows:

The department shall evaluate all timely proposals received from pre-qualified firms for compliance with the requirements specified in the request for proposal and shall estimate the operation and maintenance costs of each firm's passenger-only vessel design by applying appropriate criteria developed by the department for this purpose.

NEW SECTION. Sec. 4. A new section is added to chapter 47.60 RCW to read as follows:

(1) Upon concluding its evaluation, the department shall:

(a) Select the firm presenting the proposal most advantageous to the state, taking into consideration the requirements stated in the request for proposal, and rank the remaining firms in order of preference, judging them by the same standards; or

(b) Reject all proposals as not in compliance with the requirements contained in the request for proposals.

(2) The department shall immediately notify those firms that were not selected as the firm presenting the most advantageous proposal of the department's decision. The department's decision is conclusive unless appeal from it is taken by an aggrieved firm to the superior court of Thurston county within five days after receiving notice of the department's final decision. The appeal shall be heard summarily within ten days after it is taken and on five days' notice to the department. The court shall hear any such

appeal on the administrative record that was before the department. The court may affirm the decision of the department, or it may reverse the decision if it determines the action of the department was arbitrary or capricious.

**NEW SECTION.** Sec. 5. A new section is added to chapter 47.60 RCW to read as follows:

(1) Upon selecting the firm that has presented the most advantageous proposal and ranking the remaining firms in order of preference, the department shall:

(a) Sign a contract with the firm presenting the most advantageous proposal; or

(b) If a final agreement satisfactory to the department cannot be signed with the firm presenting the most advantageous proposal, the department may sign a contract with the firm ranked next highest in order of preference. If necessary, the department may repeat this procedure with each firm in order of rank until the list of firms has been exhausted.

(2) In developing a contract for the procurement of ferry vessels, the department may, subject to the provisions of RCW 39.25.020, authorize the use of foreign-made materials and components in the construction of ferries in order to minimize costs.

**NEW SECTION.** Sec. 6. A new section is added to chapter 47.60 RCW to read as follows:

Proposals submitted by firms pursuant to this section constitute an offer and shall remain open for ninety days. When submitted, each proposal shall be accompanied by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the proposed contract price, and no proposal may be considered unless the deposit is enclosed therewith. If the department awards a contract to a firm under the procedures of sections 1 through 6 of this act and the firm fails to enter into the contract and furnish a satisfactory bond as required by RCW 39.08.090 within twenty days, exclusive of the day of the award, its deposit shall be forfeited to the state and be deposited by the state treasurer to the credit of the Puget Sound capital construction account. Upon the execution of a ferry construction contract all proposal deposits shall be returned.

**NEW SECTION.** Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 166, Laws of 1977 ex. sess., section 44, chapter 7, Laws of 1984 and RCW 39.08.090; and

(2) Section 1, chapter 166, Laws of 1977 ex. sess., section 140, chapter 3, Laws of 1983 and RCW 47.60.650.

Passed the House March 19, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 184

[House Bill No. 843]

### URANIUM OR THORIUM MILLS—STATE'S AUTHORITY TO COLLECT MONEY FOR DECOMMISSIONING AND SURVEILLANCE MODIFIED

AN ACT Relating to collection of money for the radiation perpetual maintenance fund; amending RCW 70.121.020, 70.121.050, 70.121.100, 70.121.110, and 70.121.130; and adding new sections to chapter 70.121 RCW.

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

Sec. 1. Section 2, chapter 110, Laws of 1979 ex. sess. as amended by section 1, chapter 78, Laws of 1982 and RCW 70.121.020 are each amended to read as follows:

Unless the context clearly requires a different meaning, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of social and health services.

(3) "Site" means the restricted area as defined by the United States nuclear regulatory commission.

(4) "Tailings" means the residue remaining after extraction of uranium or thorium from the ore whether or not the residue is left in piles, but shall not include ore bodies nor ore stock piles.

(5) "License" means a radioactive materials license issued under chapter 70.98 RCW and the rules adopted under chapter 70.98 RCW.

(6) "Termination of license" means the cancellation of the license after permanent cessation of operations. Temporary interruptions or suspensions of production due to economic or other conditions are not a permanent cessation of operations.

(7) "Milling" means grinding, cutting, working, or concentrating ore which has been extracted from the earth by mechanical (conventional) or chemical (in situ) processes.

(8) "Obligor-licensee" means any person who obtains a license to operate a uranium or thorium mill in the state of Washington or any person who owns the property on which the mill operates and who owes money to the state for the licensing fee, for reclamation of the site, for perpetual surveillance and maintenance of the site, or for any other obligation owed the state under this chapter.

(9) "Statement of claim" means the document recorded or filed pursuant to this chapter, which names an obligor-licensee, names the state as obligee, describes the obligation owed to the state, and describes property owned by the obligor-licensee on which a lien will attach for the benefit of the state, and which creates the lien when filed.

Sec. 2. Section 5, chapter 110, Laws of 1979 ex. sess. and RCW 70-121.050 are each amended to read as follows:

On a quarterly basis on and after January 1, 1980, there shall be levied and the department shall collect a charge of five cents per pound on each pound of uranium or thorium compound milled out of the raw ore. (~~The total charges collected from a licensee shall not exceed one million dollars.~~) All moneys paid to the department from these charges shall be deposited in a special security fund in the treasury of the state of Washington to be known as the "radiation perpetual maintenance fund". This security fund shall be used by the department when a licensee has ceased to operate and the site may still contain, or have associated with the site at which the licensed activity was conducted in spite of full compliance with RCW 70-121.030, radioactive material which will require further maintenance, surveillance, or other care. If, with respect to a licensee, the department determines that the estimated total of these charges will be less than or greater than that required to defray the estimated cost of administration of this responsibility, the department may prescribe such an increased or decreased charge as is considered necessary for this purpose(~~(, but in any case such charge may not exceed one million dollars)~~). If, at termination of the license, the department determines that by the applicable standards and practices then in effect, the charges which have been collected from the licensee and earnings generated therefrom are in excess of the amount required to defray the cost of this responsibility, the department may refund the excess portion to the licensee. If, at termination of the license or cessation of operation, the department determines, by the applicable standards and practices then in effect, that the charges which have been collected from the licensee and earnings generated therefrom are together insufficient to defray the cost of this responsibility, the department may collect the excess portion from the licensee.

Moneys in the radiation perpetual maintenance fund shall be invested by the state (~~(finance committee)~~) investment board in the manner as other state moneys.

NEW SECTION. Sec. 3. A new section is added to chapter 70.121 RCW to read as follows:

If a licensee fails to pay the department within a reasonable time money owed to the state under this chapter, the obligation owed to the state shall constitute a lien on all property, both real and personal, owned by the obligor-licensee when the department records or files, pursuant to this section, a statement of claim against the obligor-licensee. The statement of

claim against the obligor–licensee shall name the obligor–licensee, name the state as obligee, describe the obligation, and describe the property to be held in security for the obligation.

Statements of claim creating a lien on real property, fixtures, timber, agricultural products, oil, gas, or minerals shall be recorded with the county auditor in each county where the property is located. Statements of claim creating a lien in personal property, whether tangible or intangible, shall be filed with the department of licensing.

A lien recorded or filed pursuant to this section has priority over any lien, interest, or other encumbrance previously or thereafter recorded or filed concerning any property described in the statement of claim, to the extent allowed by federal law.

A lien created pursuant to this section shall continue in force until extinguished by foreclosure or bankruptcy proceedings or until a release of the lien signed by the secretary is recorded or filed in the place where the statement of claim was recorded or filed. The secretary shall sign and record or file a release only after the obligation owed to the state under this chapter, together with accrued interest and costs of collection has been paid.

**NEW SECTION.** Sec. 4. A new section is added to chapter 70.121 RCW to read as follows:

The attorney general shall use all available methods of obtaining funds owed to the state under this chapter. The attorney general shall foreclose on liens made pursuant to this section, obtain judgments against obligor–licensees and pursue assets of the obligor–licensees found outside the state, consider pursuing the assets of parent corporations and shareholders where an obligor–licensee corporation is an underfinanced corporation, and pursue any other legal remedy available.

Sec. 5. Section 10, chapter 110, Laws of 1979 ex. sess. and RCW 70.121.100 are each amended to read as follows:

The secretary or the secretary's duly authorized representative shall require the posting of a bond by licensees to be used exclusively to provide funds in the event of abandonment, default, or other inability of the licensee to meet the requirements of the department. The secretary may establish bonding requirements by classes of licensees and by range of monetary amounts. In establishing these requirements, the secretary shall consider the potential for contamination, injury, cost of disposal, and reclamation of the property. The amount of the bond shall be sufficient to pay the costs of reclamation and perpetual maintenance.

Sec. 6. Section 11, chapter 110, Laws of 1979 ex. sess. and RCW 70.121.110 are each amended to read as follows:

A bond shall be accepted by the department if it is a bond issued by a fidelity or surety company admitted to do business in the state of Washington(~~(, a personal bond secured by such collateral as the secretary~~

deems satisfactory, or a cash bond)) and the fidelity or surety company is found by the state finance commission to be financially secure at licensing and licensing renewals, if it is a personal bond secured by such collateral as the secretary deems satisfactory and in accordance with RCW 70.121.100, or if it is a cash bond.

Sec. 7. Section 13, chapter 110, Laws of 1979 ex. sess. and RCW 70.121.130 are each amended to read as follows:

All state, local, or other governmental agencies, or subdivisions thereof, are exempt from the bonding requirements of this chapter. ~~((The secretary may by rule exempt classes of licensees from the bonding requirements of this chapter when the secretary finds that the exemption will not result in a significant risk to the public health and safety.))~~

Passed the House March 9, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 185

[Substitute House Bill No. 1069]

### WORKER'S COMPENSATION—OBSOLETE REFERENCES CORRECTED

AN ACT Relating to correcting obsolete references to workmen's compensation; amending RCW 28B.10.567, 28B.16.112, 35A.40.200, 38.40.030, 38.52.090, 38.52.180, 38.52.290, 41.06.163, 41.24.150, 41.26.130, 41.26.150, 41.26.270, 41.40.300, 43.21F.420, 43.22.030, 43.43.040, 48.11.070, 48.12.110, 48.12.120, 48.12.130, 48.12.140, 48.15.160, 48.19.010, 48.20.002, 48.20.202, 48.20.212, 48.20.222, 48.32.020, 48.32.100, 51.12.130, 51.28.025, 51.32.025, 51.32.072, 59.18.100, 60.44.010, 72.05.152, 72.60.100, 74.04.430, and 84.52.0531; and creating a new section.

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

**NEW SECTION.** Sec. 1. In 1977, in two separate pieces of legislation relating to industrial insurance, the Washington legislature changed certain references from "workmen's" or "workman's" compensation to "workers'" compensation. The purpose of this act is to correct remaining obsolete references to "workmen's compensation" and "workmen."

Sec. 2. Section 1, chapter 81, Laws of 1975-'76 2nd ex. sess. as amended by section 26, chapter 169, Laws of 1977 ex. sess. and RCW 28B.10.567 are each amended to read as follows:

The boards of regents of the state universities and board of trustees of the regional universities and the board of trustees of The Evergreen State College are authorized and empowered, under such rules and regulations as any such board may prescribe for the duly sworn police officers employed by any such board as members of a police force established pursuant to RCW 28B.10.550, to provide for the payment of death or disability benefits or medical expense reimbursement for death, disability, or injury of any such

duly sworn police officer who, in the line of duty, loses his life or becomes disabled or is injured, and for the payment of such benefits to be made to any such duly sworn police officer or his surviving spouse or the legal guardian of his child or children, as defined in RCW 41.26.030(7), or his estate: PROVIDED, That the duty-related benefits authorized by this section shall in no event be greater than the benefits authorized on June 25, 1976 for duty-related death, disability, or injury of a law enforcement officer under chapter 41.26 RCW: PROVIDED FURTHER, That the duty-related benefits authorized by this section shall be reduced to the extent of any amounts received or eligible to be received on account of the duty-related death, disability, or injury to any such duly sworn police officer, his surviving spouse, the legal guardian of his child or children, or his estate, under (~~workmen's~~) workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, or disability income insurance and health care plans under chapter 41.05 RCW.

Sec. 3. Section 11, chapter 152, Laws of 1977 ex. sess. as last amended by section 4, chapter 158, Laws of 1986 and RCW 28B.16.112 are each amended to read as follows:

(1) In the conduct of salary and fringe benefit surveys under RCW 28B.16.110 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations in the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;



(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the higher education personnel board in conjunction with the department of personnel established under chapter 41.06 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel.

(3) Interim or special surveys conducted under RCW 28B.16.110 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

- (a) Leave time, including vacation, holiday, civil, and personal leave;
- (b) Employer retirement contributions;
- (c) Health and insurance payments, including life, accident, and health insurance, (~~(workmen's)~~) workers' compensation, and sick leave; and
- (d) Stock options, bonuses, and purchase discounts where appropriate.

Sec. 4. Section 35A.40.200, chapter 119, Laws of 1967 ex. sess. as amended by section 65, chapter 3, Laws of 1983 and RCW 35A.40.200 are each amended to read as follows:

Every code city shall have the authority to make public improvements and to perform public works under authority provided by general law for any class of city and to make contracts in accordance with procedure and subject to the conditions provided therefor, including but not limited to the provisions of: (1) Chapter 39.04 RCW, relating to public works; (2) RCW 35.23.352 relating to competitive bidding for public works, materials and supplies; (3) RCW 9.18.120 and 9.18.150 relating to suppression of competitive bidding; (4) chapter 60.28 RCW relating to liens for materials and labor performed; (5) chapter 39.08 RCW relating to contractor's bonds; (6) chapters 39.12, 39.16, and 43.03 RCW relating to prevailing wages; (7) chapter 49.12 RCW relating to hours of labor; (8) chapter 51.12 RCW relating to (~~(workmen's)~~) workers' compensation; (9) chapter 49.60 RCW relating to antidiscrimination in employment; (10) chapter 39.24 RCW relating to the use of Washington commodities; and (11) chapter 39.28 RCW relating to emergency public works.

Sec. 5. Section 40, chapter 130, Laws of 1943 as amended by section 5, chapter 198, Laws of 1984 and RCW 38.40.030 are each amended to read as follows:

If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service as a member of the military force of the state, he or she shall receive from the state of Washington just and reasonable relief in the amount to be determined as provided in this section, including necessary medical care. If the member dies from disease contracted or injury received or is killed while in active state service under order of the governor, then the dependents of the deceased shall receive such compensation as may be allowed as provided in this section. If the United States or any agent thereof, in accordance with any federal statute or regulation, furnishes monetary assistance, benefits, or other temporary or permanent relief to militia members or to their dependents for injuries arising out of and occurring in the course of their activities as militia members, but not including Social Security benefits, then the amount of compensation which any militia member or his or her dependents are otherwise entitled to receive from the state of Washington as provided in this section shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the militia member or his or her dependents have received and will receive from the United States or any agent thereof as a result of his or her injury. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed by the adjutant general. The board has the same power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. The amount of compensation or benefits payable shall conform as nearly as possible to the general schedule of payments and awards provided under the ((workmen's)) workers' compensation law in effect in the state of Washington at the time the disability or death occurred. The findings of the board shall be reviewed by the adjutant general and submitted to the governor for final approval. The reviewing officer or the governor may return the proceedings for revision or for the taking of further testimony. The action of the board when finally approved by the governor is final and conclusive and constitutes the fixed award for the injury or loss and is a debt of the state of Washington.

Sec. 6. Section 10, chapter 178, Laws of 1951 as last amended by section 29, chapter 266, Laws of 1986 and RCW 38.52.090 are each amended to read as follows:

(1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such

mutual aid arrangements. The director of community development shall adopt and distribute a standard form of contract for use by local organizations in understanding and carrying out said mutual aid arrangements.

(2) The director of community development and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements shall be pursuant to either of the compacts contained in subsection (2) (a) or (b) of this section.

(a) The legislature recognizes that the compact language contained in this subsection is inadequate to meet many forms of emergencies. For this reason, after June 7, 1984, the state may not enter into any additional compacts under this subsection (2)(a).

#### INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors of Civil Defense (Emergency Services) of all party States shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Article 2. It shall be the duty of each party State to formulate civil defense plans and programs for application within such State. There shall be frequent consultation between the representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party States shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party State;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article 3. Any party State requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the State rendering aid may withhold resources to the extent necessary to provide reasonable protection for such State. Each party State shall extend to the civil defense forces of any other party State, while operating within its State limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving State), duties, rights, privileges and immunities as if they were performing their duties in the State in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the State receiving assistance.

Article 4. Whenever any person holds a license, certificate or other permit issued by any State evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party State to meet an emergency or disaster and such State shall give due recognition to such license, certificate or other permit as if issued in the State in which aid is rendered.

Article 5. No party State or its officers or employees rendering aid in another State pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other States party hereto, this instrument contains elements of a broad base common to all States, and nothing herein contained shall preclude any State from entering into supplementary agreements with

another State or States. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article 7. Each party State shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that State and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

Article 8. Any party State rendering aid in another State pursuant to this compact shall be reimbursed by the party State receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding State may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party State without charge or cost; and provided further that any two or more party States may enter into supplementary agreements establishing a different allocation of costs as among those States. The United States Government may relieve the party State receiving aid from any liability and reimburse the party State supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the State and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party States and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party State receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party State of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party

State of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article 10. This compact shall be available to any State, territory or possession of the United States, and the District of Columbia. The term "State" may also include any neighboring foreign country or province or state thereof.

Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

Article 12. This compact shall become operative immediately upon its ratification by any State as between it and any other State or States so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party States and with the Civil Defense Agency and other appropriate agencies of the United States Government.

Article 13. This compact shall continue in force and remain binding on each party State until the legislature or the Governor of such party State takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the Governor of the party State desiring to withdraw to the Governors of all other party States.

Article 14. This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.

Article 15. (a) This Article shall be in effect only as among those states which have enacted it into law or in which the Governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this Article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a State pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this Article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

1. Searches for and rescue of person who are lost, marooned, or otherwise in danger.

2. Action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters.

3. Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger.

4. The giving and receiving of aid by subdivisions of party States.

5. Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or such supplementary agreement may be furnished by any agency of a party State, a subdivision of such State, or by a joint agency providing such aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a State. The personnel of such a joint agency, when rendering aid pursuant to this compact shall have the same rights, authority and immunity as personnel of party States.

(d) Nothing in this Article shall be construed to exclude from the coverage of Articles 1-15 of this compact any matter which, in the absence of this Article, could reasonably be construed to be covered thereby.

(b) The compact language contained in this subsection (2)(b) is intended to deal comprehensively with emergencies requiring assistance from other states.

## INTERSTATE MUTUAL AID COMPACT

### Purpose

The purpose of this Compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster, that over extends the ability of local and state governments to reduce, counteract or remove the danger. Assistance may include, but not be limited to, rescue, fire, police, medical, communication, transportation services and facilities to cope with problems which require use of special equipment, trained personnel or personnel in large numbers not locally available.

### Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

### Implementation

It is agreed by participating states that the following conditions will guide implementation of the Compact:

1. Participating states through their designated officials are authorized to request and to receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency, and other resources are not immediately available.

2. Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it shall be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, personnel or other resources needed. Each request must be signed by an authorized official.

3. Personnel and equipment of the aiding party made available to the requesting party shall, whenever possible, remain under the control and direction of the aiding party. The activities of personnel and equipment of the aiding party must be coordinated by the requesting party.

4. An aiding state shall have the right to withdraw some or all of their personnel and/or equipment whenever the personnel or equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting party as soon as possible.

### General Fiscal Provisions

The state government of the requesting party shall reimburse the state government of the aiding party. It is understood that reimbursement shall be made as soon as possible after the receipt by the requesting party of an itemized voucher requesting reimbursement of costs.

1. Any party rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

2. Any state rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for the cost of payment of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives in the event such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement, provided that such payments are made in the same manner and on the same terms as if the injury or death were sustained within such state.

### Privileges and Immunities

1. All privileges and immunities from liability, exemptions from law, ordinances, rules, all pension, relief disability, ((workmen's)) workers' compensation, and other benefits which apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply to them to



the same degree and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this Agreement.

2. All privileges and immunities from liability, exemptions from law, ordinances, and rules, (~~workmen's~~) workers' compensation and other benefits which apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits, shall apply to the same degree and extent while performing their functions extra-territorially under the provisions of this Agreement. Volunteers may include, but not be limited to, physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

3. The signatory states, their political subdivisions, municipal corporations and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

4. Nothing in this arrangement shall be construed as repealing or impairing any existing Interstate Mutual Aid Agreements.

5. Upon enactment of this Agreement by two or more states, and by January 1, annually thereafter, the participating states will exchange with each other the names of officials designated to request and/or provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it shall be permissible and desirable for the parties to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

6. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

7. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until the thirtieth consecutive day after the notice provided in the statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal.

Sec. 7. Section 11, chapter 178, Laws of 1951 as last amended by section 17, chapter 38, Laws of 1984 and RCW 38.52.180 are each amended to read as follows:

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a

shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of wilful negligence by such owner or occupant or his servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done, or attempted, under the color of this chapter in a bona fide attempt to comply therewith shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: **PROVIDED**, That the foregoing shall not be construed to result in indemnification in any case of wilful misconduct, gross negligence or bad faith on the part of any agent of emergency management: **PROVIDED**, That should the United States or any agency thereof, in accordance with any federal statute, rule or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during an emergency described in this chapter.

(4) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the (~~workmen's~~) workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

Sec. 8. Section 13, chapter 223, Laws of 1953 as last amended by section 30, chapter 38, Laws of 1984 and RCW 38.52.290 are each amended to read as follows:

Insofar as not inconsistent with the provisions of this chapter, the maximum amount payable to a claimant shall be not greater than the amount allowable for similar disability under the ((workmen's)) workers' compensation act, chapter 51.32 RCW as amended by this 1971 amendatory act and any amendments thereto. "Employee" as used in said title shall include an emergency worker when liability for the furnishing of compensation and benefits exists pursuant to the provisions of this chapter and as limited by the provisions of this chapter. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable provisions of said sections of chapter 51.32 RCW and at the maximum rate provided therein, subject, however, to the limitations set forth in this chapter.

Sec. 9. Section 3, chapter 152, Laws of 1977 ex. sess. as last amended by section 6, chapter 158, Laws of 1986 and RCW 41.06.163 are each amended to read as follows:

(1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations of the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the department of personnel in conjunction with the higher education personnel board established under chapter 28B.16 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the department of personnel and the higher education personnel board.

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

- (a) Leave time, including vacation, holiday, civil, and personal leave;
- (b) Employer retirement contributions;
- (c) Health and insurance payments, including life, accident, and health insurance, ((workmen's)) workers' compensation, and sick leave; and
- (d) Stock options, bonuses, and purchase discounts where appropriate.

Sec. 10. Section 15, chapter 261, Laws of 1945 as last amended by section 1, chapter 163, Laws of 1986 and RCW 41.24.150 are each amended to read as follows:

Whenever a fireman serving in any capacity as a member of his own fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business, or profession, he or she shall be paid from the fund monthly, the sum of one thousand two hundred dollars for a period of not to exceed six months, or forty dollars per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978, which resulted in the loss or paralysis of both legs or arms, or one leg and one arm, or total loss of eyesight, but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she is entitled to draw from the fund monthly, the sum of six hundred dollars so long as the disability continues, except as hereinafter provided: PROVIDED, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she is entitled to draw from the fund monthly the additional sums of one hundred twenty dollars because of the fact of his wife or her husband, and fifty dollars because of the fact of each child unemancipated or under eighteen years of age, all to a total maximum amount of one thousand two

hundred dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful employment bears to the annual income received by the pensioner at the time of his disability: PROVIDED, That where a fireman sustains a permanent partial disability the state board may provide that such injured fireman shall receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the ((workmen's)) workers' compensation act under Title 51 RCW in lieu of such monthly disability payments.

Sec. 11. Section 13, chapter 209, Laws of 1969 ex. sess. as last amended by section 3, chapter 294, Laws of 1981 and RCW 41.26.130 are each amended to read as follows:

(1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows: (a) A basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in RCW 41.26.030(7), (c) the combined total of subsections (1)(a) and (1)(b) of this section shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall begin receiving his disability retirement allowance as of the expiration of his six month period of disability leave or, if his application was filed after the sixth month of discontinuance of service but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he shall then receive either his disability retirement allowance or his retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from ((workmen's)) workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall be subject to periodic examinations by a physician approved by the disability board prior to his attainment of age fifty, pursuant to rules adopted by the director under RCW 41.26.115. Examinations of members who retired for disability prior to July 26, 1981, shall not exceed two medical examinations per year.

Sec. 12. Section 15, chapter 209, Laws of 1969 ex. sess. as last amended by section 23, chapter 106, Laws of 1983 and RCW 41.26.150 are each amended to read as follows:

(1) Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in his home, and whether or not so confined, requires medical services, the employer shall pay for such active or retired member the necessary medical services not payable from some other source as provided for in subsection (2). In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where such fund had been established prior to March 1, 1970: PROVIDED, That in the event the pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW: PROVIDED FURTHER, That the disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his rights to benefits under this section for the period of such refusal: AND PROVIDED FURTHER, That the disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under (~~workmen's~~) workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 as now or hereafter amended shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making such payments as are provided for in subsection (1), the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for the payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and fire fighters' retirement system, and/or retired former employees who

were, before retirement, members of said retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any such plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

Sec. 13. Section 14, chapter 257, Laws of 1971 ex. sess. as amended by section 4, chapter 102, Laws of 1985 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))~~ workers' 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))~~ workers' 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. 14. Section 31, chapter 274, Laws of 1947 as amended by section 21, chapter 240, Laws of 1949 and RCW 41.40.300 are each amended to read as follows:

Any amounts which may be paid or payable under the provisions of any ~~((workmen's))~~ workers' compensation, or pension, or similar law on account of any disability shall be offset against and payable in lieu of any benefits payable from funds provided by the employer under the provisions of this chapter on account of the same disability.

Sec. 15. Section 5, chapter 9, Laws of 1969 and RCW 43.21F.420 are each amended to read as follows:

The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state

pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same ((workmen's)) workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment.

Sec. 16. Section 43.22.030, chapter 8, Laws of 1965 and RCW 43.22-.030 are each amended to read as follows:

The director of labor and industries, through the division of industrial insurance, shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of ((workmen's)) workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state.

Sec. 17. Section 43.43.040, chapter 8, Laws of 1965 as last amended by section 1, chapter 165, Laws of 1981 and RCW 43.43.040 are each amended to read as follows:

(1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than five consecutive work days. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.



The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from (~~(workmen's)~~) workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in wilfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

Sec. 18. Section .11.07, chapter 79, Laws of 1947 as amended by section 5, chapter 197, Laws of 1953 and RCW 48.11.070 are each amended to read as follows:

"General casualty insurance" includes vehicle insurance as defined in RCW 48.11.060, and in addition is insurance:

(1) Against legal liability for the death, injury, or disability of any human being, or for damage to property.

(2) Of medical, hospital, surgical and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury or disability of human beings.

(3) Of the obligations accepted by, imposed upon, or assumed by employers under law for (~~(workmen's)~~) workers' compensation.

(4) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation or wrongful conversion, disposal or concealment, or from any attempt of any of the foregoing; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances or any other valuable papers or documents, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail.

(5) Upon personal effects against loss or damage from any cause.

(6) Against loss or damage to glass, including its lettering, ornamentation and fittings.

(7) Against any liability and loss or damage to property resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus and to make inspection of and issue certificates of inspection upon elevators, boilers, machinery, and apparatus of any kind.

(8) Against loss or damage to any property caused by the breakage or leakage of sprinklers, water pipes and containers, or by water entering through leaks or openings in buildings.

(9) Against loss or damage resulting from failure of debtors to pay their obligations to the insured (credit insurance).

(10) Against any other kind of loss, damage, or liability properly the subject of insurance and not within any other kind or kinds of insurance as defined in this chapter, if such insurance is not contrary to law or public policy.

Sec. 19. Section .12.11, chapter 79, Laws of 1947 and RCW 48.12.110 are each amended to read as follows:

Any insurer transacting any liability or (~~workmen's~~) workers' compensation insurances shall include in its annual statement filed with the commissioner, a schedule of its experience thereunder in such form as the commissioner may prescribe.

Sec. 20. Section .12.12, chapter 79, Laws of 1947 and RCW 48.12.120 are each amended to read as follows:

The loss reserve for (~~workmen's~~) workers' compensation insurance shall be as follows:

(1) For all compensation claims under policies of compensation insurance written more than three years prior to the date as of which the statement is made, the loss reserve shall be the present values at four percent interest of the determined and the estimated future payments.

(2) For all compensation claims under policies of compensation insurance written in the three years immediately preceding the date as of which the statement is made, the loss reserve shall be sixty-five percent of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years; but in any event such reserve shall be not less than the present value at three and one-half percent interest of the

determined and the estimated unpaid compensation claims under policies written during each of such years.

Sec. 21. Section .12.13, chapter 79, Laws of 1947 and RCW 48.12.130 are each amended to read as follows:

(1) All unallocated ((~~workmen's~~)) workers' compensation loss expense payments shall be distributed as follows:

(a) If made in a given calendar year subsequent to the first three years in which an insurer has been issuing such compensation policies, forty per cent shall be charged to the policies written in that year, forty-five per cent to the policies written in the preceding year, ten per cent to the policies written in the second year preceding and five per cent to the policies written in the third year preceding.

(b) If made in each of the first three calendar years in which an insurer issues compensation policies, in the first calendar year one hundred per cent shall be charged to the policies written in that year; in the second calendar year fifty per cent shall be charged to the policies written in that year, and fifty per cent to the policies written in the preceding year; in the third calendar year forty-five per cent shall be charged to the policies written in that year, forty-five per cent to the policies written in the preceding year and ten per cent to the policies written in the second year preceding.

(2) A schedule showing such distribution shall be included in the annual statement.

Sec. 22. Section .12.14, chapter 79, Laws of 1947 and RCW 48.12.140 are each amended to read as follows:

"Loss payments" and "loss expense payments" as used with reference to liability and ((~~workmen's~~)) workers' compensation insurances shall include all payments to claimants, payments for medical and surgical attendance, legal expenses, salaries and expenses of investigators, adjusters and claims field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses and all other payments made on account of claims, whether such payments are allocated to specific claims or are unallocated.

Sec. 23. Section .15.16, chapter 79, Laws of 1947 as last amended by section 5, chapter 264, Laws of 1985 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)) workers' 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 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. 24. Section .19.01, chapter 79, Laws of 1947 and RCW 48.19.010 are each amended to read as follows:

(1) Except as is otherwise expressly provided the provisions of this chapter apply to all insurances upon subjects located, resident or to be performed in this state except:

(a) Life insurance;

(b) disability insurance;

(c) reinsurance except as to joint reinsurance as provided in RCW 48.19.360;

(d) insurance against loss of or damage to aircraft, their hulls, accessories, and equipment, or against liability, other than ((workmen's)) workers' compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

(e) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity; and such other risks commonly insured under marine, as distinguished from inland marine, insurance contracts as may be defined by ruling of the commissioner for the purposes of this provision;

(f) title insurance.

(2) Except, that every insurer shall, as to disability insurance, before issuing file with the commissioner its manual of classification, manual of rules and rates, and any modifications thereof.

Sec. 25. Section 1, chapter 229, Laws of 1951 and RCW 48.20.002 are each amended to read as follows:

Nothing in this chapter shall apply to or affect (1) any policy of ((workmen's)) workers' compensation insurance or any policy of liability

insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance; or (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

Sec. 26. Section 21, chapter 229, Laws of 1951 and RCW 48.20.202 are each amended to read as follows:

(1) There may be a provision as follows:

**INSURANCE WITH OTHER INSURERS:** If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in RCW 48.20.212, there shall be added to the caption of the foregoing provision the phrase "..... expense incurred benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute

(including any ((~~workmen's~~)) workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 27. Section 22, chapter 229, Laws of 1951 and RCW 48.20.212 are each amended to read as follows:

(1) There may be a provision as follows:

**INSURANCE WITH OTHER INSURERS:** If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in RCW 48.20.202, there shall be added to the caption of the foregoing provision the phrase ". . . . . other benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any ((~~workmen's~~)) workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 28. Section 23, chapter 229, Laws of 1951 and RCW 48.20.222 are each amended to read as follows:

(1) There may be a provision as follows:

**RELATION OF EARNINGS TO INSURANCE:** If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the

time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(2) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age 50 or, (b) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any ((workmen's)) workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Sec. 29. Section 2, chapter 265, Laws of 1971 ex. sess. as amended by section 2, chapter 109, Laws of 1975-'76 2nd ex. sess. and RCW 48.32.020 are each amended to read as follows:

This chapter shall apply to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage guaranty, ((workmen's)) workers' compensation and ocean marine insurance.

Sec. 30. Section 10, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.100 are each amended to read as follows:

(1) Any person having a claim against his insurer under any provision in his insurance policy which is also a covered claim shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this chapter shall be reduced by the amount of such recovery under the claimant's insurance policy.

(2) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery

first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a ((~~workmen's~~)) workers' compensation claim, from the association of the residence of the claimant. Any recovery under this chapter shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

Sec. 31. Section 1, chapter 110, Laws of 1973 and RCW 51.12.130 are each amended to read as follows:

(1) All persons registered as apprentices or trainees with the state apprenticeship council and participating in supplemental and related instruction classes conducted by a school district, a community college, a vocational school, or a local joint apprenticeship committee, shall be considered as ((~~workmen~~)) workers of the state apprenticeship council and subject to the provisions of Title 51 RCW, for the time spent in actual attendance at such supplemental and related instruction classes.

(2) The assumed wage rate for all apprentices or trainees during the hours they are participating in supplemental and related instruction classes, shall be three dollars per hour. This amount shall be used for purposes of computations of premiums, and for purposes of computations of disability compensation payments.

(3) Only those apprentices or trainees who are registered with the state apprenticeship council prior to their injury or death and who incur such injury or death while participating in supplemental and related instruction classes shall be entitled to benefits under the provisions of Title 51 RCW.

(4) The filing of claims for benefits under the authority of this section shall be the exclusive remedy of apprentices or trainees and their beneficiaries for injuries or death compensable under the provisions of Title 51 RCW against the state, its political subdivisions, the school district, community college, or vocational school and their members, officers or employees or any employer regardless of negligence.

(5) This section shall not apply to any apprentice or trainee who has earned wages for the time spent in participating in supplemental and related instruction classes.

Sec. 32. Section 39, chapter 289, Laws of 1971 ex. sess. as last amended by section 1, chapter 347, Laws of 1985 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~~)) worker in his or her 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~~)) the employer 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)) worker;
- (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)) worker'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 complaints of the ((workman)) worker, any time lost from work, and the observable effect on the ((workman's)) worker'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 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. 33. Section 11, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.025 are each amended to read as follows:

Any payments to or on account of any child or children of a deceased or temporarily or totally permanently disabled ((workman)) worker pursuant to any of the provisions of chapter 51.32 RCW shall terminate when any such child reaches the age of eighteen years unless such child is a dependent invalid child or is permanently enrolled at a full time course in an accredited school, in which case such payments after age eighteen shall be made directly to such child. Payments to any dependent invalid child over the age of eighteen years shall continue in the amount previously paid on account of such child until he shall cease to be dependent. Payments to any child over the age of eighteen years permanently enrolled at a full time course in an accredited school shall continue in the amount previously paid on account of such child until ((he)) the child reaches an age over that provided for in the definition of "child" in this title or ceases to be permanently enrolled whichever occurs first. Where the ((workman)) worker sustains an injury or dies when any of ((his)) the worker's children is over the age of eighteen years and is either a dependent invalid child or is a child permanently enrolled at a full time course in an accredited school the payment to or on account of any such child shall be made as herein provided.

Sec. 34. Section 12, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.072 are each amended to read as follows:

Notwithstanding any other provision of law, every surviving spouse and every permanently totally disabled ((workman)) worker or temporarily totally disabled ((workman)) worker, if such ((workman)) worker was unmarried at the time of ((his)) the worker's injury or was then married but

the marriage was later terminated by judicial action, receiving a pension or compensation for temporary total disability under this title pursuant to compensation schedules in effect prior to July 1, 1971, shall after July 1, 1975, be paid fifty percent of the average monthly wage in the state as computed under RCW 51.08.018 per month and an amount equal to five percent of such average monthly wage per month to such totally disabled ((workman)) worker if married at the time of ((his)) the worker's injury and the marriage was not later terminated by judicial action, and an additional two percent of such average monthly wage for each child of such totally disabled ((workman)) worker at the time of injury in the legal custody of such totally disabled ((workman)) worker or such surviving spouse up to a maximum of five such children. The monthly payments such surviving spouse or totally disabled ((workman)) worker are receiving pursuant to compensation schedules in effect prior to July 1, 1971 shall be deducted from the monthly payments above specified.

Where such a surviving spouse has remarried, or where any such child of such ((workman)) worker, whether living or deceased, is not in the legal custody of such ((workman)) worker or such surviving spouse there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under compensation schedules in effect prior to July 1, 1971 for the benefit of and on account of each such child. In the case of any child or children of a deceased ((workman)) worker not leaving a surviving spouse or where the surviving spouse has later died, there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under such schedules for the benefit of and on account of each such child.

If the character of the injury or occupational disease is such as to render the ((workman)) worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues but such payments shall not obtain or be operative while the ((workman)) worker is receiving care under or pursuant to the provisions of this title except for care granted at the discretion of the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments shall not be considered compensation nor shall they be subject to any limitation upon total compensation payments.

No part of such additional payments shall be payable from the accident fund.

The director shall pay monthly from the supplemental pension fund such an amount as will, when added to the compensation theretofore paid under compensation schedules in effect prior to July 1, 1971, equal the amounts hereinabove specified.

In cases where money has been or shall be advanced to any such person from the pension reserve, the additional amount to be paid under this section shall be reduced by the amount of monthly pension which was or is predicated upon such advanced portion of the pension reserve.

Sec. 35. Section 10, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.100 are each amended to read as follows:

(1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.18.060, and notice of the defect is given to the landlord pursuant to RCW 59.18.070, the tenant may submit to the landlord or his designated agent by certified mail or in person at least two bids to perform the repairs necessary to correct the defective condition from licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, from responsible persons capable of performing such repairs. Such bids may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.18.070: PROVIDED, That the remedy provided in this section shall not be available for a landlord's failure to carry out the duties in subsections (6), (9), and (11) of RCW 59.18.060.

(2) If the landlord fails to commence repair of the defective condition within a reasonable time after receipt of notice from the tenant, the tenant may contract with the person submitting the lowest bid to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or his designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's unit in any twelve-month period: PROVIDED, That when the landlord must commence to remedy the defective condition within thirty days as provided in subsection (4) of RCW 59.18.070, the tenant cannot contract for repairs for at least fifteen days following receipt of said bids by the landlord: PROVIDED FURTHER, That the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed the sum expressed in dollars representing one month's rental of the tenant's unit.

(3) If the landlord fails to carry out the duties imposed by RCW 59.18.060 within a reasonable time, and if the cost of repair does not exceed one-half month's rent, including the cost of materials and labor, which shall be computed at the prevailing rate in the community for the performance of such work, and if repair of the condition need not by law be performed only by licensed or registered persons, the tenant may repair the defective condition in a workmanlike manner and upon completion of the repair and an opportunity for inspection, the tenant may deduct the cost of repair from the rent: PROVIDED, That repairs under this subsection are limited to defects within the leased premises: PROVIDED FURTHER, That the total costs of repairs deducted in any twelve-month period under this subsection

shall not exceed one-half month's rent of the unit or seventy-five dollars in any twelve-month period, whichever is the lesser.

(4) The provisions of this section shall not:

(a) Create a relationship of employer and employee between landlord and tenant; or

(b) Create liability under the ((workmen's)) workers' compensation act; or

(c) Constitute the tenant as an agent of the landlord for the purposes of RCW 60.04.010 and 60.04.040.

(5) Any repair work performed under the provisions of this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or regulation. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs himself in return for cash payment or a reasonable reduction in rent, the agreement thereof to be agreed upon between the parties, and such agreement does not alter the landlord's obligations under this chapter.

· Sec. 36. Section 1, chapter 69, Laws of 1937 as amended by section 1, chapter 250, Laws of 1975 1st ex. sess. and RCW 60.44.010 are each amended to read as follows:

Every operator, whether private or public, of an ambulance service or of a hospital, and every duly licensed nurse, practitioner, physician, and surgeon rendering service, or transportation and care, for any person who has received a traumatic injury and which is rendered by reason thereof shall have a lien upon any claim, right of action, and/or money to which such person is entitled against any tort-feasor and/or insurer of such tort-feasor for the value of such service, together with costs and such reasonable attorney's fees as the court may allow, incurred in enforcing such lien: PROVIDED, HOWEVER, That nothing in this chapter shall apply to any claim, right of action, or money accruing under the ((workmen's)) workers' compensation act of the state of Washington, and: PROVIDED, FURTHER, That all the said liens for service rendered to any one person as a result of any one accident or event shall not exceed twenty-five percent of the amount of an award, verdict, report, decision, decree, judgment, or settlement.

Sec. 37. Section 1, chapter 68, Laws of 1973 and RCW 72.05.152 are each amended to read as follows:

No inmate of a juvenile forest camp who is affected by this chapter or receives benefits pursuant to RCW 72.05.152 and 72.05.154 shall be considered as an employee or to be employed by the state or the department of social and health services or the department of natural resources, nor shall any such inmate, except those provided for in RCW 72.05.154, come within

any of the provisions of the ((workmen's)) workers' compensation act, or be entitled to any benefits thereunder, whether on behalf of himself or any other person. All moneys paid to inmates shall be considered a gratuity.

Sec. 38. Section 72.60.100, chapter 28, Laws of 1959 as last amended by section 101, chapter 136, Laws of 1931 and RCW 72.60.100 are each amended to read as follows:

Nothing in this chapter is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated for work in institutional industries shall be considered as an employee or to be employed by the state or the department, nor shall any such inmate, except those provided for in RCW 72.60.102 and 72.64.065, come within any of the provisions of the ((workmen's)) workers' compensation act, or be entitled to any benefits thereunder whether on behalf of himself or of any other person.

Sec. 39. Section 6, chapter 269, Laws of 1961 as last amended by section 319, chapter 141, Laws of 1979 and RCW 74.04.430 are each amended to read as follows:

All community work and training programs, before an applicant or recipient of public assistance shall be assigned shall have met the approval of the state department of social and health services: PROVIDED, That the state, or federal government, county, city or municipal corporation utilizing assistance applicants or recipients for work and labor shall insure that such employment is covered by ((workmen's)) workers' compensation administered by the department of labor and industries, or a similar plan approved by the department of social and health services, and all fees and charges for such coverage shall be paid by such state, or federal government, county, city or municipal corporation except that portion which is paid for medical aid and is properly chargeable to such applicant or recipient of assistance.

Sec. 40. Section 1, chapter 374, Laws of 1985 and RCW 84.52.0531 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be as follows:

(1) For excess levies in 1985 for collection in 1986 and thereafter, the sum of:

(a) That amount equal to ten percent of each school district's prior year basic education allocation; plus

(b) That amount equal to ten percent of each school district's prior year state allocation, exclusive of federal funds, for the following programs:

(i) Pupil transportation;

(ii) Handicapped education costs;

(iii) Gifted; and

(iv) Compensatory education, including but not limited to remediation assistance, bilingual education, and urban, rural, racial disadvantaged programs; plus

(c) In the case of nonhigh school districts only, an amount equal to the total estimated amount due by the nonhigh school district to high school districts pursuant to chapter 28A.44 RCW, as now or hereafter amended, for the school year during which collection of the levy is to commence, less the increase in the nonhigh school district's basic education allocation as computed pursuant to subsection (4) of this section due to the inclusion of pupils participating in a program provided for in chapter 28A.44 RCW in such computation.

(2) Excess levies authorized under this section or under RCW 84.52-.052 shall not be used directly or indirectly to increase the average salary or fringe benefits for certificated or classified personnel in any school district: **PROVIDED**, That any school district may expend excess levy funds to provide increases in salary and fringe benefits for classified or certificated personnel whose salary and fringe benefits are provided wholly from local school district excess levies in a percentage not to exceed the respective average percentage increases in the salary and fringe benefit levels for classified and certificated employees of the district funded with state appropriated funds: **PROVIDED FURTHER**, That those contracts which have been negotiated prior to July 1, 1977 by those school districts for such school year shall not be abrogated by this section. "Fringe benefits" for purposes of this subsection shall include:

(a) Employer retirement contributions, if applicable;

(b) Health and insurance payments including life, accident, disability, unemployment compensation, and (~~workmen's~~) workers' compensation; and

(c) Employer social security contributions.

(3) Any school district whose average base compensation for certificated or classified personnel respectively is below state-wide average base compensation level for certificated or classified personnel during the preceding school year, may collect and expend property taxes authorized by this section, or under RCW 84.52.052, for the purpose of increasing such district's average compensation for certificated or classified personnel as allowed in the latest applicable state operating budget. "Compensation", for purposes of this subsection, shall mean salary plus fringe benefits for classified and certificated personnel of a school district as allowed in the latest applicable state operating budget.

(4) For the purpose of this section, the basic education allocation shall be determined pursuant to RCW 28A.41.130, 28A.41.140, and 28A.41.145, as now or hereafter amended; **PROVIDED**, That when determining the basic education allocation under subsection (1) of this section, effective

September 1, 1979, nonresident full time equivalent pupils who are participating in a program provided for in chapter 28A.44 RCW or in any other program pursuant to an interdistrict agreement shall be included in the enrollment of the resident district and excluded from the enrollment of the serving district.

Certificated personnel shall include those persons employed by a school district in a teaching, instructional, administrative or supervisory capacity and who hold positions as certificated personnel as defined under RCW 28A.01.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent. Classified personnel shall include those persons employed by a school district other than certificated personnel as defined in this section in a capacity for which certification is not required.

(5) Any district is authorized to exceed the levy limitations imposed by subsection (1) for taxes to be collected during calendar years 1985 through 1993 as follows:

(a) For excess levies to be collected in calendar years 1986, 1987, and 1988, a base year levy percentage shall be established. The base year levy percentage shall be equal to the greater of: (i) The district's actual levy percentage for calendar year 1985, (ii) the average levy percentage for all school district levies in the state in calendar year 1985, or (iii) the average levy percentage for all school district levies in the educational service district of the district in calendar year 1985.

(b) The base year levy percentage established in (a) of this subsection shall be reduced in even increments beginning in calendar year 1989. The incremental reduction shall equal one-fifth of the percentage points the base year levy percentage exceeds the amount authorized in subsection (1) of this section.

(c) For excess levies to be collected in calendar year 1993, the maximum dollar amount which may be levied by or for any school district shall not exceed the amount authorized in subsection (1) of this section. The provisions of this subsection shall not apply to excess levies to be collected after calendar year 1993.

(6) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

**NEW SECTION.** Sec. 41. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the House March 18, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 186

[Senate Bill No. 5002]

### COMMISSION ON JUDICIAL CONDUCT—MEMBERSHIP ENLARGED—DUTIES REVISED

AN ACT Relating to the commission on judicial conduct; amending RCW 2.64.010, 2.64.020, 2.64.110, and 34.08.020; reenacting and amending RCW 43.10.067; adding new sections to chapter 2.64 RCW; creating a new section; repealing RCW 2.64.090 and 2.64.900; and declaring an emergency.

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

Sec. 1. Section 2, chapter 268, Laws of 1981 and RCW 2.64.010 are each amended to read as follows:

For purposes of this chapter, "commission" means the (~~judicial qualifications~~) commission on judicial conduct provided for in Article IV, section 31 of the state Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the censure, suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability which is permanent, or likely to become permanent, and which seriously interferes with the performance of judicial duties. For purposes of this chapter, the term "judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Titles 3(~~(;)~~) or 35(~~(; or 35A)~~) RCW, (~~and~~) judges pro tempore, court commissioners, and magistrates. This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state.

Sec. 2. Section 3, chapter 268, Laws of 1981 and RCW 2.64.020 are each amended to read as follows:

The commission shall consist of (~~seven~~) nine members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the district court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and (~~two~~) four members shall be nonlawyers appointed by the governor and confirmed by the senate. The term of each member of the commission shall be four years.



~~((The initial terms shall be determined by lot conducted by commission members as follows:~~

- ~~(1) One member shall serve a one-year term;~~
- ~~(2) Two members shall serve two-year terms;~~
- ~~(3) Two members shall serve three-year terms; and~~
- ~~(4) Two members shall serve four-year terms.~~

~~The selection by lot shall be adjusted, if necessary, so neither the two lawyer members' terms nor the two lay members' terms will expire in the same year. Initial terms shall commence thirty days following May 18, 1981.))~~

**NEW SECTION.** Sec. 3. Notwithstanding RCW 2.64.020, the initial term of one of the members added to the commission on judicial conduct by section 2 of this act shall end on June 16, 1990, and the term of the other member shall end on June 16, 1991, as determined by lot.

**NEW SECTION.** Sec. 4. A new section is added to chapter 2.64 RCW to read as follows:

The commission shall submit proposed and adopted rules for publication in the Washington state register pursuant to RCW 34.08.020. Adopted rules shall be provided to the code reviser for publication with the Revised Code of Washington where rules of court are published and to the reporter of decisions for publication in the official codification of Washington court rules. The proposed and adopted rules shall also be filed with the administrator for the courts for distribution in accordance with supreme court rule.

Sec. 5. Section 12, chapter 268, Laws of 1981 and RCW 2.64.110 are each amended to read as follows:

All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation, are exempt from the public disclosure requirements of chapter 42.17 RCW. However, a judge or justice may waive confidentiality of the fact that a complaint is being investigated. The commission shall establish rules for the confidentiality of its proceedings with due regard for the privacy interests of judges or justices who are the subject of an inquiry and the protection of persons who file complaints with the commission. Any fact-finding hearing conducted by the commission, a subcommittee of the commission, or a master appointed by the commission shall be open to the public. Any person giving information to the commission or its employees, any member of the commission, or any person employed by the commission is subject to a proceeding for contempt in superior court for disclosing information in violation of a commission rule.

**NEW SECTION.** Sec. 6. A new section is added to chapter 2.64 RCW to read as follows:

If the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended, with salary, from his or

her judicial position upon filing of the recommendation with the supreme court and until a final determination is made by the supreme court.

Sec. 7. Section 43.10.067, chapter 8, Laws of 1965 as last amended by section 108, chapter 7, Laws of 1985 and by section 2, chapter 133, Laws of 1985 and RCW 43.10.067 are each reenacted and 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 on judicial conduct, the state law library, the law school of the state university, 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 and RCW 44.28.140 shall not be affected hereby.

Sec. 8. Section 8, chapter 2, Laws of 1983 as amended by section 3, chapter 60, Laws of 1986 and RCW 34.08.020 are each amended to read as follows:

There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) (a) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(b) The small business economic impact statement, if required by RCW 19.85.030, preceding the full text of the proposed new or amendatory rule;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification;

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register;

(7) Juvenile disposition standards and security guidelines proposed and adopted under RCW 13.40.030; ((and))

(8) Proposed and adopted rules of the commission on judicial conduct;  
and

(9) The maximum allowable rates of interest and retail installment contract service charges filed by the state treasurer under RCW 19.52.025 and 63.14.135. In addition, the highest rate of interest permissible for the current month and the maximum retail installment contract service charge for the current year shall be published in each issue of the register. The publication of the maximum allowable interest rate established pursuant to RCW 19.52.025 shall be accompanied by the following advisement: **NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.**

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 268, Laws of 1981 and RCW 2.64.090; and

(2) Section 14, chapter 268, Laws of 1981 and RCW 2.64.900.

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 immediately.

Passed the Senate January 26, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 187

[Substitute Senate Bill No. 5089]

## HOMICIDE BY ABUSE

AN ACT Relating to homicide by abuse; amending RCW 9A.32.010, 9.94A.030, and 9.94A.320; adding a new section to chapter 9A.32 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.32 RCW to read as follows:

(1) A person is guilty of homicide by abuse if, under circumstances manifesting an extreme indifference to human life, the person causes the death of a child or person under sixteen years of age, a developmentally disabled person, or a dependent adult, and the person has previously engaged in a pattern or practice of assault or torture of said child, person under sixteen years of age, developmentally disabled person, or dependent person.

(2) As used in this section, "dependent adult" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life.

(3) Homicide by abuse is a class A felony.

Sec. 2. Section 9A.32.010, chapter 260, Laws of 1975 1st ex. sess. as amended by section 1, chapter 10, Laws of 1983 and RCW 9A.32.010 are each amended to read as follows:

Homicide is the killing of a human being by the act, procurement or omission of another, death occurring within three years and a day, and is either (1) murder, (2) homicide by abuse, (3) manslaughter, ~~((3))~~ (4) excusable homicide, or ~~((4))~~ (5) justifiable homicide.

Sec. 3. Section 3, chapter 137, Laws of 1981 as last amended by section 17, chapter 257, Laws of 1986 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. For purposes of the interstate compact for out of state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional

equivalent of probation and should be considered the same as probation by other states.

(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 and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(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 prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies, the defendant was less than twenty-three years of age 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) "Drug offense" means any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403).

(12) "Escape" means escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), wilful failure to return from

furlough (RCW 72.66.060), or wilful failure to return from work release (RCW 72.65.070).

(13) "Felony traffic offense" means vehicular homicide (RCW 46.61-.520), vehicular assault (RCW 46.61.522), or felony hit-and-run injury-accident (RCW 46.52.020(4)).

(14) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(15)(a) "First-time offender" means any person who is convicted of a felony not classified as a violent offense or a sex offense under this chapter, and except as provided in (b) of this subsection, 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.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

(16) "Nonviolent offense" means an offense which is not a violent offense.

(17) "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.

(18) "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 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.

(19) "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.

(20) "Serious traffic offense" means driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)).

(21) "Serious violent offense" is a subcategory of violent offense and means murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies.

(22) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(23) "Sex offense" means a felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes.

(24) "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.

(25) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(26) "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, vehicular homicide, and vehicular assault;

(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 (26)(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 (26) (a) or (b) of this section.

Sec. 4. Section 3, chapter 115, Laws of 1983 as last amended by section 23, chapter 257, Laws of 1986 and RCW 9.94A.320 are each amended to read as follows:

## TABLE 2

### CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030) <u>Homicide by abuse (section 1 of this 1987 act)</u>
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW ( <del>9A.36.010</del> ) <u>9A.36.011</u> )
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406)

- Leading Organized Crime (RCW 9A.82.060(1)(a))
- IX Robbery 1 (RCW 9A.56.200)  
 Manslaughter 1 (RCW 9A.32.060)  
 Statutory Rape 1 (RCW 9A.44.070)  
 Explosive devices prohibited (RCW 70.74.180)  
 Endangering life and property by explosives with threat to human being (RCW 70.74.270)  
 Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)  
 Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a))  
 Inciting Criminal Profiteering (RCW ~~((9A.82.061(1)(b))~~  
~~{RCW 9A.82.060(1)(b)})~~ 9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)  
 Rape 2 (RCW 9A.44.050)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling heroin for profit (RCW 69.50.410)
- VII Burglary 1 (RCW 9A.52.020)  
 Vehicular Homicide (RCW 46.61.520)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Statutory Rape 2 (RCW 9A.44.080)  
 Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
 Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))  
 Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)  
 Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- VI Bribery (RCW 9A.68.010)  
 Manslaughter 2 (RCW 9A.32.070)  
 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
 Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))  
 Endangering life and property by explosives with no threat to human being (RCW 70.74.270)  
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) ~~((and)),~~ (c), and (d))  
 Incest 1 (RCW 9A.64.020(1))  
 Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))



- Intimidating a Judge (RCW 9A.72.160)
- V Rape 3 (RCW 9A.44.060)  
Kidnapping 2 (RCW 9A.40.030)  
Extortion 1 (RCW 9A.56.120)  
Incest 2 (RCW 9A.64.020(2))  
Perjury 1 (RCW 9A.72.020)  
Extortionate Extension of Credit (RCW 9A.82.020)  
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)  
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)  
Rendering Criminal Assistance 1 (RCW 9A.76.070)
- IV Robbery 2 (RCW 9A.56.210)  
Assault 2 (RCW (~~9A.36.020~~) 9A.36.021)  
Escape 1 (RCW 9A.76.110)  
Arson 2 (RCW 9A.48.030)  
Bribing a Witness/Bribe Received by Witness (RCW 9A.72-.090, 9A.72.100)  
Malicious Harassment (RCW 9A.36.080)  
Wilful Failure to Return from Furlough (RCW 72.66.060)  
Hit and Run — Injury Accident (RCW 46.52.020(4))  
Vehicular Assault (RCW 46.61.522)  
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I–V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))  
Influencing Outcome of Sporting Event (RCW 9A.82.070)  
Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))  
Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Statutory Rape 3 (RCW 9A.44.090)  
Extortion 2 (RCW 9A.56.130)  
Unlawful Imprisonment (RCW 9A.40.040)  
Assault 3 (RCW (~~9A.36.030~~) 9A.36.031)  
Unlawful possession of firearm or pistol by felon (RCW 9.41.040)  
Harassment (RCW 9A.46.020)  
Promoting Prostitution 2 (RCW 9A.88.080)  
Wilful Failure to Return from Work Release (RCW 72.65.070)  
Introducing Contraband 2 (RCW 9A.76.150)  
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)  
Patronizing a Juvenile Prostitute (RCW 9.68A.100)

- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 1 (RCW 9A.56.080)
- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Livestock 2 (RCW 9A.56.080)
- Burglary 2 (RCW 9A.52.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))

Passed the Senate January 29, 1987.

Passed the House April 15, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 188

[Substitute Senate Bill No. 5824]

## CUSTODIAL ASSAULT—ASSAULT AT STATE CORRECTIONAL FACILITIES

AN ACT Relating to assault at state corrections institutions and local detention facilities; amending RCW 9A.36.041; adding a new section to chapter 9A.36 RCW; prescribing penalties; 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 9A.36 RCW to read as follows:

(1) A person is guilty of custodial assault if that person is not guilty of an assault in the first or second degree and where the person:

(a) Assaults a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent thereof at any juvenile corrections institution or local juvenile detention facilities who was performing official duties at the time of the assault; or

(b) Assaults a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent thereof at any adult corrections institution or local adult detention facilities who was performing official duties at the time of the assault.

(2) Custodial assault is a class C felony.

Sec. 2. Section 7, chapter 257, Laws of 1986 and RCW 9A.36.041 are each amended to read as follows:

(1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor.

**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 July 1, 1987.

Passed the Senate April 14, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 189

[Senate Bill No. 5194]

## UNIFORM COMMERCIAL CODE—FEES MODIFIED

AN ACT Relating to fees under the Uniform Commercial Code; and amending RCW 62A.9-302, 62A.9-403, 62A.9-405, 62A.9-406, 62A.9-407, 62A.9-409, and 60.13.040.

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

Sec. 1. Section 9-302, chapter 157, Laws of 1965 ex. sess. as last amended by section 3, chapter 258, Laws of 1985 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. 2. Section 9-403, chapter 157, Laws of 1965 ex. sess. as last amended by section 6, chapter 186, Laws of 1982 and RCW 62A.9-403 are each amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of

record and complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove the original of any statement from the files and destroy it at any time if he has substituted a copy by microfilm or other photographic record. The filing officer may destroy any original, microfilm, or photographic record of any lapsed statement not earlier than one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the original of the financing statements, a microfilm or other photographic copy of those statements which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. The original statement may be destroyed at any time after a microfilm or other photographic copy is made of the original statement. This microfilm or other photographic copy shall thereafter be treated as if it were the original filing for all purposes. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) ~~((The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be four dollars if the statement is in the standard form prescribed by the department of licensing, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars.))~~ The secured party may at his option show a trade name for any person.

(6) If the debtor is a transmitting utility (subsection (5) of RCW 62A.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of RCW 62A.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or is filed as a fixture filing, it shall be filed for record

and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

Sec. 3. Section 9-405, chapter 157, Laws of 1965 ex. sess. as last amended by section 8, chapter 186, Laws of 1982 and RCW 62A.9-405 are each amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement, the filing officer shall mark, hold, and process the same as provided in RCW 62A.9-403(4). ~~((The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the department of licensing shall be four dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars.))~~

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark, hold, and process the statement the same as provided in RCW 62A.9-403(4). He shall note the assignment on the index of the financing statement or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. ~~((The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the department shall be four dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee~~

~~shall be seven dollars.))~~ Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of RCW 62A.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this Title.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Sec. 4. Section 9-406, chapter 157, Laws of 1965 ex. sess. as last amended by section 9, chapter 186, Laws of 1982 and RCW 62A.9-406 are each amended to read as follows:

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. Upon presentation of such a statement of release, the filing officer shall mark, hold, and process the statement the same as provided in RCW 62A.9-403(4). ~~((The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the department of licensing shall be four dollars, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars.))~~

Sec. 5. Section 9-407, chapter 157, Laws of 1965 ex. sess. as last amended by section 10, chapter 186, Laws of 1982 and RCW 62A.9-407 are each amended to read as follows:

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person following payment of the required fees, the department of licensing shall issue its certificate showing whether there is on file with the department of licensing on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. ~~((The uniform fee for such a certificate shall be four dollars regardless of whether the request for the certificate is in the standard form prescribed by the department of licensing or otherwise.))~~ Upon request and following payment of the required fees, the department of



licensing shall issue its certificate and shall furnish a copy of any filed financing statements or statements of assignment (~~for a uniform fee of eight dollars for each particular debtor's statements requested~~).

Sec. 6. Section 12, chapter 114, Laws of 1967 as last amended by section 216, chapter 158, Laws of 1979 and RCW 62A.9-409 are each amended to read as follows:

In relation to Article 62A.9 RCW:

(1) The department of licensing may by rule prescribe standard filing forms, fees, and uniform procedures for filing with, and obtaining information from, filing officers.

(2) Unless a filing officer has filed with the secretary of state on or before June 1, 1967, his certificate that financing statements, as defined in RCW 62A.9-402, will not be accepted by him for filing on and after June 12, 1967, such filing officer shall accept such financing statements for filing on and after June 12, 1967. Financing statements so filed shall be received, marked, indexed, and filed as provided in Title 62A RCW. The filing fees for filing such statements shall be as provided in Title 62A RCW.

Sec. 7. Section 4, chapter 412, Laws of 1985 and RCW 60.13.040 are each amended to read as follows:

(1) A producer claiming a processor or preparer lien may file a statement evidencing the lien with the department of licensing after payment from the processor, conditioner, or preparer to the producer is due and remains unpaid. For purposes of this subsection and RCW 60.13.050, payment is due on the date specified in the contract, or if not specified, then within thirty days from time of delivery.

(2) The statement shall be in writing, verified by the producer, and shall contain in substance the following information:

(a) A true statement of the amount demanded after deducting all credits and offsets;

(b) The name of the processor, conditioner, or preparer who received the agricultural product to be charged with the lien;

(c) A description sufficient to identify the agricultural product to be charged with the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien; (~~and~~)

(e) The date on which payment was due for the agricultural product to be charged with the lien; and

(f) The department of licensing may by rule prescribe standard filing forms, fees, and uniform procedures for filing with, and obtaining information from, filing officers.

Passed the Senate February 27, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

CHAPTER 190

[Substitute Senate Bill No. 5717]

NOT-FOR-PROFIT CORPORATIONS AND CHARITIES—REPORTING REQUIREMENTS TO BE STUDIED

AN ACT Relating to reporting by nonprofit corporations; creating a new section; making an appropriation; declaring an emergency; and providing an effective date.

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

NEW SECTION. Sec. 1. In order to assist the legislature in determining whether to amend reporting requirements of not-for-profit corporations under Title 24 RCW, the secretary of state shall conduct a study to correlate nonprofit corporations and charities on file with the secretary of state's office with those Washington entities that file a federal return of organization exempt from income tax, form 990. In the conduct of the study, the secretary may contract with the internal revenue service for such services as may be necessary. The secretary shall report the results of the correlation study to the legislature by December 31, 1987.

NEW SECTION. Sec. 2. The sum of twenty-four thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the general fund to the office of the secretary of state for the biennium ending June 30, 1987, for the performance of the study. Any moneys remaining after the end of that fiscal biennium are reappropriated for the biennium ending June 30, 1989.

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 1, 1987.

Passed the Senate March 11, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

---

CHAPTER 191

[Engrossed Senate Bill No. 5032]

ANTIQUÉ SLOT MACHINES

AN ACT Relating to antique slot machines; and amending RCW 9.46.235.

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

Sec. 1. Section 1, chapter 165, Laws of 1977 ex. sess. and RCW 9.46-.235 are each amended to read as follows:

(1) For purposes of a prosecution under RCW 9.46.230(4) or a seizure, confiscation, or destruction order under RCW 9.46.230(1), it shall be a defense that the gambling device involved is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or defendant's possession. Operation of an antique slot machine shall be only by free play or with coins provided at no cost by the owner. No slot machine, having been seized under this chapter, may be altered, destroyed, or disposed of without affording the owner thereof an opportunity to present a defense under this section. If the defense is applicable, the antique slot machine shall be returned to the owner or defendant, as the court may direct.

(2) RCW 9.46.230(2) shall have no application to any antique slot machine that has not been operated for gambling purposes while in the owner's possession.

(3) For the purposes of this section, a slot machine shall be conclusively presumed to be an antique slot machine if it (~~was manufactured prior to January 1, 1941~~) is at least twenty-five years old.

Passed the Senate February 13, 1987.

Passed the House April 15, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 192

[Engrossed Substitute Senate Bill No. 5150]

### PORTABILITY OF PUBLIC EMPLOYMENT RETIREMENT BENEFITS

AN ACT Relating to the portability of public employment retirement benefits; amending RCW 41.04.270; adding a new chapter to Title 41 RCW; declaring an emergency; and providing effective dates.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actuary" means the state actuary as established under chapter 44.44 RCW.

(2) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes 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 overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(3) "Average compensation" means, respectively, "final compensation" as defined in RCW 41.28.010 and 41.44.030(14), "average final compensation" as defined in RCW 41.32.010 and 41.40.010, "average earnable compensation" as used in RCW 41.32.498, and "average final salary" as defined in RCW 43.43.120.

(4) "Service retirement allowance" means, respectively, "retirement allowance" as used or defined in RCW 41.28.130, 41.32.010, 41.40.010, 41.44.030(22), and 43.43.260.

(5) "Current system average final compensation" means that compensation or average compensation used in the service retirement benefit calculation of the current system with compensation being either that earned in the current system or the base salary earned in a prior system, whichever produces the greater benefit.

(6) "Prior system average final compensation" means the compensation or average compensation used in the service retirement benefit calculation of the prior system, with compensation being either that earned in the prior system or the base salary earned in any system in which dual membership is held, whichever produces the greater benefit.

(7) "Compensation" means, respectively, "compensation earnable" as defined in RCW 41.28.010, "earnable compensation" as defined in RCW 41.32.010, "compensation earnable" as defined in RCW 41.40.010, "compensation earnable" as defined in RCW 41.44.030, and "average final salary" as used in RCW 43.43.120(15).

(8) "Current system" means the system in which a member is currently making contributions and accruing service credit.

(9) "Department" means the department of retirement systems.

(10) "Director" means the director of retirement systems.

(11) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from a prior system.

(12) "Prior system" means a system in which a person had previous membership but is no longer making member contributions.

(13) "Service" means the same as it may be defined in each respective system. For the purposes of section 3 of this act, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(14) "System" means the retirement systems established under chapters 41.28, 41.32, 41.40, 41.44, and 43.43 RCW. The inclusion of an individual first class city system is subject to the procedure set forth in section 6 of this act.

**NEW SECTION.** Sec. 2. (1) Those persons who are dual members on or after July 1, 1988, shall not receive a retirement benefit from any prior

system while dual members without the loss of all benefits under this chapter. Retroactive retirement in any prior system will cancel membership in any subsequent systems except as allowed under RCW 41.04.270 and will result in the refund of all employee and employer contributions made to such systems.

(2) If a member has withdrawn contributions from a prior system, the member may restore the contributions, together with interest since the date of withdrawal as determined by the system, and recover the service represented by the contributions. Such restoration must be completed within two years of establishing dual membership or prior to retirement, whichever occurs first.

(3) A member of the retirement system under chapter 41.32 RCW who is serving in office pursuant to Article II or III of the state Constitution may, notwithstanding the provisions of RCW 41.40.120(4), within one year from the effective date of this section make an irrevocable election to become a member of the retirement system under chapter 41.40 RCW. A member who makes this election shall receive service credit under chapter 41.32 RCW for all prior and future periods of employment which are, or otherwise would be, credited under chapter 41.32 RCW. Such a member who established membership under chapter 41.32 RCW prior to June 30, 1977, shall be granted membership under chapter 41.40 RCW as if he or she had been a member of that system prior to June 30, 1977.

All contributions credited to such member under chapter 41.32 RCW for service now to be credited in the retirement system under chapter 41.40 RCW shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.32 RCW for those periods of service.

(4) Any service accrued in one system by the member shall not accrue in any other system.

NEW SECTION. Sec. 3. (1) As used in this section, the percentage factor to be used in calculating a benefit under chapter 41.28 RCW shall be determined using only the service earned in a retirement system created under that chapter.

(2) The service retirement allowances to be paid to a dual member upon retiring from the current system because of service shall be the sum of:

(a) The service retirement allowance received under the current system as a result of multiplying the current system average final compensation by the percentage factor of the current system and the service earned under the current system; and

(b) The sum of the respective service retirement allowances received under prior systems as a result of multiplying each prior system's average final compensation by the percentage factor of that prior system and the service earned under that prior system.

(3) Eligibility to receive a service benefit under this chapter shall be based on (a) the criteria of any system in which dual membership is held, and (b) the dual member's combined systems' service. The service retirement allowances from a system which, but for this chapter, would not be allowed to be paid at this date based on the dual member's age shall be either actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system, or the dual member may choose to defer the benefit until fully eligible.

NEW SECTION. Sec. 4. (1) The retirement allowances calculated under section 3 of this act shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) If a dual member dies in service in any system, the surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death based on service actually established in that system.

NEW SECTION. Sec. 5. A person who was eligible to establish membership under RCW 41.40.120(3) prior to October 1, 1977, but failed to do so by that date, is authorized to elect to do so as if such election had been made prior to that date. Such an election must be made not later than June 30, 1988, and all other terms and conditions of RCW 41.40.120(3) shall apply.

NEW SECTION. Sec. 6. A system authorized under chapter 41.28 RCW may petition the legislature for coverage under the provisions of this chapter by the adoption of a resolution by majority vote of those elected or appointed to the legislative body of the respective first class city. This resolution may not be adopted until a public hearing has been held on the proposed entry into coverage under this chapter. If adopted, the resolution shall be transmitted prior to January 1, 1988, to the director and to the joint committee on pension policy created in chapter ... (HB 358), Laws of 1987. The system shall be included only after the legislature enacts legislation specifically including the system under the coverage of this chapter.

NEW SECTION. Sec. 7. The benefit granted by this chapter shall not result in a total benefit less than would have been received absent such benefit. The total sum of the retirement allowances received under this chapter shall not exceed the smallest amount the dual member would receive if all the service had been rendered in any one system.

NEW SECTION. Sec. 8. The benefits provided under sections 1 through 7 of this act are not provided to employees as a matter of contractual right and the legislature retains the right to alter or abolish these benefits at any time prior to a member's retirement.

Sec. 9. Section 1, chapter 105, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 29, Laws of 1980 and RCW 41.04.270 are each amended to read as follows:

(1) Notwithstanding any (~~other~~) provision of (~~law~~) chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after March 19, 1976, any member or former member who (~~(+)~~) (a) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (~~(2)~~) (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (~~(3)~~) (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection(~~(s(1) and (2) of this section)~~) shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to (a) any retirement system except those listed in RCW 41.50.030 and (~~the retirement systems of first class cities~~) chapter 41.28 RCW, or (b) a dual member as defined in section 1 of this 1987 act.

NEW SECTION. Sec. 10. Sections 1 through 8 of this act shall constitute a new chapter in Title 41 RCW.

NEW SECTION. Sec. 11. (1) Section 5 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 on July 1, 1987.

(2) The remainder of this act shall take effect on July 1, 1988.

Passed the Senate April 15, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 193

[Senate Bill No. 5642]

SUPERINTENDENT OF PUBLIC INSTRUCTION—FEDERAL FOOD SERVICES  
REVOLVING FUND ESTABLISHED

AN ACT Relating to food services programs administered through the office of the superintendent of public instruction; and adding a new chapter to Title 28A RCW.

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

**NEW SECTION.** Sec. 1. The superintendent of public instruction is hereby authorized to receive and disburse federal funds made available by acts of congress for the assistance of private nonprofit organizations in providing food services to children and adults according to the provisions of 20 U.S.C. Sec. 1751 et seq., the national school lunch act as amended, and 20 U.S.C. Sec. 1771, et seq., the child nutrition act of 1966, as amended.

**NEW SECTION.** Sec. 2. All reasonably ascertainable costs of performing the duties assumed and performed under this chapter by either the superintendent of public instruction or another state or local governmental entity in support of the superintendent of public instruction's duties under this chapter shall be paid exclusively with federal funds and, if any, private gifts and grants. The federal food services revolving fund is hereby established in the custody of the state treasurer. The office of the superintendent of public instruction shall deposit in the fund federal funds received under section 1 of this act, recoveries of such funds, and gifts or grants made to the revolving fund. Disbursements from the fund shall be on authorization of the superintendent of public instruction or the superintendent's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The superintendent of public instruction is authorized to expend from the federal food services revolving fund such funds as are necessary to implement this chapter.

**NEW SECTION.** Sec. 3. The superintendent shall have the power to promulgate such rules in accordance with chapter 34.04 RCW as are necessary to implement this chapter.

**NEW SECTION.** Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 28A RCW.

Passed the Senate March 10, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.



## CHAPTER 194

[Senate Bill No. 5861]

## SMALL PASSENGER VESSELS—EXEMPTION FROM STATE PILOTAGE ACT

AN ACT Relating to exempting small passenger vessels from certain provisions of chapter 88.16 RCW; amending RCW 88.16.070; creating a new section; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature intends to provide a limited exemption from the provisions of this chapter for a specified class of small vessels registered as passenger vessels or yachts. It is not the intent of the legislature that such an exemption shall be a precedent for future exemptions of other classes of vessels from the provisions of this chapter.

Sec. 2. Section 4, chapter 18, Laws of 1935 as last amended by section 6, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.070 are each amended to read as follows:

All vessels under enrollment and all United States and Canadian vessels engaged exclusively in the coasting trade on the west coast of the continental United States (including Alaska) and/or British Columbia shall be exempt from the provisions of this chapter unless a pilot licensed under this chapter be actually employed, in which case the pilotage rates provided for in this chapter shall apply. However, the board shall, upon the written petition of any interested party, and upon notice and hearing, grant an exemption from the provisions of this chapter to any vessel that the board finds is a small passenger vessel or yacht which is not more than five hundred gross tons (international), does not exceed two hundred feet in length, and is operated exclusively in the waters of the Puget Sound pilotage district and lower British Columbia. Such an exemption shall not be detrimental to the public interest in regard to safe operation preventing loss of human lives, loss of property, and protecting the marine environment of the state of Washington. Such petition shall set out the general description of the vessel, the contemplated use of same, the proposed area of operation, and the name and address of the vessel's owner. The board shall annually, or at any other time when in the public interest, review any exemptions granted to this specified class of small vessels to insure that each exempted vessel remains in compliance with the original exemption. The board shall have the authority to revoke such exemption where there is not continued compliance with the requirements for exemption. The board shall maintain a file which shall include all petitions for exemption, a roster of vessels granted exemption, and the board's written decisions which shall set forth the findings for grants of exemption. The board shall report annually to the legislature on such exemptions. Every vessel not so exempt, shall while navigating the Puget Sound and Grays Harbor and Willapa Bay pilotage districts, employ a pilot licensed under the provisions of this chapter and shall be liable for

and pay pilotage rates in accordance with the pilotage rates herein established or which may hereafter be established under the provisions of this chapter: PROVIDED, That any vessel inbound to or outbound from Canadian ports is exempt from the provisions of this section, if said vessel actually employs a pilot licensed by the Pacific pilotage authority (the pilot licensing authority for the western district of Canada), and if it is communicating with the vessel traffic system and has appropriate navigational charts, and if said vessel uses only those waters east of the international boundary line which are west of a line which begins at the southwestern edge of Point Roberts then to Alden Point (Patos Island), then to Skipjack Island light, then to Turn Point (Stuart Island), then to Kellet Bluff (Henry Island), then to Lime Kiln (San Juan Island) then to the intersection of one hundred twenty-three degrees seven minutes west longitude and forty-eight degrees twenty-five minutes north latitude then to the international boundary. The board shall correspond with the Pacific pilotage authority from time to time to ensure the provisions of this section are enforced. If any exempted vessel does not comply with these provisions it shall be deemed to be in violation of this section and subject to the penalties provided in RCW 88.16.150 as now or hereafter amended and liable to pilotage fees as determined by the board. The board shall investigate any accident on the waters covered by this chapter involving a Canadian pilot and shall include the results in its annual report.

**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 March 17, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 195

[Senate Bill No. 5469]

### OBSOLETE STATUTORY REFERENCES CORRECTED REGARDING THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

AN ACT Relating to obsolete statutory references; amending RCW 27.60.040, 27.60.045, 28B.30.537, 43.31.800, 43.31.810, 43.31.820, 43.31.830, 43.31.833, 43.31.850, 43.31.960, 43.160.115, 43.165.030, 43.165.080, 43.240.030, and 76.56.020; reenacting and amending RCW 43.160.030; and decodifying RCW 43.63A.090, 43.96B.010, 43.96B.020, 43.96B.030, 43.96B.060, 43.96B.070, 43.96B.080, 43.96B.090, 43.96B.100, 43.96B.110, 43.96B.120, 43.96B.130, 43.96B.140, 43.96B.150, 43.96C.010, 43.96C.020, 43.96C.030, 43.96C.040, 43.96C.050, and 43.96C.060.

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

Sec. 1. Section 4, chapter 90, Laws of 1982 as amended by section 2, chapter 291, Laws of 1985 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;

(e) Bibliographical and documentary projects;

(f) Conferences, lectures, seminars, and other programs;

(g) Museum, library, cultural center, and park improvements, services, and exhibits, including mobile exhibits;

(h) Destination tourism attractions. Such destination tourism attractions (i) shall be based upon the heritage of the state, (ii) shall be sponsored and owned by the state, a municipal corporation thereof, or a nonprofit corporation which has qualified under section 501(c)(3) of the federal internal revenue code, and (iii) shall satisfy economic development criteria established in cooperation with the director of ~~((the department of commerce))~~ trade and economic development in accordance with the administrative procedure act, chapter 34.04 RCW; and

(i) Ceremonies and celebrations.

(2) The implementation of programs as supported by legislative appropriation, gifts and grants provided for the purposes of this chapter, and earned income as provided in RCW 27.60.060, for a Pacific celebration, centennial games, centennial publications, audio-visual productions, and local celebrations throughout the state.

Sec. 2. Section 2, chapter 268, Laws of 1985 and RCW 27.60.045 are each amended 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)) trade and economic development in accordance with the administrative procedure act, chapter 34.04 RCW.

Sec. 3. Section 2, chapter 57, Laws of 1984 as amended by section 2, chapter 39, Laws of 1985 and RCW 28B.30.537 are each amended to read as follows:

The IMPACT center shall:

(1) Coordinate the teaching, research, and extension expertise of the college of agriculture and home economics at Washington State University to assist in:

(a) The design and development of information and strategies to expand the long-term international markets for Washington agricultural products; and

(b) The dissemination of such information and strategies to Washington exporters, overseas users, and public and private trade organizations;

(2) Research and identify current impediments to increased exports of Washington agricultural products, and determine methods of surmounting those impediments and opportunities for exporting new agricultural products and commodities to foreign markets;

(3) Prepare curricula to present and distribute information concerning international trade in agricultural commodities and products to students, exporters, international traders, and the public;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in agricultural commodities in cooperation with other existing programs;

(5) Ensure that activities of the center adequately reflect the objectives for the state's agricultural market development programs established by the department of agriculture as the lead state agency for such programs under chapter 43.23 RCW;

(6) Link itself through cooperative agreements with the center for international trade in forest products at the University of Washington, the state department of agriculture, the state department of ~~((commerce))~~ trade 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. 4. Section 2, chapter 148, Laws of 1965 and RCW 43.31.800 are each amended to read as follows:

"Director" as used in RCW 43.31.790 through ~~((43.31.860))~~ 43.31.850 and 67.16.100 means the director of ~~((commerce))~~ trade and economic development.

Sec. 5. Section 3, chapter 148, Laws of 1965 as amended by section 3, chapter 292, Laws of 1975 1st ex. sess. and RCW 43.31.810 are each amended to read as follows:

For the purposes of RCW 43.31.790 through ~~((43.31.860))~~ 43.31.850 and 67.16.100, as now or hereafter amended, state international trade fair organizations, to be eligible for state financial aid hereunder (1) must have had at least two or more years of experience in the presentation of or participation in state international trade fairs, whether held in this state, another state or territory of the United States or a foreign country, however these need not be consecutive years; (2) must be able to provide, from its own resources derived from general admission or otherwise, funds sufficient to match at least one-half the amount of state financial aid allotted.

Sec. 6. Section 4, chapter 148, Laws of 1965 as amended by section 4, chapter 292, Laws of 1975 1st ex. sess. and RCW 43.31.820 are each amended to read as follows:

The board of trustees of any state international trade fair sponsored by any public agency, qualifying under the provisions of RCW 43.31.790 through ~~((43.31.860))~~ 43.31.850 and 67.16.100, as now or hereafter amended, may apply to the director for moneys to carry on the continued

development as well as the operation of said fair, said money to be appropriated from the state ((international)) trade fair fund as provided for in RCW 67.16.100, as now or hereafter amended.

Sec. 7. Section 5, chapter 148, Laws of 1965 as amended by section 5, chapter 292, Laws of 1975 1st ex. sess. and RCW 43.31.830 are each amended to read as follows:

It shall be the duty of the director to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds under RCW 43.31.790 through ((43.31.860)) 43.31.850 and 67.16.100, as now or hereafter amended. The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state ((international)) trade fair fund and shall fix times for the division of and payment from the state ((international)) trade fair fund: PROVIDED, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: PROVIDED FURTHER, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director of ((commerce)) trade and economic development the treasurer shall proceed to pay the same to carry out the purposes of RCW 43.31.790 through ((43.31.860)) 43.31.850 and 67.16.100, as now or hereafter amended.

Sec. 8. Section 3, chapter 93, Laws of 1972 ex. sess. as amended by section 35, chapter 466, Laws of 1985 and RCW 43.31.833 are each amended to read as follows:

RCW 43.31.832 through 43.31.834 shall not be construed to interfere with the state financial aid made available under the provisions of RCW 43.31.790 through ((43.31.860)) 43.31.850 regardless of whether such aid was made available before or after May 23, 1972.

Sec. 9. Section 8, chapter 148, Laws of 1965 as amended by section 7, chapter 292, Laws of 1975 1st ex. sess. and RCW 43.31.850 are each amended to read as follows:

State international trade fair as used in RCW 43.31.790 through ((43.31.860)) 43.31.840 and 67.16.100, as now or hereafter amended, shall mean a fair supported by public agencies basically for the purpose of introducing and promoting the sale of manufactured or cultural products and services of a given area, whether presented in this state, the United States or its territories, or in a foreign country.

Sec. 10. Section 3, chapter 260, Laws of 1979 ex. sess. and RCW 43.31.960 are each amended to read as follows:

The principal proceeds from the sale of the bonds authorized in RCW 43.31.956 shall be administered by the director of (~~commerce~~) trade and economic development.

Sec. 11. Section 13, chapter 6, Laws of 1985 and section 2, chapter 446, Laws of 1985 and RCW 43.160.030 are each reenacted and 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 the director of trade and economic development, the director of community development, the director of revenue, the commissioner of employment security, the secretary of the department of transportation, the chairman of and one minority member appointed by the speaker of the house of representatives from the committee on trade and economic development of the house of representatives, the chairman of and one minority member appointed by the president of the senate from the committee on commerce and labor of the senate, or the equivalent standing committees, one member each from the committees on ways and means of the senate and house of representatives, or the equivalent standing committees, chosen by the president of the senate or the speaker of the house of representatives, as applicable, and the following members appointed by the governor: 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~~) trade and economic development shall serve as vice chairman.

(3) Staff support shall be provided by the department of trade and economic development to assist the board in implementing this chapter and the allocation of private activity bonds.

(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. 12. Section 14, chapter 164, Laws of 1985 and RCW 43.160.115 are each amended 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))~~ trade 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))~~ trade and economic development for the use of the board shall be transferred to the department of community development to the extent required by law.

Sec. 13. Section 3, chapter 229, Laws of 1985 and RCW 43.165.030 are each amended to read as follows:

The team shall be a combined effort of the department, the employment security department, the commission for vocational education, and the department of ~~((commerce))~~ trade 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.



Sec. 14. Section 8, chapter 229, Laws of 1985 and RCW 43.165.080 are each amended to read as follows:

The department of ((commerce)) trade 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.

Sec. 15. Section 11, chapter 467, Laws of 1985 and RCW 43.240.030 are each amended to read as follows:

The board shall be composed of citizens from both the private and public sectors who are actively engaged in organizations and businesses which support economic expansion and job creation. The board shall be composed as follows:

- (1) The governor;
- (2) Four members of the legislature, including one member from each of the four largest caucuses in the legislature;
- (3) One representative of a manufacturing company employing more than one thousand persons;
- (4) One representative of a manufacturing company employing fewer than one hundred persons;
- (5) One representative of a manufacturing company employing between one hundred and one thousand persons;
- (6) One representative from organized labor;
- (7) One representative from a major financial institution;
- (8) One representative from agriculture;
- (9) One representative from education;
- (10) One representative from the tourism industry;
- (11) One representative from the forest products industry;
- (12) One economic development professional;
- (13) One owner of a women-owned business enterprise certified under chapter 39.19 RCW;
- (14) One owner of a minority-owned business enterprise certified under chapter 39.19 RCW; and
- (15) Five citizens at large.

The director of ((commerce)) trade and economic development, the director of revenue, the director of financial management, and the director of community development shall serve as ex officio members of the board.

The governor shall, within fourteen days of July 1, 1985, appoint all members of the board, except those in subsection (2) of this section who shall be appointed by their respective caucuses. The first meeting of the board shall occur within thirty days of July 1, 1985.

The governor shall serve as the chairperson and shall designate a citizen member to serve as vice-chairperson of the board. Members shall serve four-year terms. Members are subject to dismissal by the governor due to the lack of attendance or contribution. The position of a legislative member shall become vacant if the member ceases to be a member of the legislature. A vacancy in a legislative position shall be filled by the original appointing authority.

The board shall include at least two representatives from each of the state's congressional districts.

The board shall meet regularly and shall create subcommittees as needed to deal with specific issues and concerns. Members shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, except legislative members shall be reimbursed under RCW 44.04.120.

Sec. 16. Section 2, chapter 122, Laws of 1985 and RCW 76.56.020 are each amended to read as follows:

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)) trade and economic development, the small business export finance 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)) 43.03.060.

NEW SECTION. Sec. 17. RCW 43.63A.090, 43.96B.010, 43.96B.020, 43.96B.030, 43.96B.060, 43.96B.070, 43.96B.080, 43.96B.090, 43.96B.100, 43.96B.110, 43.96B.120, 43.96B.130, 43.96B.140, 43.96B.150, 43.96C.010, 43.96C.020, 43.96C.030, 43.96C.040, 43.96C.050, and 43.96C.060 are each decodified.

---

#### EXPLANATORY NOTE

(1) Sections 1 through 4, 7, and 10 through 16 of this act correct references to the department of commerce and economic development which was reorganized and renamed the department of trade and economic development by 1985 c 466.

(2) Sections 4 through 9 of this act delete references to RCW 43.31.860 which was repealed by 1985 c 466.

(3) Sections 6, 7, and 9 of this act correct references to the "state international trade fair fund" under RCW 67.16.100. The state trade fair fund was renamed the state international trade fair fund by 1975 1st ex.s. c 292 § 9, which section was vetoed.

(4) Section 16 of this act corrects a reference to the export assistance center which was reorganized and renamed the small business export finance assistance center by 1985 c 231. Section 16 of this act also corrects a reference to RCW 43.30.060. RCW 43.30.060 provides for the appointment of the supervisor of natural resources. RCW 43.03.060 on the mileage allowance was apparently intended.

(5) Section 17 of this act decodifies various temporary sections which have references to the department of commerce and economic development as follows:

(a) RCW 43.63A.090 relating to the transfer of employees to the office of community affairs in 1967;

(b) RCW 43.96B.010 through 43.96B.150 relating to Expo '74; and

(c) RCW 43.96C.010 through 43.96C.060 relating to Energy Fair '83.

Passed the Senate February 25, 1987.

Passed the House April 14, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 196

[Substitute Senate Bill No. 5130]

## LIQUOR LICENSES—CLUB CLASS H REVISED

AN ACT Relating to club class H licensees' authority to sell liquor by the bottle to registered guests for consumption in guest rooms, hospitality rooms, or at banquets in the club and to the removal thereof from the premises; and amending RCW 66.24.400.

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

Sec. 1. Section 23-S-1 added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 5, Laws of 1949 as last amended by section 1, chapter 208, Laws of 1986 and RCW 66.24.400 are each amended to read as follows:

There shall be a retailer's license, to be known and designated as class H license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only: **PROVIDED**, That a hotel, or club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the hotel or club for consumption in guest rooms, hospitality rooms, or at banquets in the hotel or club: **PROVIDED FURTHER**, That a patron of a bona fide hotel, restaurant, or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the hotel or club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such class H license may be issued only to bona fide restaurants, hotels and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at publicly owned civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a class H license under the provisions and limitations of this title.

Passed the Senate February 11, 1987.

Passed the House April 14, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 197

[Senate Bill No. 5248]

COMMON SCHOOL MODEL CURRICULUM PROGRAMS OR GUIDELINES TO  
INCLUDE VOCATIONAL OR APPLIED COURSES

AN ACT Relating to model curriculum programs or curriculum guidelines; and amending RCW 28A.03.425.

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

Sec. 1. Section 5, chapter 278, Laws of 1984 and RCW 28A.03.425 are each amended to read as follows:

The office of the superintendent of public instruction, in consultation with the state board of education, shall prepare model curriculum programs and/or curriculum guidelines in three subject areas each year. These model curriculum programs or curriculum guidelines shall span all grade levels and shall include statements of expected learning outcomes, content, integration with other subject areas including guidelines for the application of vocational and applied courses to fulfill in whole or in part the courses required for graduation under RCW 28A.05.060, recommended instructional strategies, and suggested resources.

Certificated employees with expertise in the subject area under consideration shall be chosen by the superintendent of public instruction from each educational service district, from a list of persons suggested by their peers, to work with the staff of the superintendent of public instruction to prepare each model curriculum program or curriculum guidelines. Each participant shall be paid his or her regular salary by his or her district, and travel and per diem expenses by the superintendent of public instruction. The superintendent of public instruction shall make selections of additional experts in the subject area under consideration as are needed to provide technical assistance and to review and comment upon the model curriculum programs and/or curriculum guidelines before publication and shall be paid travel and per diem expenses by the superintendent of public instruction as necessary. The model curriculum programs and curriculum guidelines shall be made available to all districts. Participants developing model curriculum programs and/or curriculum guidelines may be used by school districts to provide training or technical assistance or both. After completion of the original development of model curriculum programs or curriculum guidelines, the office of the superintendent of public instruction shall schedule, at least every five years, a regular review and updating of programs and guidelines in each subject matter area. Any travel and per diem expenses provided to employees involved in the development of model programs or

guidelines shall not be considered salary or compensation for purposes of the limitations established in RCW 28A.58.095.

Passed the Senate February 13, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

---

CHAPTER 198

[Senate Bill No. 5412]

OSTEOPATHIC REGISTERED NURSES—PRIVILEGED COMMUNICATIONS

AN ACT Relating to privileged communications for osteopathic registered nurses; and amending RCW 5.62.010.

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

Sec. 1. Section 1, chapter 447, Laws of 1985 and RCW 5.62.010 are each amended to read as follows:

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

(1) "Registered nurse" means a registered nurse licensed under chapter 18.88 RCW.

(2) "Protocol" means a regimen to be carried out by a registered nurse and prescribed by a licensed physician under chapter 18.71 RCW, or a licensed osteopathic physician under chapter 18.57 RCW, which is consistent with chapter 18.88 RCW and the rules adopted under chapter 18.88 RCW.

(3) "Primary care" means screening, assessment, diagnosis and treatment for the purpose of promotion of health and detection of disease or injury, as authorized by chapter 18.88 RCW and the rules adopted under chapter 18.88 RCW.

Passed the Senate February 27, 1987.

Passed the House April 14, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

---

CHAPTER 199

[Senate Bill No. 5413]

STATE HIGHWAY ROUTE DESIGNATIONS REVISED

AN ACT Relating to state highways; amending RCW 47.17.005, 47.17.035, 47.17.045, 47.17.050, 47.17.065, 47.17.075, 47.17.090, 47.17.095, 47.17.155, 47.17.165, 47.17.180, 47.17.285, 47.17.320, 47.17.365, 47.17.385, 47.17.395, 47.17.405, 47.17.435, 47.17.460, 47.17.480, 47.17.545, 47.17.567, 47.17.610, and 47.17.630; adding a new section to chapter 47.17 RCW; and repealing RCW 47.17.290.

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

Sec. 1. Section 2, chapter 51, Laws of 1970 ex. sess. and RCW 47.17-.005 are each amended to read as follows:

A state highway to be known as state route number 2 is established as follows:

Beginning at a junction with state route number 5 in Everett, thence easterly (~~((by the most feasible route))~~) by way of Monroe, Stevens Pass and Leavenworth to a junction with state route number 97 in the vicinity of Peshastin; also

From ~~((that))~~ a junction with state route number 97 in the vicinity of Peshastin, thence easterly (~~((by the most feasible route))~~) by way of Wenatchee, to a junction with state route number 97 in the vicinity of Orondo, thence easterly by way of Waterville, Wilbur and Davenport to a junction with state route number 90 in the vicinity west of Spokane; also

Beginning at a junction with state route number 90 at Spokane, thence northerly to a junction with state route number 395 in the vicinity north of Spokane; also

From ~~((that))~~ a junction with state route number 395 in the vicinity north of Spokane, thence northerly to a junction with state route number ~~((34))~~ 20 at Newport; also

From ~~((that))~~ a junction with state route number ~~((34))~~ 20 at Newport, thence easterly to the Washington-Idaho boundary line, thence southerly along said boundary line to Fourth Street in Newport.

Sec. 2. Section 8, chapter 51, Laws of 1970 ex. sess. and RCW 47.17-.035 are each amended to read as follows:

A state highway to be known as state route number 8 is established as follows:

Beginning at a junction with state route number 12 in the vicinity of Elma, thence easterly (~~((by the most feasible route))~~) to a junction with state route number 101 ~~((at Tumwater))~~ west of Olympia.

Sec. 3. Section 10, chapter 51, Laws of 1970 ex. sess. as last amended by section 14, chapter 63, Laws of 1975 and RCW 47.17.045 are each amended to read as follows:

A state highway to be known as state route number 10 is established as follows:

Beginning at a junction with state route number 970 at Teanaway junction thence easterly (~~((via the existing highway along the north side of the Yakima River))~~) to a junction with state route number 97 west of Ellensburg.

Sec. 4. Section 11, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.050 are each amended to read as follows:

A state highway to be known as state route number 11 is established as follows:

Beginning at a junction with state route number 5 in the vicinity of ~~((Mt. Vernon))~~ Burlington, thence northerly by way of Blanchard to a junction with state route number 5 at Bellingham.

Sec. 5. Section 14, chapter 51, Laws of 1970 ex. sess. as amended by section 1, chapter 151, Laws of 1973 1st ex. sess. and RCW 47.17.065 are each amended to read as follows:

A state highway to be known as state route number 16 is established as follows:

Beginning at a junction with state route number 5 at Tacoma, thence northwesterly by way of the Tacoma Narrows Bridge ~~((and a junction with state route number 160 in the vicinity west of Port Orchard))~~ to a junction with state route number 3 in the vicinity of ~~((Bremerton))~~ Gorst.

Sec. 6. Section 16, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.075 are each amended to read as follows:

A state highway to be known as state route number 18 is established as follows:

Beginning at a junction with state route number ~~((509))~~ 99 in the vicinity of northeast Tacoma, thence ~~((generally))~~ northeasterly ~~((by the most direct and feasible route))~~ by way of ~~((the vicinity of Milton and))~~ Auburn to a junction with state route number 90 ~~((at a point approximately four miles))~~ west of North Bend.

Sec. 7. Section 19, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.090 are each amended to read as follows:

A state highway to be known as state route number 22 is established as follows:

Beginning at a junction with state route number ~~((12 southeast of Yakima))~~ 82, thence southerly to a junction of state route number 97 in the vicinity of Toppenish; also

From ~~((that))~~ a junction with state route number 97 at Toppenish, thence southeasterly by way of Mabton to a junction with state route number ~~((12))~~ 82 at Prosser.

Sec. 8. Section 20, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.095 are each amended to read as follows:

A state highway to be known as state route number 23 is established as follows:

Beginning at a junction with state route number 195 in the vicinity north of Colfax, thence northwesterly ~~((to a junction with state route number 230 in the vicinity of Ewan; also~~

~~From that junction with state route number 230 in the vicinity west of Ewan, thence northwesterly))~~ to a junction with state route number 90 at Sprague; also

From that junction with state route number 90 at Sprague, thence northwesterly to a junction with state route number 28 at Harrington.



Sec. 9. Section 32, chapter 51, Laws of 1970 ex. sess. as last amended by section 131, chapter 7, Laws of 1984 and RCW 47.17.155 are each amended to read as follows:

A state highway to be known as state route number 97 is established as follows:

Beginning at the Washington–Oregon boundary on the interstate bridge across the Columbia river at Biggs Rapids, thence in a northerly direction to the junction with state route number 14 in the vicinity of Maryhill, thence in a northerly direction by way of Goldendale, thence northeasterly by way of Satus Pass to a junction with state route number 22 at Toppenish, thence northwesterly south of the Yakima river to a junction with state route number 82 at Union Gap; also

Beginning at a junction with state route number 90 in the vicinity of Ellensburg, thence northeasterly (~~by the most feasible route~~) by way of (~~Blewett~~) Swauk Pass to a junction with state route number 2 in the vicinity of Peshastin; also

Beginning at a junction with state route number 2 in the vicinity north of (~~Wenatchee~~) Orondo, thence northerly (~~by the most feasible route~~) by way of the vicinities of Chelan, Pateros, Brewster, Okanogan, and Oroville to the international boundary line. (~~Until such time as the watergrade route between Chelan Station and Azwell, as designated by the department, is constructed and opened to traffic the existing route on the west side of the Columbia river shall remain the traveled way of state route number 97.~~)

NEW SECTION. Sec. 10. A new section is added to chapter 47.17 RCW to be codified as RCW 47.17.157:

A state highway to be known as state route number 97–alternate is established as follows:

Beginning at a junction with state route number 2 in the vicinity of Olds, thence northerly by way of Entiat to a junction with state route number 97 in the vicinity east of Chelan.

Sec. 11. Section 34, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.165 are each amended to read as follows:

A state highway to be known as state route number 101 is established as follows:

Beginning at the Oregon boundary on the interstate bridge at Point Ellis, thence northwesterly (~~by the most feasible route~~) by way of Ilwaco to a junction with state route number 4 in the vicinity of a location known as Johnson's Landing in Pacific county; also

From that junction with state route number 4 in the vicinity of a location known as Johnson's Landing, in Pacific county, thence northerly (~~by the most feasible route~~) by way of South Bend to a junction with state route number 6 at Raymond; also

From that junction with state route number 6 at Raymond, thence northerly (~~by the most feasible route~~) by way of Cosmopolis to a junction with state route number 12 at Aberdeen; also

From that junction with state route number 12 at Aberdeen, thence westerly to Hoquiam, thence northwesterly by way of Lake Quinalt to Forks, thence easterly by way of Port Angeles to the vicinity of Discovery Bay, thence southerly by way of Shelton to a junction with state route number 5 in the vicinity west of Olympia; also

Beginning at a junction with state route number 101 in the vicinity east of Ilwaco, thence northerly (~~by the most feasible route~~) to a junction with state route number 101 in the vicinity northeast of Ilwaco.

Sec. 12. Section 37, chapter 51, Laws of 1970 ex. sess. and RCW 47-17.180 are each amended to read as follows:

A state highway to be known as state route number 105 is established as follows:

Beginning at a junction with state route number 101 at Raymond, thence westerly (~~by the most feasible route~~) by way of Tokeland and North Cove to the shore of Grays Harbor north of Westport; also

Beginning at a junction with state route number 105 in the vicinity south of Westport, thence northeasterly (~~by the most feasible route~~) to a junction with state route number 101 at Aberdeen.

Sec. 13. Section 58, chapter 51, Laws of 1970 ex. sess. and RCW 47-17.285 are each amended to read as follows:

A state highway to be known as state route number 150 is established as follows:

Beginning at Manson, thence southeasterly to the north of Lake Chelan to a junction with state route number 97—alternate at Chelan.

Also beginning at a junction with state route number 97—alternate at Chelan southerly to a junction with state route number 97 in the vicinity of Chelan Station.

Sec. 14. Section 65, chapter 51, Laws of 1970 ex. sess. and RCW 47-17.320 are each amended to read as follows:

A state highway to be known as state route number 164 is established as follows:

Beginning at (~~an interchange of~~) a junction with state route number 18 (~~and the Auburn-Black Diamond road~~) in the vicinity of Auburn, (~~thence southerly to an intersection with southeast 356th street in the vicinity of Auburn Academy;~~) thence southeasterly to a junction with state route number 410 at Enumclaw.

~~(At such time that the section of state route number 164, between its intersection with the Auburn-Black Diamond road and its intersection with southeast 356th street, is constructed and open to traffic, that section of state route number 164, between southeast 356th street in Auburn and the~~

~~intersection of state route number 18 and "C" street northeast in Auburn; will be certified back to the local agencies:))~~

Sec. 15. Section 74, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.365 are each amended to read as follows:

A state highway to be known as state route number 174 is established as follows:

Beginning at a junction with state route number 17 east of Bridgeport, thence easterly (~~(by the most feasible route)~~) to the boundary of the federal reservation at Grand Coulee dam; also

Beginning at a junction with state route number 155 at Grand Coulee, thence southeasterly to a junction with state route number 21 in the vicinity north of Wilbur; also

A spur beginning at a junction with state route number 174 in the vicinity of the boundary of the federal reservation at the Grand Coulee dam and extending to Crown Point.

Sec. 16. Section 78, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.385 are each amended to read as follows:

A state highway to be known as state route number 202 is established as follows:

Beginning at a junction with state route number 522 near Bothell, thence southeasterly (~~(by the most feasible route)~~) to a junction with state route number 90 in the vicinity (~~(west)~~) of (~~(Snoqualmie Pass)~~) North Bend.

Sec. 17. Section 80, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.395 are each amended to read as follows:

A state highway to be known as state route number 204 is established as follows:

Beginning at a junction with state route number 2 in the vicinity east of Everett, thence northeasterly (~~(by the most feasible route)~~) to a junction with state route number 9.

Sec. 18. Section 82, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.405 are each amended to read as follows:

A state highway to be known as state route number 206 is established as follows:

Beginning at a junction with state route number 2 (~~(near the north line of section 3, township 26N, range 43E)~~) in the vicinity north of Mead, thence northeasterly to (~~(a point in section 28, township 28N, range 45E at)~~) the entrance to Mt. Spokane State Park.

Sec. 19. Section 88, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.435 are each amended to read as follows:

A state highway to be known as state route number 224 is established as follows:

Beginning at a junction with state route number ~~((+2))~~ 82 at Kiona, thence northeasterly to a junction with state route number 240 at Richland.

Sec. 20. Section 93, chapter 51, Laws of 1970 ex. sess. and RCW 47-17.460 are each amended to read as follows:

A state highway to be known as state route number 241 is established as follows:

Beginning at a junction with state route number ~~((+2 approximately one mile))~~ 82 east of Sunnyside, thence northeasterly to a junction with state route number 24.

Sec. 21. Section 97, chapter 51, Laws of 1970 ex. sess. as amended by section 12, chapter 73, Laws of 1971 ex. sess. and RCW 47.17.480 are each amended to read as follows:

A state highway to be known as state route number 261 is established as follows:

Beginning at a junction with state route number 12 at Delaney, thence northwesterly to a junction with state route number ~~((26))~~ 260 in the vicinity of ~~((Washtucna))~~ McAdam; also

Beginning at a junction with state route number 26 at Washtucna, thence northerly to a junction with state route number 90 at Ritzville.

Sec. 22. Section 110, chapter 51, Laws of 1970 ex. sess. and RCW 47-17.545 are each amended to read as follows:

A state highway to be known as state route number 302 is established as follows:

Beginning at a junction with state route number 3 in the vicinity of ~~((Belfair))~~ Allyn, thence ~~((generally))~~ easterly to a junction with state route number 16 in the vicinity of Purdy.

Sec. 23. Section 15, chapter 73, Laws of 1971 ex. sess. and RCW 47-17.567 are each amended to read as follows:

A state highway to be known as state route number 308 is established as follows:

Beginning at a junction with state route number 3 ~~((in the vicinity west of Keyport))~~, thence easterly to Keyport.

Sec. 24. Section 123, chapter 51, Laws of 1970 ex. sess. as amended by section 8, chapter 151, Laws of 1973 1st ex. sess. and RCW 47.17.610 are each amended to read as follows:

A state highway to be known as state route number 410 is established as follows:

Beginning at a junction with state route number 167 at Sumner, thence ~~((in an))~~ easterly ~~((direction))~~ by way of Buckley, Enumclaw, and Chinook Pass, to a junction with state route number 12 northwest of Yakima: PROVIDED, That until such time as state route number 167 is constructed and opened to traffic on an anticipated ultimate alignment from a junction with state route number 5 near Tacoma easterly to Sumner on the north side of

the Puyallup river, the public highway between state route number 5 in Tacoma and state route number 161 in Sumner, on the south side of the Puyallup river, shall remain on the state highway system.

Sec. 25. Section 127, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.630 are each amended to read as follows:

A state highway to be known as state route number 433 is established as follows:

Beginning at the Washington-Oregon boundary on the interstate bridge at Longview, thence northerly (~~by the most feasible route~~) to a junction with state route number (~~at a point where it intersects with Oregon way in the city of Longview~~) 432.

NEW SECTION. Sec. 26. Section 59, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.290 are each repealed.

Passed the Senate March 16, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 200

[Senate Bill No. 5416]

### LIMITED ACCESS FACILITIES

AN ACT Relating to limited access facilities; amending RCW 47.52.131 and 47.52.133; and adding a new section to chapter 47.52 RCW.

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

Sec. 1. Section 1, chapter 75, Laws of 1965 ex. sess. as amended by section 243, chapter 7, Laws of 1984 and RCW 47.52.131 are each amended to read as follows:

When the department is planning a limited access facility through a county or an incorporated city or town, the department or its staff, before any hearing, shall give careful consideration to available data as to the county or city's comprehensive plan, land use pattern, present and potential traffic volume of county roads and city streets crossing the proposed facility, origin and destination traffic surveys, existing utilities, the physical appearance the facility will present, and other pertinent surveys(;) and, except as provided in section 3 of this 1987 act, shall submit to the county and city officials for study a report showing how these factors have been taken into account and how the proposed plan for a limited access facility will serve public convenience and necessity, together with the locations and access and egress plans, and over and under crossings that are under consideration. This report shall show the proposed approximate right of way limits and profile of the facility with relation to the existing grade, and shall discuss in

a general manner plans for landscaping treatment, fencing, and illumination, and shall include sketches of typical roadway sections for the roadway itself and any necessary structures such as viaducts or bridges, subways, or tunnels.

Conferences shall be held on the merits of this state report and plans and any proposed modification or alternate proposal of the county, city, or town in order to attempt to reach an agreement between the department and the county or city officials. As a result of the conference, the proposed plan, together with any modifications, shall be prepared by the department and presented to the county or city for inspection and study.

Sec. 2. Section 2, chapter 75, Laws of 1965 ex. sess. as amended by section 1, chapter 95, Laws of 1981 and RCW 47.52.133 are each amended to read as follows:

Except as provided in section 3 of this 1987 act, the transportation commission and the highway authorities of the counties and incorporated cities and towns, with regard to facilities under their respective jurisdictions, prior to the establishment of any limited access facility, shall hold a public hearing within the county, city, or town wherein the limited access facility is to be established to determine the desirability of the plan proposed by such authority. Notice of such hearing shall be given to the owners of property abutting the section of any existing highway, road, or street being established as a limited access facility, as indicated in the tax rolls of the county, and in the case of a state limited access facility, to the county and/or city or town. Such notice shall be by United States mail in writing, setting forth a time for the hearing, which time shall be not less than fifteen days after mailing of such notice. Notice of such hearing also shall be given by publication not less than fifteen days prior to such hearing in one or more newspapers of general circulation within the county, city, or town. Such notice by publication shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located. Such notice shall indicate a suitable location where plans for such proposal may be inspected.

NEW SECTION. Sec. 3. A new section is added to chapter 47.52 RCW to read as follows:

Access reports and hearings on the establishment of limited access facilities are not required if:

(1) The limited access facility would lie wholly within state or federal lands and the agency or agencies with jurisdiction of the land agree to the access plan; or

(2) The access rights to the affected section of roadway have previously been purchased or established by others; or

(3) The limited access facility would not significantly change local road use, and all affected local agencies and abutting property owners agree in writing to waive a formal hearing on the establishment of the facility after

publication of a notice of opportunity for a limited access hearing. This notice of opportunity for a limited access hearing shall be given in the same manner as required for published notice of hearings under RCW 47.52.133. If the authority specified in the notice receives a request for a hearing from one or more abutting property owners or affected local agencies on or before the date stated in the notice, an access report shall be submitted as provided in RCW 47.52.131 and a hearing shall be held. Notice of the hearing shall be given by mail and publication as provided in RCW 47.52.133.

Passed the Senate March 17, 1987.

Passed the House April 14, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 201

[Senate Bill No. 5936]

### LOBBYISTS—REGISTRATION REQUIREMENTS REVISED—DUTIES MODIFIED

AN ACT Relating to duties of lobbyists; and amending RCW 42.17.150 and 42.17.230.

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

Sec. 1. Section 15, chapter 1, Laws of 1973 as amended by section 10, chapter 147, Laws of 1982 and RCW 42.17.150 are each amended to read as follows:

(1) Before doing any lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, showing:

(a) His name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of his employment;

(d) His compensation for lobbying; how much he is to be paid for expenses, and what expenses are to be reimbursed; ~~((and a full and particular description of any agreement, arrangement, or understanding according to which his compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation;))~~

(e) Whether the person from whom he receives said compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects of his legislative interest;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for his services as a lobbyist shall file a separate notice of representation with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall, within one week of such change, modification or termination, furnish full information regarding the same by filing with the commission an amended registration statement.

(4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year, and failure to do so shall terminate his registration.

Sec. 2. Section 23, chapter 1, Laws of 1973 as amended by section 14, chapter 147, Laws of 1982 and RCW 42.17.230 are each amended to read as follows:

A person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this chapter for a period of at least five years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers, and documents shall be made available for inspection by the commission at any time: PROVIDED, That if a



lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of such records under this subsection shall rest with such employer.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator as to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers without first obtaining such employer's written consent thereto after full disclosure to such employer of such adverse interest;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding according to which his or her compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation.

Passed the Senate March 13, 1987.

Passed the House April 15, 1987.

Approved by the Governor April 25, 1987.

Filed in Office of Secretary of State April 25, 1987.

## CHAPTER 202

[Senate Bill No. 5017]

### DISTRICT COURTS—TERMINOLOGY REVISED

AN ACT Relating to conforming the statutes involving district courts to reflect modern terminology and practices; amending RCW 2.04.190, 2.08.020, 2.20.020, 2.28.040, 2.36.150, 2.40.010, 2.48.190, 2.56.080, 2.56.110, 3.30.020, 3.34.010, 3.34.020, 3.34.030, 3.62.050, 4.24.180, 4.56.190, 4.56.200, 4.64.110, 4.64.120, 4.80.140, 4.84.030, 4.84.130, 4.84.300, 5.28.010, 5.56.070, 5.56.080, 7.06.020, 7.12.060, 7.12.330, 7.16.040, 7.16.160, 7.16.300, 7.33.040, 7.33.060, 7.44.060, 7.48.250, 7.48.260, 9.12.020, 9.46.230, 9.66.040, 9.72.090, 9.92.060, 9.92.070, 9.92.130, 9.92.140, 9.95.210, 10.01.070, 10.01.090, 10.04.020, 10.04.040, 10.04.050, 10.04.100, 10.04.110, 10.04.120, 10.10.010, 10.13.010, 10.13.075, 10.13.100, 10.13.110, 10.13.120, 10.13.130, 10.16.100, 10.16.160, 10.19.110, 10.19.120, 10.37.015, 10.46.210, 10.82.070, 10.91.040, 11.20.030, 15.17.200, 15.32.720, 15.32.770, 15.36.580, 15.49.470, 16.04.040, 16.12.020, 16.12.030, 16.16.060, 16.28.160, 16.52.060, 17.21.280, 18.64.260, 19.72.030, 19.72.040, 19.86.090, 27.24.090, 28A.27.100, 28A.27.102, 28A.27.104, 28A.27.120, 29.21.070, 29.21.120, 35.20.090, 35.20.120, 35.20.210, 35.20.250, 35.20.910, 36.01.060, 36.24.030, 36.24.050, 36.24.160, 36.27.020, 36.32.120, 36.53.070, 36.53.110, 36.53.110, 36.53.140, 36.82.210, 43.24.120, 46.08.170, 46.52.100, 46.52.190, 47.68.240, 49.40.070, 50.16.010, 58.12.065, 66.32.020, 66.32.050, 66.32.070, 66.32.090, 66.44.010, 66.44.180, 67.14.120, 69.41.060, 69.50.509, 72.40.100, 75.08.230, 78.12.020, 78.12.040, 78.12.050, 78.12.060, 78.40.351, 78.40.606, 78.40.723, 80.04.400, 80.24.040, 80.24.050, 81.04.400, 81.24.080, 81.24.080, 82.24.140, 82.24.190, 82.36.420, 87.84.090, 88.16.150, 88.20.050, 88.20.070, and 90.03.090; reenacting and amending RCW 36.18.020; adding a new section to chapter 10.04 RCW; creating a new section; and repealing RCW 10.04.060, 10.04.080, 10.04.090, 10.10.040, 10.16.050, 10.16.060, 10.16.130, 10.16.135, 16.12.040, 16.12.050, 16.12.060, 26.20.040, 36.49.080, 41.32.640, 45.28.080, 45.28.090, 10.07.010, 10.07.020, 10.07.030, 10.07.040, 10.07.050, 10.07.060, 10.07.070, and 10.07.080.

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

NEW SECTION. Sec. 1. The legislature intends to:

(1) Make the statutes of the state consistent with rules adopted by the supreme court governing district courts; and

(2) Delete or modify archaic, outdated, and superseded language and nomenclature in statutes related to the district courts.

Sec. 101. Section 1, chapter 118, Laws of 1925 ex. sess. and RCW 2.04.190 are each amended to read as follows:

The supreme court shall have the power to prescribe, from time to time, the forms of writs and all other process, the mode and manner of framing and filing proceedings and pleadings; of giving notice and serving writs and process of all kinds; of taking and obtaining evidence; of drawing up, entering and enrolling orders and judgments; and generally to regulate and prescribe by rule the forms for and the kind and character of the entire pleading, practice and procedure to be used in all suits, actions, appeals and proceedings of whatever nature by the supreme court, superior courts, and ~~((justices of the peace))~~ district courts of the state. In prescribing such rules the supreme court shall have regard to the simplification of the system of pleading, practice and procedure in said courts to promote the speedy determination of litigation on the merits.

Sec. 102. Section 6, page 343, Laws of 1890 and RCW 2.08.020 are each amended to read as follows:

The superior courts shall have such appellate jurisdiction in cases arising in ~~((justices and other inferior))~~ courts of limited jurisdiction in their respective counties as may be prescribed by law.

Sec. 103. Section 2, chapter 53, Laws of 1891 as amended by section 9, chapter 81, Laws of 1971 and RCW 2.20.020 are each amended to read as follows:

The following persons are magistrates:

(1) The justices of the supreme court.

(2) The judges of the court of appeals.

(3) The superior judges, and ~~((justices of the peace))~~ district judges.

(4) All municipal officers authorized to exercise the powers and perform the duties of ~~((a justice of the peace))~~ district judges.

Sec. 104. Section 4, chapter 54, Laws of 1891 and RCW 2.28.040 are each amended to read as follows:

~~((Any judicial officer may act as an attorney in any action, suit or proceeding to which he is a party or in which he is directly interested. A justice of the peace, otherwise authorized by law))~~ A part-time district judge, if permitted by court rule, may act as an attorney in any court other than the one of which he or she is judge, except in an action, suit or proceeding removed therefrom to another court for review~~((; but no judicial officer shall act as attorney in any court except as in this section allowed))~~.

Sec. 105. Section 1, chapter 56, Laws of 1907 as last amended by section 7, chapter 135, Laws of 1979 ex. sess. and RCW 2.36.150 are each amended to read as follows:

Jurors shall receive for each day's attendance, besides mileage at the rate determined under RCW 43.03.060, the following compensation:

(1) Grand jurors may receive up to twenty-five dollars but in no case less than ten dollars;

(2) Petit jurors may receive up to twenty-five dollars but in no case less than ten dollars;

(3) Coroner's jurors may receive up to twenty-five dollars but in no case less than ten dollars;

(4) ~~((Justice of the peace))~~ District court jurors may receive up to twenty-five dollars but in no case less than ten dollars:

PROVIDED, That a person excused from jury service at his or her own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances: PROVIDED FURTHER, That the state shall fully reimburse the county in which trial is held for all jury fees and witness fees related to criminal cases which result from incidents occurring within an adult or juvenile correctional institution: PROVIDED FURTHER, That the compensation paid jurors shall be determined by the county legislative authority and shall be uniformly applied within the county.

Sec. 106. Section 1, chapter 56, Laws of 1907 as last amended by section 1, chapter 54, Laws of 1977 ex. sess. and RCW 2.40.010 are each amended to read as follows:

Witnesses shall receive for each day's attendance in all courts of record of this state the same compensation per day and per mile as jurors in superior court. Witnesses in any other court shall receive for each day's attendance the same compensation per day and per mile as jurors in ~~((justice))~~ district court.

Sec. 107. Section 4, chapter 126, Laws of 1921 and RCW 2.48.190 are each amended to read as follows:

No person shall be permitted to practice as an attorney or counselor at law or to do work of a legal nature for compensation, or to represent himself or herself as an attorney or counselor at law or qualified to do work of a legal nature, unless he or she is a citizen of the United States and a bona fide resident of this state and has been admitted to practice law in this state: PROVIDED, That any person may appear and conduct his or her own case in any action or proceeding brought by or against him or her, or may appear in his or her own behalf in the small claims department of the ~~((justice's))~~ district court: AND PROVIDED FURTHER, That an attorney of another state may appear as counselor in a court of this state without admission, upon satisfying the court that his or her state grants the same right to attorneys of this state.

Sec. 108. Section 8, chapter 259, Laws of 1957 as amended by section 14, chapter 81, Laws of 1971 and RCW 2.56.080 are each amended to read as follows:

This chapter shall apply to the following courts: The supreme court, the court of appeals, the superior courts; and, when and to the extent so ordered by the supreme court, to the ~~((inferior))~~ courts of limited jurisdiction of this state, including ~~((justice))~~ district courts.

Sec. 109. Section 31, chapter 165, Laws of 1983 and RCW 2.56.110 are each amended to read as follows:

The administrator for the courts may assign one or more ~~((justices))~~ district judges from other judicial districts to serve as visiting ~~((justices))~~ district judges in a judicial district which the administrator determines is experiencing an increase in case filings as the result of enhanced enforcement of laws related to driving, or being in physical control of, a motor vehicle while intoxicated. The prosecuting, city, or town attorney of the county, city, or town in which a judicial district lies, or the presiding judge of the judicial district, may request the administrator for the courts to designate the district as an enhanced enforcement district and to make assignments under this section. An assignment shall be for a specified period of time not to exceed thirty days. A visiting ~~((justice))~~ district judge has the same powers as a ~~((justice))~~ district judge of the district to which he or she is assigned. A visiting ~~((justice))~~ district judge shall be reimbursed for expenses under RCW 2.56.070.

Sec. 110. Section 2, chapter 299, Laws of 1961 and RCW 3.30.020 are each amended to read as follows:

The provisions of chapters 3.30 through 3.74 RCW shall apply to class AA and class A counties: PROVIDED, That any city having a population of more than five hundred thousand may by resolution of its legislative body elect to continue to operate a municipal court pursuant to the provisions of chapter 35.20 RCW, as if chapters 3.30 through 3.74 RCW had never been enacted: PROVIDED FURTHER, That if a city elects to continue its municipal court pursuant to this section, the number of ~~((justices of the peace))~~ district judges allocated to the county in RCW 3.34.010 shall be reduced by two and the number of full time ~~((justices of the peace))~~ district judges allocated by RCW 3.34.020 to the district in which the city is situated shall also be reduced by two. The provisions of chapters 3.30 through 3.74 RCW may be made applicable to any county of the first, second, third, fourth, fifth, sixth, seventh, eighth, or ninth class upon a majority vote of its board of county commissioners.

Sec. 111. Section 10, chapter 299, Laws of 1961 as last amended by section 1, chapter 153, Laws of 1975 1st ex. sess. and RCW 3.34.010 are each amended to read as follows:

The number of (~~justices of the peace~~) district judges to be elected in each county shall be: Adams, three; Asotin, one; Benton, two; Chelan, one; Clallam, one; Clark, four; Columbia, one; Cowlitz, two; Douglas, one; Ferry, two; Franklin, one; Garfield, one; Grant, one; Grays Harbor, two; Island, three; Jefferson, one; King, twenty; Kitsap, two; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, three; Pend Oreille, two; Pierce, eight; San Juan, one; Skagit, three; Skamania, one; Snohomish, eight; Spokane, eight; Stevens, two; Thurston, one; Wahkiakum, one; Walla Walla, three; Whatcom, two; Whitman, two; Yakima, six: PROVIDED, That this number may be increased in accordance with a resolution of the county commissioners under RCW 3.34.020.

Sec. 112. Section 11, chapter 299, Laws of 1961 as last amended by section 8, chapter 258, Laws of 1984 and RCW 3.34.020 are each amended to read as follows:

In each district having a population of forty thousand or more but less than sixty thousand, there shall be elected one full time (~~justice of the peace~~) district judge; in each district having a population of sixty thousand but less than one hundred twenty-five thousand, there shall be elected two full time (~~justices~~) judges; in each district having a population of one hundred twenty-five thousand but less than two hundred thousand, there shall be elected three full time (~~justices~~) judges; and in each district having a population of two hundred thousand or more there shall be elected one additional full time (~~justice~~) judge for each additional one hundred thousand persons or fraction thereof. If a district having one or more full time (~~justices~~) judges should change in population, for reasons other than change in district boundaries, sufficiently to require a change in the number of judges previously authorized to it, the change shall be made by the county legislative authority without regard to RCW 3.34.010 as now or hereafter amended and shall become effective on the second Monday of January of the year following. Upon any redistricting of the county thereafter the number of (~~justices~~) judges in the county shall be designated under RCW 3.34.010. In a district having a population of one hundred twenty thousand people or more adjoining a metropolitan county of another state which has a population in excess of five hundred thousand, there shall be one full time (~~justice~~) judge in addition to the number otherwise allowed by this section and without regard to RCW 3.34.030 or resolution of the county legislative authority. The county legislative authority may by resolution make a part time position a full time office. The county legislative authority may by resolution provide for the election of one full time (~~justice~~) judge in addition to the number of full time (~~justices~~) judges authorized.

Sec. 113. Section 12, chapter 299, Laws of 1961 as last amended by section 9, chapter 258, Laws of 1984 and RCW 3.34.030 are each amended to read as follows:

Notwithstanding the limitations of RCW 3.34.010 and 3.34.020 in any district having more than one ~~((justice of the peace))~~ district judge, if any city or town elects to select under the provisions of chapter 3.50 RCW a person other than a ~~((justice of the peace))~~ district judge to serve as municipal judge, the county legislative authority may reduce the number of ~~((justices of the peace))~~ district judges required for the county and district by one for each one hundred and fifty thousand persons or fraction thereof residing in all such municipalities, electing to select a municipal judge who is not also a ~~((justice of the peace))~~ district judge: PROVIDED, That in no case shall the number of ~~((justices of the peace))~~ district judges in any county be less than one for each one hundred thousand persons or major fraction thereof in such county, nor shall the number of ~~((justices of the peace))~~ district judges in any district be less than one for each one hundred and fifty thousand persons or major fraction thereof.

Sec. 114. Section 109, chapter 299, Laws of 1961 as last amended by section 308, chapter 258, Laws of 1984 and RCW 3.62.050 are each amended to read as follows:

The total expenditures of the ~~((justice))~~ district courts, including the cost of providing courtroom and office space, the cost of probation and parole services and any personnel employment therefor, and the cost of providing services necessary for the preparation and presentation of a defense at public expense, except costs of defense to be paid by a city pursuant to RCW 3.62.070, shall be paid from the county current expense fund.

Sec. 115. Section 600, page 153, Laws of 1869 as last amended by section 9, chapter 199, Laws of 1969 ex. sess. and RCW 4.24.180 are each amended to read as follows:

Fines and forfeitures not specially granted or otherwise appropriated by law, when recovered, shall be paid into the school fund of the proper county: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. Whenever, by the provisions of law, any property real or personal shall be forfeited to the state, or to any officer for its use, the action for the recovery of such property may be commenced in any county where the defendant may be found or where such property may be.

Sec. 116. Section 1, chapter 60, Laws of 1929 as last amended by section 5, chapter 45, Laws of 1983 1st ex. sess. and RCW 4.56.190 are each amended to read as follows:

The real estate of any judgment debtor, and such as ~~((he))~~ the judgment debtor, may acquire, not exempt by law, shall be held and bound to satisfy any judgment of the district court of the United States rendered in

this state, any judgment of the supreme court, court of appeals, ~~((or))~~ superior court, or district court of this state, ~~((and any judgment of any justice of the peace rendered in this state;))~~ and every such judgment shall be a lien thereupon to commence as hereinafter provided and to run for a period of not to exceed ten years from the day on which such judgment was rendered. As used in this chapter, real estate shall not include the vendor's interest under a real estate contract for judgments rendered after August 23, 1983. Personal property of the judgment debtor shall be held only from the time it is actually levied upon.

Sec. 117. Section 2, chapter 60, Laws of 1929 as amended by section 17, chapter 81, Laws of 1971 and RCW 4.56.200 are each amended to read as follows:

The lien of judgments upon the real estate of the judgment debtor shall commence as follows:

(1) Judgments of the district court of the United States rendered in the county in which the real estate of the judgment debtor is situated, and judgments of the superior court for the county in which the real estate of the judgment debtor is situated, from the time of the entry thereof;

(2) Judgments of the district court of the United States rendered in any county in this state other than that in which the real estate of the judgment debtor to be affected is situated, judgments of the supreme court of this state, judgments of the court of appeals of this state, and judgments of the superior court for any county other than that in which the real estate of the judgment debtor to be affected is situated, from the time of the filing of a duly certified abstract of such judgment with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, as provided in this act;

(3) Judgments of a ~~((justice of peace))~~ district court of this state rendered in the county in which the real estate of the judgment debtor is situated, from the time of the filing of a duly certified transcript of the docket of the ~~((justice of the peace))~~ district court with the county clerk of the county in which such judgment was rendered, and upon such filing said judgment shall become to all intents and purposes a judgment of the superior court for said county; and

(4) Judgments of a ~~((justice of the peace))~~ district court of this state rendered in any other county in this state than that in which the real estate of the judgment debtor to be affected is situated, a transcript of the docket of which has been filed with the county clerk of the county where such judgment was rendered, from the time of filing, with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, of a duly certified abstract of the record of said judgment in the office of the county clerk of the county in which the certified transcript of the docket of said judgment of said ~~((justice of the peace))~~ district court was originally filed.

Sec. 118. Section 9, chapter 7, Laws of 1957 and RCW 4.64.110 are each amended to read as follows:

A transcript of the (~~(docket of a justice of the peace)~~) district court docket shall contain an exact copy of the district court judgment from the (~~(justice's)~~) docket.

Sec. 119. Section 4, chapter 60, Laws of 1929 and RCW 4.64.120 are each amended to read as follows:

It shall be the duty of the county clerk to enter in (~~(his)~~) the execution docket any duly certified transcript of a judgment of a (~~(justice of the peace)~~) district court and any duly certified abstract of any judgment of any court mentioned in RCW 4.56.200, filed in (~~(his)~~) the county clerk's office, and to index the same in the same manner as judgments originally rendered in the superior court for the county of which he or she is clerk.

Sec. 120. Section 17, chapter 60, Laws of 1893 as amended by section 21, chapter 81, Laws of 1971 and RCW 4.80.140 are each amended to read as follows:

This chapter shall apply to and govern all civil actions and proceedings, both legal and equitable, and all criminal causes, in the superior courts, but shall not apply to district courts (~~(of justices of the peace)~~) or other (~~(inferior)~~) courts (~~(or tribunals)~~) of limited jurisdiction from which an appeal does not lie directly to the supreme court or court of appeals.

Sec. 121. Sections 368, 369, page 201, Laws of 1854 as last amended by section 1, page 337, Laws of 1890 and RCW 4.84.030 are each amended to read as follows:

In any action in the superior court of Washington the prevailing party shall be entitled to his or her costs and disbursements; but the plaintiff shall in no case be entitled to costs taxed as attorneys' fees in actions within the jurisdiction of (~~(a justice of the peace)~~) the district court when commenced in the superior court.

Sec. 122. Section 380, page 203, Laws of 1854 as last amended by section 518, Code of 1881 and RCW 4.84.130 are each amended to read as follows:

In all civil actions tried before (~~(a justice of the peace)~~) the district court, in which an appeal shall be taken to the superior court, and the party appellant shall not recover a more favorable judgment in the superior court than before the (~~(justice of the peace)~~) district court, such appellant shall pay all costs.

Sec. 123. Section 6, chapter 84, Laws of 1973 as amended by section 4, chapter 94, Laws of 1980 and RCW 4.84.300 are each amended to read as follows:



The provisions of RCW 4.84.250 through 4.84.290 shall apply regardless of whether the action is commenced in ((justice)) district court or superior court except as provided in RCW 4.84.280. This section shall not be construed as conferring jurisdiction on either court.

Sec. 124. Section 1, page 378, Laws of 1869 and RCW 5.28.010 are each amended to read as follows:

That every court, judge, clerk of a court, ((justice of the peace)) or notary public, is authorized to take testimony in any action, suit or proceeding, and such other persons in particular cases as authorized by law. Every such court or officer is authorized to administer oaths and affirmations generally, and every such other person in such particular case as authorized.

Sec. 125. Section 302, page 188, Laws of 1854 as last amended by section 400, Code of 1881 and RCW 5.56.070 are each amended to read as follows:

The court, judge, ((justice of the peace)) or other officer, in such case, may issue an attachment to bring such witness before them to answer for contempt, and also testify as witness in the cause in which he or she was subpoenaed.

Sec. 126. Section 3, chapter 19, Laws of 1891 and RCW 5.56.080 are each amended to read as follows:

Such attachment may be directed to the sheriff or any ((constable)) deputy of any county in which the witness may be found, and shall be executed in the same manner as a warrant; and the fees of the officer for issuing and serving the same shall be paid by the person against whom the same was issued, unless he or she shows reasonable cause, to the satisfaction of the ((justice)) judge, for his or her omission to attend; in which case the party requiring such attachment shall pay all such costs.

Sec. 127. Section 2, chapter 103, Laws of 1979 as last amended by section 3, chapter 265, Laws of 1985 and RCW 7.06.020 are each amended to read as follows:

(1) All civil actions, except for appeals from municipal or ((justice)) district 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 two-thirds or greater vote of the judges thereof, 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.

Sec. 128. Section 6, page 40, Laws of 1886 as last amended by section 1, chapter 51, Laws of 1957 and RCW 7.12.060 are each amended to read as follows:

Before the writ of attachment shall issue the plaintiff, or someone in his or her behalf, shall execute and file with the clerk a surety bond or undertaking in the sum in no case less than three hundred dollars, in the superior court, nor less than fifty dollars in the ~~((justice))~~ district court, and double the amount for which plaintiff demands judgment, conditional that the plaintiff will prosecute his or her action without delay and will pay all costs that may be adjudged to the defendant, and all damages which he or she may sustain by reason of the attachment, not exceeding the amount specified in such bond or undertaking, as the penalty thereof, should the same be wrongfully, oppressively or maliciously sued out. With said bond or undertaking there shall also be filed the affidavit of the sureties, from which it must appear that such sureties are qualified and that they are, taken together, worth the sum specified in the bond or undertaking, over and above all debts and liabilities, and property exempt from execution. No person not qualified to become surety as provided by law, shall be qualified to become surety upon a bond or undertaking for an attachment: PROVIDED, That when it is desired to attach real estate only, and such fact is stated in the affidavit for attachment and the ground of attachment is that the defendant is a foreign corporation or is not a resident of the state, or conceals himself or herself so that the ordinary process of law cannot be served upon him or her, or has absconded or absented himself or herself from his or her usual place of abode, so that the ordinary process of law cannot be served upon him or her, the writ of attachment shall issue without bond or undertaking by or on behalf of the plaintiff: AND PROVIDED FURTHER, That when the claim, debt or obligation whether in contract or tort, upon which plaintiff's cause of action is based, shall have been assigned to him or her, and his or her immediate or any other assignor thereof retains or has any interest therein, then the plaintiff and every assignor of said claim, debt or obligation who retains or has any interest therein, shall be jointly and severally liable to the defendant for all costs that may be adjudged to him or her and for all damages which he or she may sustain by reason of the attachment, should the same be wrongfully, oppressively or maliciously sued out.

Sec. 129. Section 37, page 46, Laws of 1886 and RCW 7.12.330 are each amended to read as follows:

The word "sheriff" as used in this chapter is meant to apply to ~~((constables))~~ deputies, when the proceedings are in a ~~((justice's))~~ district court ~~((, and when the proceedings are in a justice's court, the justice is to be regarded as the clerk of the court for all purposes herein contemplated: PROVIDED, That nothing contained in this chapter shall be construed to~~

~~confer upon a justice of the peace power to issue a writ of attachment to be served out of the county in which such justice shall have his office, or to confer upon a sheriff, constable, or other officer, power or authority to serve a writ of attachment issued out of justice's court beyond the limits of the county in which such justice shall have his office, except in cases provided for in RCW 7.12.120: AND PROVIDED FURTHER, That)).~~ Nothing contained in this chapter shall be construed or held to authorize the attachment of real estate, or of any interest therein, under a writ of attachment issued out of any ((justice's)) district court.

Sec. 130. Section 4, chapter 65, Laws of 1895 and RCW 7.16.040 are each amended to read as follows:

A writ of review shall be granted by any court, except a ((police)) municipal or ((justice)) district court, when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer, or one acting illegally, or to correct any erroneous or void proceeding, or a proceeding not according to the course of the common law, and there is no appeal, nor in the judgment of the court, any plain, speedy and adequate remedy at law.

Sec. 131. Section 16, chapter 65, Laws of 1895 and RCW 7.16.160 are each amended to read as follows:

It may be issued by any court, except a ((justice's or a police)) district or municipal court, to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which ((he)) the party is entitled, and from which ((he)) the party is unlawfully precluded by such inferior tribunal, corporation, board or person.

Sec. 132. Section 30, chapter 65, Laws of 1895 and RCW 7.16.300 are each amended to read as follows:

It may be issued by any court, except ((police or justices<sup>1</sup>)) district or municipal courts, to an inferior tribunal, or to a corporation, board or person, in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law. It is issued upon affidavit, on the application of the person beneficially interested.

Sec. 133. Section 4, chapter 264, Laws of 1969 ex. sess. as last amended by section 3, chapter 193, Laws of 1981 and RCW 7.33.040 are each amended to read as follows:

Before the issuance of the writ of garnishment the plaintiff or someone in ((his)) the plaintiff's behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, (a) that the garnishee, stating ((his)) the garnishee's name and residence, is indebted to the defendant in amounts exceeding those exempted

from garnishment by any state or federal law, or (b) that ~~((the))~~ the garnishee has in his or her possession, or under his or her control, personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law, and shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the ~~((justice))~~ district court the fee of two dollars. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.

Sec. 134. Section 6, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.060 are each amended to read as follows:

The state of Washington, all counties, cities, towns, school districts and other municipal corporations shall be subject to garnishment in the superior and ~~((justice))~~ district courts as provided in the case of other garnishees.

Sec. 135. Section 424, page 210, Laws of 1854 as last amended by section 4, chapter 42, Laws of 1891 and RCW 7.44.060 are each amended to read as follows:

The proceedings provided for in this chapter may be had before ~~((justices of the peace))~~ district judges in all cases within their jurisdiction.

Sec. 136. Section 14, page 81, Laws of 1875 as last amended by section 1, chapter 45, Laws of 1957 and RCW 7.48.250 are each amended to read as follows:

Whoever is convicted of erecting, causing or contriving a public or common nuisance as described in this chapter, or at common law, when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be punished by a fine not exceeding one thousand dollars, and the court with or without such fine, may order such nuisance to be abated, and issue a warrant as hereinafter provided: PROVIDED, That orders and warrants of abatement shall not be issued by ~~((justices of the peace))~~ district judges.

Sec. 137. Section 15, page 81, Laws of 1875 as last amended by section 2, chapter 45, Laws of 1957 and RCW 7.48.260 are each amended to read as follows:

When, upon indictment or information, complaint or action, any person is adjudged guilty of a nuisance, if it be in superior court the court may in addition to the fine imposed, if any, or to the judgment for damages or costs, for which a separate execution may issue, order that such nuisance be abated, or removed at the expense of the defendant, and after inquiry into and estimating, as nearly as may be, the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefor: PROVIDED, That if the conviction was had in a ~~((justice))~~ district court, the ~~((justice of the peace))~~ district judge shall not issue the order and warrant of abatement, but on application therefor, shall transfer the cause to the

superior court which shall proceed to try the issue of abatement in the same manner as if the action had been originally commenced therein.

Sec. 138. Section 119, chapter 249, Laws of 1909 and RCW 9.12.020 are each amended to read as follows:

Every (~~justice of the peace or constable~~) district judge or deputy who shall, directly or indirectly, buy or be interested in buying anything in action for the purpose of commencing a suit thereon before a (~~justice of the peace~~) district judge, or who shall give or promise any valuable consideration to any person as an inducement to bring, or as a consideration for having brought, a suit before a (~~justice of the peace~~) district judge, shall be guilty of a misdemeanor.

Sec. 139. Section 23, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 12, chapter 139, Laws of 1981 and RCW 9.46.230 are each amended to read as follows:

(1) All gambling devices as defined in RCW 9.46.020(10), as now or hereafter amended, are common nuisances and shall be subject to seizure, immediately upon detection by any peace officer, and to confiscation and destruction by order of a superior or district (~~justice~~) court, except when in the possession of officers enforcing this chapter.

(2) No property right in any gambling device as defined in RCW 9.46.020(10), as now or hereafter amended, shall exist or be recognized in any person, except the possessory right of officers enforcing this chapter.

(3) All furnishings, fixtures, equipment, and stock, including without limitation furnishings and fixtures adaptable to nongambling uses and equipment and stock for printing, recording, computing, transporting, or safekeeping, used in connection with professional gambling or maintaining a gambling premises, and all money or other things of value at stake or displayed in or in connection with professional gambling or any gambling device used therein, shall be subject to seizure, immediately upon detection, by any peace officer, and unless good cause is shown to the contrary by the owner, shall be forfeited to the state or political subdivision by which seized by order of a court having jurisdiction, for disposition by public auction or as otherwise provided by law. Bona fide liens against property so forfeited, on good cause shown by the lienor, shall be transferred from the property to the proceeds of the sale of the property. Forfeit moneys and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the state if the property was seized by officers thereof or to the political subdivision or other public agency, if any, whose officers made the seizure, except as otherwise provided by law. This subsection shall not apply to such items which are actually being used by, or being held for use by, a person licensed by the commission or who is otherwise authorized by RCW 9.46.030, as now or hereafter amended, or by commission rule to conduct gambling activities without a license in connection with gambling activities authorized by this section when:

(a) The person is acting in conformance with the provisions of chapter 9.46 RCW, as now or hereafter amended, and the rules and regulations adopted pursuant thereto; and

(b) The items are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

(4) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds a security interest in, stores, repairs, or transports any gambling device as defined in RCW 9.46.020 as now or hereafter amended or offers or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a felony and fined not more than one hundred thousand dollars or imprisoned not more than five years or both: PROVIDED, HOWEVER, That this subsection shall not apply to persons licensed by the commission, or who are otherwise authorized by RCW 9.46.030, as now or hereafter amended, or by commission rule, to conduct gambling activities without a license, respecting devices which are to be used, or are being used, solely in that activity for which the license was issued, or for which the person has been otherwise authorized when:

(a) The person is acting in conformance with the provisions of chapter 9.46 RCW, as now or hereafter amended, and the rules and regulations adopted pursuant thereto; and

(b) The devices are a type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts by such persons in furtherance of the activity for which the license was issued, or for which the person is authorized, when such activity is conducted in compliance with the provisions of this chapter, as now or hereafter amended, and in accordance with the rules and regulations adopted pursuant thereto. Subsection (2) of this section shall have no application in the enforcement of this subsection. In the enforcement of this subsection direct possession of any such gambling device shall be presumed to be knowing possession thereof.

(5) Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this subsection shall not apply to records relating to and kept for activities enumerated in RCW 9.46.030, as now or hereafter amended, when the records are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant

thereto. In the enforcement of this subsection direct possession of any such gambling record shall be presumed to be knowing possession thereof.

Sec. 140. Sections 10, 11, page 80, Laws of 1875 as last amended by section 4, chapter 45, Laws of 1957 and RCW 9.66.040 are each amended to read as follows:

Any court or magistrate before whom there may be pending any proceeding for a violation of RCW 9.66.030, shall, in addition to any fine or other punishment which it may impose for such violation, order such nuisance abated, and all property unlawfully used in the maintenance thereof destroyed by the sheriff at the cost of the defendant: PROVIDED, That if the conviction was had in a (~~justice~~) district court, the (~~justice of the peace~~) district judge shall not issue the order and warrant of abatement, but on application therefor, shall transfer the cause to the superior court which shall proceed to try the issue of abatement in the same manner as if the action had been originally commenced therein.

Sec. 141. Section 107, chapter 249, Laws of 1909 and RCW 9.72.090 are each amended to read as follows:

Whenever it shall appear probable to a judge, (~~justice of the peace,~~) magistrate, or other officer lawfully authorized to conduct any hearing, proceeding or investigation, that a person who has testified before (~~him~~) such judge, magistrate, or officer has committed perjury in any testimony so given, or offered any false evidence, he or she may, by order or process for that purpose, immediately commit such person to jail or take a recognizance for (~~his~~) such person's appearance to answer such charge. In such case (~~he~~) such judge, magistrate, or officer may detain any book, paper, document, record or other instrument produced before him or her or direct it to be delivered to the prosecuting attorney.

Sec. 142. Section 1, chapter 24, Laws of 1905 as last amended by section 8, chapter 47, Laws of 1982 1st ex. sess. and RCW 9.92.060 are each amended to read as follows:

Whenever any person shall be convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, carnal knowledge of a female child under the age of ten years, or rape, the court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by such court, and that the sentenced person be placed under the charge of a parole or peace officer during the term of such suspension, upon such terms as the court may determine: PROVIDED, That as a condition to suspension of sentence, the court shall require the payment of the penalty assessment required by RCW 7.68.035: PROVIDED FURTHER, That as a condition to suspension of sentence, the court may require the convicted person to make such monetary payments, on such terms as the court deems appropriate under the circumstances, as are necessary (1) to comply with

any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when 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 are not prosecuted pursuant to a plea agreement, (3) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the case, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund. In no case shall a sentence be suspended under the provisions of this section unless the person if sentenced to confinement in a penal institution be placed under the charge of a parole officer, who is a duly appointed and acting officer of the institution to which the person is sentenced: PROVIDED, That persons convicted in ~~((justice))~~ district court may be placed under supervision of a probation officer employed for that purpose ~~((by the board of county commissioners of the county wherein the court is located))~~. If restitution to the victim has been ordered under subsection (2) of this section, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended sentence not less than three months prior to the termination of the suspended sentence.

**\*Sec. 143. Section 1, chapter 15, Laws of 1923 and RCW 9.92.070 are each amended to read as follows:**

***Hereafter whenever any judge of any superior court~~((justice of the peace))~~ or a district or ~~((police))~~ municipal judge shall sentence any person to pay any fine and costs, ~~((he))~~ the judge may, in ~~((his))~~ the judge's discretion, provide that such fine and costs may be paid in certain designated installments, or within certain designated period or periods, and if such fine and costs shall be paid by the defendant in accordance with such order no commitment or imprisonment of the defendant shall be made for failure to pay such fine or costs. PROVIDED, that the provisions of this section shall not apply to any sentence given for the violation of any of the liquor laws of this state.***

**\*Sec. 143 was vetoed, see message at end of chapter.**

**Sec. 144. Section 2075, Code of 1881 and RCW 9.92.130 are each amended to read as follows:**

**When a person has been sentenced by any ~~((justice of the peace in a city))~~ municipal or district judge in this state to a term of imprisonment in ~~((the))~~ a city jail, whether in default of payment of a fine or otherwise, such person may be compelled on each day of such term, except Sundays, to perform eight hours' labor upon the streets, public buildings, and grounds of**



such city (~~and to wear an ordinary ball and chain, while performing such labor~~)).

Sec. 145. Section 1, page 10, Laws of 1858 as last amended by section 2076, Code of 1881 and RCW 9.92.140 are each amended to read as follows:

When a person has been sentenced by a (~~justice of the peace~~;) district judge or a judge of the superior court(;) to a term of imprisonment in the county jail, whether in default of payment of a fine, or costs or otherwise; such person may be compelled to work eight hours, each day of such term, in and about the county buildings, public roads, streets and grounds: PROVIDED, This section and RCW 9.92.130 shall not apply to persons committed in default of bail.

Sec. 146. Section 1, chapter 19, Laws of 1980 as last amended by section 1, chapter 46, Laws of 1984 and RCW 9.95.210 are each amended to read as follows:

In granting probation, the court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

In the order granting probation and as a condition thereof, the court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the court shall require the payment of the penalty assessment required by RCW 7.68.035. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when 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 are not prosecuted pursuant to a plea agreement, (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow implicitly the instructions of the secretary. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms

of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of ((his)) probation. For defendants found guilty in ((justice)) district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

Sec. 147. Section 1, chapter 29, Laws of 1911 and RCW 10.01.070 are each amended to read as follows:

Whenever an indictment or information shall be filed in any superior court against a corporation charging it with the commission of a crime, a summons shall be issued by the clerk of such court, signed by one of the judges thereof, commanding the sheriff forthwith to notify the accused thereof, and commanding it to appear before such court at such time as shall be specified in said summons. Such summons and a copy of the indictment or information shall be at once delivered by such clerk to said sheriff and by ((him)) the sheriff forthwith served and returned in the manner provided for service of summons upon such corporation in a civil action. Whenever a complaint against a corporation, charging it with the commission of a crime, shall be made before any ((justice-of-the-peace)) district or municipal judge, a like summons, signed by such ((justice-of-the-peace-or-municipal)) judge, shall be issued, which, together with a copy of said complaint, shall be delivered to the sheriff at once and by ((him)) the sheriff forthwith served as herein provided.

Sec. 148. Section 3, chapter 29, Laws of 1911 and RCW 10.01.090 are each amended to read as follows:

If the corporation shall be found guilty and a fine imposed, it shall be entered and docketed by the clerk, or ((justice-of-the-peace)) district or municipal ((judge)) court as a judgment against the corporation, and it shall be of the same force and effect and be enforced against such corporation in the same manner as a judgment in a civil action.

Sec. 149. Section 173, page 260, Laws of 1854 as last amended by section 1888, Code of 1881 and RCW 10.04.020 are each amended to read as follows:

When any offense is committed in view of any ((justice-he)) district judge, the judge may, by verbal direction to any ((constable)) deputy, or if no ((constable-be)) deputy is present, to any citizen, cause such ((constable)) deputy or citizen to arrest such offender, and keep ((him)) such offender in custody for the space of one hour, unless such offender shall sooner be taken from such custody by virtue of a warrant issued on complaint on oath. But such person so arrested, shall not be confined in jail, nor put upon any trial, until arrested by virtue of such warrant.

Sec. 150. Section 1, chapter 76, Laws of 1919 and RCW 10.04.040 are each amended to read as follows:

~~((Justices of the peace))~~ District courts or committing magistrates may accept money as bail from persons charged with bailable offenses, and for the appearance of witnesses in all cases provided by law for the recognizance of witnesses. The amount of such bail or recognizance in each case shall be determined by the court in its discretion, and may from time to time be increased or decreased as circumstances may justify. The money to be received and accounted for in the same manner as provided by law for the superior courts.

Sec. 151. Section 174, page 260, Laws of 1854 as last amended by section 1, chapter 11, Laws of 1891 and RCW 10.04.050 are each amended to read as follows:

In all trials for offenses within the jurisdiction of a ~~((justice of the peace))~~ district judge, the defendant or the state may demand a jury, which shall consist of six, or a less number, agreed upon by the state and accused, to be impaneled and sworn as in civil cases; or the trial may be by the ~~((justice))~~ judge. When the complaint is for a crime or misdemeanor in the exclusive jurisdiction of the superior court, the justice hears the case as a committing magistrate, and no jury shall be allowed.

Sec. 152. Section 174, page 260, Laws of 1854 as last amended by section 2, chapter 11, Laws of 1891 and RCW 10.04.100 are each amended to read as follows:

~~((Such justice or jury))~~ The judge, if ~~((they find))~~ the prisoner is found guilty, shall assess ~~((his))~~ the prisoner's punishment; or if, in ~~((their))~~ the judge's opinion, the punishment ~~((they are))~~ the judge is authorized to assess is not adequate to the offense, ~~((they))~~ he or she may so find, and in such case the ~~((justice))~~ judge shall order such defendant to enter recognizance to appear in the superior court of the county, and shall also recognize the witnesses, and proceed as in proceedings by a committing magistrate.

Sec. 153. Section 176, page 261, Laws of 1854 as last amended by section 10, chapter 199, Laws of 1969 ex. sess. and RCW 10.04.110 are each amended to read as follows:

In all cases of conviction, unless otherwise provided in this chapter, the ~~((justice))~~ judge shall enter judgment for the fine and costs against the defendant, and may commit him to jail until the amount of such fine and costs owing are paid, or the payment thereof be secured as provided by RCW 10.04.120. The amount of such fine and costs owing shall be computed as provided for superior court cases in RCW 10.82.030 and 10.82.040. Further proceedings therein shall be had as in like cases in the superior court: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law

shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 154. Section 176, page 261, Laws of 1854 as last amended by section 1897, Code of 1881 and RCW 10.04.120 are each amended to read as follows:

Every defendant may stay the execution for the fine and costs for thirty days, by procuring sufficient sureties, to be approved by the ~~((justice))~~ district judge, to enter into recognizance before ~~((him))~~ the district judge for the payment of the fine and costs; the entry of such recognizance shall be made on the docket of the ~~((justice))~~ district judge, and signed by the sureties, and shall have the same effect as a judgment, and if the same be not paid in thirty days, the ~~((justice))~~ district judge shall proceed as in like cases in the superior court.

**NEW SECTION.** Sec. 155. A new section is added to chapter 10.04 RCW to read as follows:

The magistrates' association may propose to the supreme court suggested forms for criminal actions for inclusion in the justice court criminal rules.

Sec. 156. Section 6, chapter 29, Laws of 1891 and RCW 10.10.010 are each amended to read as follows:

Every person convicted before a ~~((justice of the peace))~~ district judge of any offense may appeal from the judgment ~~((, within ten days thereafter, to the superior court. The appeal shall be taken by orally giving notice thereof at the time the judgment is rendered, or by serving a written notice thereof upon the justice at any time after the judgment, and within the time allowed for taking the appeal, when the notice is given orally, the justice shall enter the same in his docket. The appellant shall be committed to the jail of the county until he shall recognize or give a bond to the state, in such reasonable sum, with such sureties as said justice may require, with condition to appear at the court appealed to, and there prosecute his appeal, and to abide the sentence of the court thereon, if not revised by a higher court))~~ as provided by court rules.

Sec. 157. Section 11, page 104, Laws of 1854 as last amended by section 1903, Code of 1881 and RCW 10.13.010 are each amended to read as follows:

~~((Justices of the peace))~~ District judges shall have power to cause all laws made for the preservation of the public peace to be kept; and in the execution of that power may require persons to give security to keep the peace, or for their good behavior, or both, in the manner herein provided.

Sec. 158. Section 22, page 105, Laws of 1854 as last amended by section 1915, Code of 1881 and RCW 10.13.075 are each amended to read as follows:

Any person committed for not finding sureties or refusing to recognize as required by the magistrate, may be discharged by any judge (~~(or justice of the peace)~~), on giving such security as was required.

Sec. 159. Section 26, page 106, Laws of 1854 as last amended by section 1919, Code of 1881 and RCW 10.13.100 are each amended to read as follows:

Any surety in recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right to take and surrender his or her principal as if he or she had been bail for him or her in a civil cause, and upon such surrender, shall be discharged and exempt from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance, and the person so surrendered may recognize anew, with sufficient sureties, before any (~~(justice of the peace)~~) district judge, for the residue of the term, and thereupon shall be discharged.

Sec. 160. Section 17, page 105, Laws of 1854 as last amended by section 1910, Code of 1881 and RCW 10.13.110 are each amended to read as follows:

When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before (~~(justices)~~) district judges in criminal prosecutions; but in all cases where a person is required to give good security for the peace, or for (~~(his)~~) the person's good behavior, the magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or (~~(he)~~) the person is otherwise legally discharged.

Sec. 161. Section 9, chapter 29, Laws of 1891 and RCW 10.13.120 are each amended to read as follows:

An appeal may be taken from the order of a magistrate requiring a person to give security to keep the peace or for good behavior. Such appeal shall be taken in the same manner and subject to the same conditions as appeals from (~~(justices')~~) district courts in criminal actions, and the magistrate may require recognizances of the appellant and the witness as in appeals in such criminal actions.

Sec. 162. Section 20, page 105, Laws of 1854 as amended by section 1913, Code of 1881 and RCW 10.13.130 are each amended to read as follows:

The court before which such appeal is prosecuted, may affirm the order of the (~~(justice)~~) district judge or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution as may be deemed just and reasonable.

Sec. 163. Section 44, page 109, Laws of 1854 as last amended by section 1937, Code of 1881 and RCW 10.16.100 are each amended to read as follows:

In all cases where any magistrate shall order a defendant to recognize for his or her appearance before a ~~((justice of the peace, or the))~~ district or superior court, ((he)) the magistrate shall forward with the papers in the case, an abstract of the costs that have accrued in the case, and such costs shall be subject to the final determination of the case.

Sec. 164. Section 39, page 108, Laws of 1854 as last amended by section 15, chapter 11, Laws of 1891 and RCW 10.16.160 are each amended to read as follows:

All witnesses required to recognize with or without sureties shall, if they refuse, be committed to the county jail by the magistrate, there to remain until they comply with such orders or be otherwise discharged according to law: PROVIDED, That when the magistrate is satisfied that any witness required to recognize with sureties is unable to comply with such order, ~~((he))~~ the magistrate shall immediately take the deposition of such witness and discharge ~~((him))~~ the witness from custody upon ~~((his))~~ the witness' own recognizance. The testimony of the witness shall be reduced to writing by a ~~((justice))~~ district judge or some competent person under ~~((his))~~ the judge's direction, and ~~((he shall take))~~ only the exact words of the witness shall be taken; the deposition, except the cross-examination, shall be in the narrative form, and upon the cross-examination the questions and answers shall be taken in full. The defendant must be present in person when the deposition is taken, and shall have an opportunity to cross-examine the witnesses; ~~((he))~~ the defendant may make any objections to the admission of any part of the testimony, and all objections shall be noted by the ~~((justice))~~ district judge; but the ~~((justice))~~ district judge shall not decide as to the admissibility of the evidence, but shall take all the testimony offered by the witness. The deposition must be carefully read to the witness, and any corrections ~~((he))~~ the witness may desire to make thereto shall be made in presence of the defendant by adding the same to the deposition as first taken; it must be signed by the witness, certified by the ~~((justice))~~ district judge, and transmitted to the clerk of the superior court, in the same manner as depositions in civil actions. And if the witness is not present when required to testify in the case, either before the grand jury or upon the trial in the superior court, the deposition shall be submitted to the judge of such superior court, upon the objections noted by the ~~((justice))~~ district judge, and such judge shall suppress so much of said deposition as ~~((he))~~ such judge shall find to be inadmissible, and the remainder of the deposition may be read as evidence in the case, either before the grand jury or upon the trial in the court.

Sec. 165. Section 175, page 128, Laws of 1854 as last amended by section 1166, Code of 1881 and RCW 10.19.110 are each amended to read as follows:

All recognizances taken and forfeited before any (~~(justice of the peace)~~) district judge or magistrate, shall be forthwith certified to the clerk of the superior court of the county; and it shall be the duty of the prosecuting attorney to proceed at once by action against all the persons bound in such recognizances, and in all forfeited recognizances whatever, or such of them as (~~(he)~~) the prosecuting attorney may elect to proceed against.

Sec. 166. Section 176, page 129, Laws of 1854 as last amended by section 88, chapter 28, Laws of 1891 and RCW 10.19.120 are each amended to read as follows:

No action brought on any recognizance (~~(bail or appearance bond)~~), bail, or appearance bond given in any criminal proceeding whatever shall be barred or defeated, nor shall judgment be arrested thereon, by reason of any neglect or omission to note or record the default of any principal or surety at the time when such default shall happen, or by reason of any defect in the form of the recognizance, if it sufficiently appear from the tenor thereof at what court or before what (~~(justice)~~) district judge the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take such recognizance; and a recognizance may be recorded after execution awarded.

Sec. 167. Section 764, Code of 1881 as amended by section 1, chapter 103, Laws of 1927 and RCW 10.37.015 are each amended to read as follows:

No person shall be held to answer in any court for an alleged crime or offense, unless upon an information filed by the prosecuting attorney, or upon an indictment by a grand jury, except in cases of misdemeanor or gross misdemeanor before a (~~(justice of the peace)~~) district or municipal judge, or before a court martial.

Sec. 168. Section 1, page 418, Laws of 1869 as amended by section 2103, Code of 1881 and RCW 10.46.210 are each amended to read as follows:

When any person shall be brought before a court (~~(justice of the peace)~~) or other committing magistrate of any county, city or town in this state, having jurisdiction of the alleged offense, charged with the commission of a crime or misdemeanor, and such complaint upon examination shall appear to be unfounded, no costs shall be payable by such acquitted party, but the same shall be chargeable to the county, city or town for or in which the said complaint is triable, but if the court (~~(justice of the peace)~~) or other magistrate trying said charge, shall decide the complaint was frivolous or malicious, the judgment or verdict shall also designate who is the complainant, and may adjudge that said complainant pay the costs. In such

cases a judgment shall thereupon be entered for the costs against said complainant, who shall stand committed until such costs be paid or discharged by due process of law.

Sec. 169. Section 3, page 421, Laws of 1873 as last amended by section 7, chapter 389, Laws of 1985 and RCW 10.82.070 are each amended to read as follows:

(1) All sums of money derived from costs except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute, fines, penalties, and forfeitures imposed or collected, in whole or in part, by a superior court for violation of orders of injunction, mandamus and other like writs, for contempt of court, or for breach of the penal laws shall be paid in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued.

(2) The county treasurer shall remit monthly thirty-two percent of the money received under this section to the state treasurer for deposit as provided under RCW 43.08.250 and shall deposit the remainder as provided by law.

(3) All fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. All fees, fines, forfeitures, and penalties collected or assessed by a superior court in cases on appeal from a lower court shall be remitted to the municipal or district court from which the cases were appealed.

Sec. 170. Section 5, chapter 17, Laws of 1971 ex. sess. and RCW 10-.91.040 are each amended to read as follows:

For the purpose of this chapter "judicial officer of this state" and "judicial officer" mean a ((<sup>h</sup>))judge of the superior or district court((<sup>h</sup>, or a <sup>h</sup>"justice of the peace of this state<sup>h</sup>)).

Sec. 171. Section 11.20.030, chapter 145, Laws of 1965 and RCW 11-.20.030 are each amended to read as follows:

If any witness be prevented by sickness from attending at the time any will is produced for probate, or reside out of the state or more than thirty miles from the place where the will is to be proven, such court may issue a commission annexed to such will, and directed to any judge, ((~~justice of the peace;~~) notary public, or other person authorized to administer an oath, empowering him or her to take and certify the attestation of such witness.

Sec. 172. Section 20, chapter 122, Laws of 1963 and RCW 15.17.200 are each amended to read as follows:

The director may affix to any such lot or part thereof of horticultural plants or products a tag or notice of warning that such lot of horticultural



plants or products is held and stating the reasons therefor. It shall be unlawful for any person other than the director to detach, alter, deface, or destroy any such tag or notice affixed to any such lot, or part thereof, of horticultural plants or products, or to remove or dispose of such lot, or part thereof, in any manner or under conditions other than as prescribed in such tag or notice, except on the written permission of the director or the court.

The director shall forthwith cause a notice of noncompliance to be served upon the person in possession of such lot of horticultural plants or products. The notice of noncompliance shall include a description of the lot, the place where, and the reason for which, it is held, and it shall give notice that such lot of horticultural plants or products is a public nuisance and subject to disposal as provided in this section unless, within a minimum of seventy-two hours or such greater time as prescribed in the notice by the director, it is reconditioned or the deficiency is otherwise corrected so as to bring it into compliance.

If the person so served is not the sole owner of such lot of horticultural plants or products, or does not have the authority as an agent for the owner to bring it into compliance, it shall be the duty of such person to notify the director forthwith in writing giving the names and addresses of the owner or owners and all other persons known to him or her to claim an interest in such lot of horticultural plants or products. Any person so served shall be liable for any loss sustained by such owner or other person whose name and address he or she has knowingly concealed from the director.

If such lot of horticultural plants or products has not been reconditioned or the deficiency corrected so as to bring it into compliance within the time specified in the notice, the director shall forthwith cause a copy of such notice to be served upon all persons designated in writing by the person in possession of such lot of horticultural plants or products to be the owner or to claim an interest therein. Any notice required by this section may be served personally or by mail addressed to the person to be served at last known address.

The director with the written consent of all such persons so served, is hereby authorized to destroy such lot of horticultural plants or products or otherwise abate the nuisance. If any such person fails or refuses to give such consent, then the director shall proceed in the manner provided for such purposes in this section.

If such lot of horticultural plants or products is perishable or subject to rapid deterioration the director may, through the prosecutor in the county where such horticultural plants or products are held, file a verified petition in the superior court of the said county to destroy such lot of horticultural plants or products or otherwise abate the nuisance. The petition shall state the condition of such lot of horticultural plants or products, that such lot of horticultural plants or products is held, and that notice of noncompliance has been served as provided in this chapter. The court may then order that

such lot of horticultural plants or products be forthwith destroyed or the nuisance otherwise abated as set forth in said order.

If such lot of horticultural plants or products is not perishable or subject to rapid deterioration, the director may, through the prosecutor in the county in which it is located, file a petition within five days of the serving of the notice of noncompliance upon the owners or person in possession of such lot of horticultural plants or products in the superior court or ((justice)) district court of the said county for an order to show cause, returnable in five days, why such lot of horticultural plants or products should not be abated. The owner or person in possession, on his or her own motion within five days from the expiration of the time specified in the notice of noncompliance, may file a petition in such court for an order to show cause, returnable in five days, why such lot of horticultural plants or products should not be released to the petitioner and any warning tags previously affixed removed therefrom.

The court may enter a judgment ordering that such lot of horticultural plants or products be condemned and destroyed in the manner directed by the court or relabeled, or denatured, or otherwise processed, or sold, or released upon such conditions as the court in its discretion may impose to insure that the nuisance will be abated. In the event of sale by the owner or the court, the costs of storage, handling, reconditioning, and disposal shall be deducted from the proceeds of the sale and the balance, if any, paid into the court for the owner.

Sec. 173. Section 15.32.720, chapter 11, Laws of 1961 as amended by section 12, chapter 199, Laws of 1969 ex. sess. and RCW 15.32.720 are each amended to read as follows:

One-half of all fines collected from prosecutions under this chapter shall be paid to the state and the remainder to the county in which the conviction is had: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 174. Section 15.32.770, chapter 11, Laws of 1961 and RCW 15.32.770 are each amended to read as follows:

Any superior ((court and any)), municipal ((court)), or ((justice of the peace)) district court shall have jurisdiction of all prosecutions and all proceedings for forfeiture and sale under this chapter.

Sec. 175. Section 15.36.580, chapter 11, Laws of 1961 as amended by section 17, chapter 67, Laws of 1981 and RCW 15.36.580 are each amended to read as follows:

In case of a written protest from any fluid milk producer, fluid milk distributor, or health officer, concerning the enforcement of any provisions of this chapter or of any rules and regulations thereunder, the director, or

an administrative law judge within ten days after receipt of such protest and after five days written notice thereof to the party against whom the protest is made, shall hold a summary hearing in the county where either the party protesting or protested against resides, upon the completion of which the director or an administrative law judge shall make such written findings of fact and order as the circumstances may warrant: PROVIDED, That if the protest originates with a producer, the hearings shall be held in the county where the protesting producer resides. Such findings and order shall be final and conclusive upon all parties from and after their effective date, which date shall be five days after being signed and deposited postage prepaid in the United States mails addressed to the last known address of all said parties. An appeal from such findings or order may be taken (~~within ten days of their effective date to the superior court of the county in which the hearing is held upon such notice and in such manner as appeals are taken from judgments rendered in justice court~~) in the manner provided under chapter 34.04 RCW.

Sec. 176. Section 47, chapter 63, Laws of 1969 as last amended by section 2, chapter 257, Laws of 1975 1st ex. sess. and RCW 15.49.470 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid into the seed 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 15.49 RCW and remaining in such seed fund account on July 1, 1975, shall likewise be used only in the enforcement of this chapter: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a (~~justice~~) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 177. Section 9, chapter 31, Laws of 1893 and RCW 16.04.040 are each amended to read as follows:

(~~Justices of the peace~~) District judges shall have exclusive jurisdiction of all actions and proceedings under RCW 16.04.010 through 16.04-.070 when the damages claimed do not exceed one hundred dollars: PROVIDED, HOWEVER, That any party considering himself or herself aggrieved shall have the right of appeal to the superior court as in other cases.

Sec. 178. Section 2, page 454, Laws of 1890 as amended by section 1, chapter 86, Laws of 1927 and RCW 16.12.020 are each amended to read as follows:

If any swine shall be suffered to run at large in any county of this state contrary to the provisions of RCW 16.12.010 through 16.12.080, and shall trespass upon the land of any person, the owner or person having possession of such swine shall be liable for all damages the owner or occupant of such

land may sustain by reason of such trespass; and if the owner or person having possession of such swine shall knowingly or negligently permit the same to run at large contrary to the provisions of RCW 16.12.010 through 16.12.080, for a second or subsequent act of trespass by such swine, such owner or person shall be liable for treble the amount of damages done by the same, and such damages may be recovered in a civil action before any (~~justice of the peace~~) district judge.

Sec. 179. Section 3, page 454, Laws of 1890 as amended by section 1, chapter 39, Laws of 1899 and RCW 16.12.030 are each amended to read as follows:

If any swine shall be found running at large contrary to the provisions of RCW 16.12.010 through 16.12.080, it shall be lawful for any person to restrain the same forthwith, and shall immediately give the owner notice in writing that (~~he~~) the person has restrained said swine, and the amount of damages (~~he~~) the person claims in the premises, and requiring the owner to take said swine away and pay such damages. If said owner fails to comply with the provisions of this section within three days after receiving such notice, such damages may be recovered in a civil action before any (~~justice of the peace~~) district judge, and such person who sustains damages as aforesaid shall have a lien upon said swine for the damages sustained by the said swine, and for keeping same: PROVIDED, That if the owner of such swine is unknown, the notice required in this section shall be published for two weeks in a newspaper published in the county.

Sec. 180. Section 4, page 90, Laws of 1871 as amended by section 2548, Code of 1881 and RCW 16.16.060 are each amended to read as follows:

It shall not be lawful for any person or persons to geld any animal knowing such animal is kept or intended to be kept for covering mares; and any person so offending shall be liable to the owner for all damages, to be recovered in any court having proper jurisdiction thereof; but if any owner or keeper of the covering animal shall wilfully or negligently suffer the said animal to run at large out of the enclosed grounds of said owner or keeper, any person may take the said animal and convey him to his owner or keeper, for which (~~he~~) such person shall receive three dollars per day, recoverable before any (~~justice of the peace~~) district judge of the county. For the second offense six dollars per day, and for the third offense said animal may be taken up and gelded.

Sec. 181. Section 2537, Code of 1881 as amended by section 14, chapter 199, Laws of 1969 ex. sess. and RCW 16.28.160 are each amended to read as follows:

It shall be the duty of any and all persons searching or hunting for stray horses, mules or cattle, to drive the band or herd in which they may

find their stray horses, mules or cattle, into the nearest corral before separating their said stray animals from the balance of the herd or band; that in order to separate their said stray animals from the herd or band, the person or persons owning said stray shall drive them out of and away from the corral in which they may be driven before setting the herd at large. Any person violating this section shall be deemed guilty of a misdemeanor, and on conviction thereof, before a ~~((justice of the peace))~~ district judge, shall be fined in any sum not exceeding one hundred dollars, and half the costs of prosecution; said fine so recovered to be paid into the school fund of the county in which the offense was committed; and in addition thereto shall be imprisoned until the fine and costs are paid: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 182. Section 9, chapter 27, Laws of 1893 and RCW 16.52.060 are each amended to read as follows:

Any judge, ~~((justice of the peace, police judge,))~~ sheriff, ~~((constable))~~ deputy, or police officer may arrest any person found committing any of the ~~((cruelties hereinbefore))~~ acts enumerated in RCW 16.52.065 or 81.56.120, without a warrant for such arrest, and any officer or member of any humane society, or society for the prevention of cruelty to animals, may cause the immediate arrest of any person engaged in, or who shall have committed such cruelties, upon making oral complaint to any sheriff, ~~((constable))~~ deputy, or police officer, or such officer or member of such society may himself or herself arrest any person found perpetrating any of the cruelties herein enumerated: PROVIDED, That said person making such oral complaint or making such arrest shall file with a proper officer a written complaint, stating the act or acts complained of, within twenty-four hours, excluding Sundays and legal holidays, after such arrest shall have been made.

Sec. 183. Section 28, chapter 249, Laws of 1961 as amended by section 15, chapter 199, Laws of 1969 ex. sess. and RCW 17.21.280 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid to the director for use exclusively in the enforcement of this chapter. All moneys held by the director for the enforcement of chapter 17.20 RCW shall be retained by ~~((him))~~ the director for the enforcement of this chapter: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 184. Section 17, chapter 121, Laws of 1899 as last amended by section 17, chapter 199, Laws of 1969 ex. sess. and RCW 18.64.260 are each amended to read as follows:

All suits for the recovery of the several penalties prescribed in this chapter shall be prosecuted in the name of the state of Washington in any court having jurisdiction, and it shall be the duty of the prosecuting attorney of the county wherein such offense is committed to prosecute all persons violating the provisions of this chapter upon the filing of proper complaint. All penalties collected under the provisions of this chapter shall inure to the school fund of the county in which suit was prosecuted and judgment obtained: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a (~~justice~~) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 185. Section 2, chapter 162, Laws of 1927 as amended by section 22, chapter 154, Laws of 1973 1st ex. sess. and RCW 19.72.030 are each amended to read as follows:

Each of such sureties shall have separate property worth the amount specified in the bond or recognizance, over and above all debts and liabilities, and exclusive of property exempt from execution, unless the other spouse joins in the execution of the bond, in which case they must have community property of such required value; but in case such bond or recognizance is given in any action or proceeding commenced or pending in any court the judge(~~, or justice of the peace, as the case may be~~), on justification, may allow more than two sureties to justify, severally, in amounts less than the amount specified, if the whole justification is equivalent to that of two sufficient sureties.

Sec. 186. Section 3, chapter 162, Laws of 1927 and RCW 19.72.040 are each amended to read as follows:

In case such bond or recognizance is given in any action or proceeding commenced or pending in any court, the judge or clerk of any court of record(~~, or justice of the peace, as the case may be~~) or district court, or any party to the action or proceeding for the security or protection of which such bond or recognizance is made may, upon notice, require any of such sureties to attend before the judge(~~, or justice of the peace~~) at a time and place specified and to be examined under oath touching (~~his~~) the surety's qualifications both as to residence and property as such surety, in such manner as the judge, (~~or justice of the peace~~) in (~~his~~) the judge's discretion, may think proper. If the party demanding the examination require it, the examination shall be reduced to writing and subscribed by the surety. If the judge(~~, or justice of the peace~~) find the surety possesses the requisite qualifications and property, (~~he~~) the judge shall endorse (~~his~~) the allowance thereof on the bond or recognizance, and cause it to be filed as provided by law, otherwise it shall be of no effect.

Sec. 187. Section 9, chapter 216, Laws of 1961 as last amended by section 3, chapter 288, Laws of 1983 and RCW 19.86.090 are each amended to read as follows:

Any person who is injured in his or her business or property by a violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or any person so injured because he or she refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may bring a civil action in the superior court to enjoin further violations, to recover the actual damages sustained by him or her, or both, together with the costs of the suit, including a reasonable attorney's fee, and the court may in its discretion, increase the award of damages to an amount not to exceed three times the actual damages sustained: PROVIDED, That such increased damage award for violation of RCW 19.86.020 may not exceed ten thousand dollars: PROVIDED FURTHER, That such person may bring a civil action in the ((justice)) district court to recover his or her actual damages, except for damages which exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorney's fees. The ((justice)) district court may, in its discretion, increase the award of damages to an amount not more than three times the actual damages sustained, but such increased damage award shall not exceed the amount specified in RCW 3.66.020. For the purpose of this section "person" shall include the counties, municipalities, and all political subdivisions of this state.

Whenever the state of Washington is injured by reason of a violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, it may sue therefor in the superior court to recover the actual damages sustained by it and to recover the costs of the suit including a reasonable attorney's fee.

Sec. 188. Section 3, chapter 94, Laws of 1925 ex. sess. as last amended by section 2, chapter 37, Laws of 1975 and RCW 27.24.090 are each amended to read as follows:

The collection of the fees directed in RCW 27.24.070 shall be discontinued whenever the board of trustees of a county library or the prosecuting attorney, as the case may be, files with the county clerk and clerks of the ((justice)) district courts a written resolution to the effect that the county library fund in its county is sufficient for all present needs, which resolution shall remain effective until it is later rescinded. Upon its rescission, the county clerk and clerks of the ((justice)) district courts shall resume the collection of such fees.

Sec. 189. Section 28A.27.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 132, Laws of 1986 and RCW 28A.27.100 are each amended to read as follows:

Any person violating any of the provisions of either RCW 28A.27.010 or 28A.27.090 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation

of RCW 28A.27.010 shall be required to attend school and shall not be fined. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a parent charged with violating RCW 28A.27.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required in RCW 28A.27.020. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.27.010 shall participate with the school and the juvenile in a supervised plan for the juvenile's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

Attendance officers shall make complaint for violation of the provisions of RCW 28A.27.010 through 28A.27.130 to a ~~((justice of the peace, justice court judge or to a))~~ judge of the superior or district court.

Sec. 190. Section 14, chapter 15, Laws of 1970 ex. sess. as amended by section 58, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.27.102 are each amended to read as follows:

Any school district superintendent, teacher or attendance officer who shall fail or refuse to perform the duties prescribed by RCW 28A.27.010 through 28A.27.130 shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars: PROVIDED, That in case of a school district employee, such fine shall be paid to the appropriate county treasurer and by ~~((him))~~ the county treasurer placed to the credit of the school district in which said employee is employed, and in case of all other officers such fine shall be paid to the county treasurer of the county in which the educational service district headquarters is located and by ~~((him))~~ the county treasurer placed to the credit of the general school fund of the educational service district: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 191. Section 28A.27.104, chapter 223, Laws of 1969 ex. sess. as amended by section 54, chapter 199, Laws of 1969 ex. sess. and RCW 28A.27.104 are each amended to read as follows:

Notwithstanding the provisions of RCW 10.82.070, all fines except as otherwise provided in RCW 28A.27.010 through 28A.27.130 shall inure and be applied to the support of the public schools in the school district



where such offense was committed: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 192. Section 28A.27.120, chapter 223, Laws of 1969 ex. sess. and RCW 28A.27.120 are each amended to read as follows:

In cases arising under RCW 28A.27.010 through 28A.27.130, all ((justices<sup>1</sup> courts, justice)) district courts, municipal courts or departments, and superior courts in the state of Washington shall have concurrent jurisdiction.

Sec. 193. Section 29.21.070, chapter 9, Laws of 1965 as amended by section 75, chapter 81, Laws of 1971 and RCW 29.21.070 are each amended to read as follows:

The offices of justice of the supreme court, judge of the court of appeals, judge of the superior court, and ((justice of the peace)) judge of the district court shall be nonpartisan and the candidates therefor shall be nominated and elected as such. Not less than ten days before the time for filing declarations of candidacy, each county auditor shall designate how many ((justices of the peace)) district judges are to be elected in each ((precinct)) district in ((his)) the county.

Sec. 194. Section 29.21.120, chapter 9, Laws of 1965 and RCW 29.21.120 are each amended to read as follows:

Judicial positions and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

JUDICIAL ELECTION BALLOT

To vote for a person make a cross (X) in the square at the right of the name of the person for whom you desire to vote.

Judges of the  
Supreme Court -----  
to be nominated.

Judges of the  
Superior Court -----  
to be nominated.

No. 1  
Vote for One.

No. 1  
Vote for One.

.....   
.....   
.....

.....   
.....   
.....

No. 2  
Vote for One.

No. 2  
Vote for One.

.....   
.....   
.....

.....   
.....   
.....

No. 3  
Vote for One.

.....   
.....   
.....

(Or, if vacancy  
to be filled)  
No. ....  
2 (or 4) year term.  
Vote for One.

.....   
.....   
.....

(Or, if short term  
to be filled)  
No. ....  
Short term.  
Vote for One.

.....   
.....   
.....

No. 3  
Vote for One.

.....   
.....   
.....

(Or, if vacancy  
to be filled)  
No. ....  
Unexpired term.  
Vote for One.

.....   
.....   
.....

(Or, if short term  
to be filled)  
No. ....  
Short term.  
Vote for One.

.....   
.....   
.....

((Justice(s) of the Peace, ..... Precinct))  
District Judges, ..... District  
Vote for .....

.....   
.....   
.....   
.....   
.....

Sec. 195. Section 6, chapter 148, Laws of 1980 and RCW 35.20.090 are each amended to read as follows:

In all civil cases and criminal cases where jurisdiction is concurrent with district courts as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury trial may be held on a proceeding involving a traffic infraction. A defendant requesting a jury shall pay to the court a fee which shall be the same as that for a jury in ((justice)) district court. Where there is more than one defendant in an action and one or more of them requests a jury, only one jury fee shall be collected by the court.

Each juror may receive up to twenty-five dollars but in no case less than ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060: PROVIDED, That the compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. Trial by jury shall be allowed in criminal cases involving violations of city ordinances commencing January 1, 1972, unless such incorporated city affected by this chapter has made provision therefor prior to January 1, 1972.

Sec. 196. Section 35.20.120, chapter 7, Laws of 1965 and RCW 35.20.120 are each amended to read as follows:

All blanks, books, papers, stationery and furniture necessary for the transaction of business and the keeping of records of the court shall be furnished at the expense of the city, except those expenses incidental to the operation of the court in matters brought before the court because of concurrent jurisdiction with ~~((justices of the peace))~~ the district court, which expense shall be borne by the county and paid out of the county treasury. All other expenses on account of such court which may be authorized by the city council or the county commissioners and which are not specifically mentioned in this chapter, shall be paid respectively out of the city treasury and county treasury.

Sec. 197. Section 35.20.210, chapter 7, Laws of 1965 as amended by section 4, chapter 147, Laws of 1969 ex. sess. and RCW 35.20.210 are each amended to read as follows:

There shall be a chief clerk of the municipal court appointed by the judges of the municipal court subject to such civil service laws and rules as may be provided in such city. ~~((Upon this 1969 amendatory act becoming effective))~~ After August 11, 1969, those employees connected with the court under civil service status shall be continued in such employment and such classification. Before ~~((he))~~ the chief clerk enters upon the duties of ~~((his))~~ the chief clerk's office, the chief clerk shall take and subscribe an oath the same as required for officers of the city, and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned that ~~((he))~~ the chief clerk will faithfully account to and pay over to the treasurer of said city all moneys coming into his or her hands as such clerk, and that he or she will faithfully perform the duties of his or her office to the best of his or her knowledge and ability. Upon the recommendation of the judges of the municipal court, the legislative body of the city may provide for the appointment of such assistant clerks of the municipal court as said legislative body deems necessary, with such compensation as said legislative body may deem reasonable and such assistant clerks shall be subject to such civil service as may be provided in such city: PROVIDED, That the judges of the municipal court shall appoint such clerks as the board of county commissioners may determine to handle cases involving violations of state law, wherein the

court has concurrent jurisdiction with (~~justices of the peace~~) the district and (~~the~~) superior court. All clerks of the court shall have power to administer oaths, swear and acknowledge signatures of those persons filing complaints with the court, take testimony in any action, suit or proceeding in the court relating to the city or county for which they are appointed, and may certify any records and documents of the court pertaining thereto. They shall give bond for the faithful performance of their duties as required by law.

Sec. 198. Section 35.20.250, chapter 7, Laws of 1965 as last amended by section 25, chapter 136, Laws of 1979 ex. sess. and RCW 35.20.250 are each amended to read as follows:

The municipal court shall have concurrent jurisdiction with the superior court and (~~justices of the peace~~) district court in all civil and criminal matters as now provided by law for (~~justices of the peace~~) district judges, and a judge thereof may sit in preliminary hearings as magistrate. Fines, penalties, and forfeitures before the court under the provisions of this section shall be paid to the county treasurer as provided for (~~justices of the peace~~) district court and commitments shall be to the county jail. Appeals from judgment or order of the court in such cases shall be governed by the law pertaining to appeals from judgments or orders of (~~justices of the peace~~) district judges operating under chapter 3.30 RCW.

Sec. 199. Section 35.20.910, chapter 7, Laws of 1965 and RCW 35.20.910 are each amended to read as follows:

All acts or parts of acts (~~not specifically repealed or modified by RCW 35.20.900;~~) which are inconsistent or conflicting with the provisions of this chapter, are hereby repealed or modified accordingly. No provision of this chapter shall be construed as repealing or anyway limiting or affecting the jurisdiction of (~~justices of the peace~~) district judges under the general laws of this state.

Sec. 200. Section 36.01.060, chapter 4, Laws of 1963 and RCW 36.01.060 are each amended to read as follows:

Each county shall be liable to pay the per diem and mileage, or other compensation in lieu thereof, to jurors of the county attending the superior court; the fees of the sheriff for maintaining prisoners charged with crimes, and (~~his~~) the sheriff's costs in conveying them to and from the court, as well as their board while there; the per diem and mileage, or such other compensation as is allowed in lieu thereof, of the sheriff of the county, when in criminal cases (~~he~~) the sheriff is required to attend or travel to the superior court out of the limits of (~~his own~~) the sheriff's county; the costs in criminal cases taken from the (~~justice or inferior~~) courts of limited jurisdiction to the superior court; but no such claims shall be paid by the treasurer unless the particular items are approved by the judge and certified by the clerk under the seal of the court. For the time or travel which may be

paid by the parties or United States, no payment from the county shall be allowed, and no officer, juror, or witness shall receive from the county double pay as a per diem for the same time, or as traveling expenses or mileage for the same travel, in however many different capacities or in however many different causes they may be summoned, notified, or called upon to testify or attend in.

Sec. 201. Section 1, chapter 38, Laws of 1973 as last amended by section 104, chapter 7, Laws of 1985 and by section 1, chapter 24, Laws of 1985 and RCW 36.18.020 are each reenacted and 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))~~ a court of limited jurisdiction 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))~~ district 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))~~ the clerk's 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))~~ the clerk's 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))~~ an appeal from a ~~((lower))~~ court of limited jurisdiction 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 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

Sec. 202. Section 36.24.030, chapter 4, Laws of 1963 and RCW 36-.24.030 are each amended to read as follows:

Every person summoned as a juror who fails to appear without having a reasonable excuse shall forfeit a sum not exceeding twenty dollars, to be recovered by the coroner, in the name of the state, before any ~~((justice of the peace))~~ district judge of the county. The penalty when collected shall be paid over to the county treasurer for the use of the county.

Sec. 203. Section 36.24.050, chapter 4, Laws of 1963 and RCW 36.24.050 are each amended to read as follows:

The coroner may issue subpoenas for witnesses returnable forthwith or at such time and place as ~~((he))~~ the coroner may appoint, which may be served by any competent person. ~~((He))~~ The coroner must summon and examine as witnesses, on oath ~~((by him))~~ administered by the coroner, every person, who, in his or her opinion or that of any of the jury, has any knowledge of the facts. A witness served with a subpoena may be compelled to attend and testify, or be punished by the coroner for disobedience, in like manner as upon a subpoena issued by a ~~((justice of the peace))~~ district judge.

Sec. 204. Section 36.24.160, chapter 4, Laws of 1963 and RCW 36.24.160 are each amended to read as follows:

If the office of coroner is vacant, or ~~((he))~~ the coroner is absent or unable to attend, the duties of ~~((his))~~ the coroner's office may be performed by any ~~((justice of the peace))~~ district judge in the county with the like authority and subject to the same obligations and penalties as the coroner. For such service a ~~((justice of the peace))~~ district judge shall be entitled to the same fees, payable in the same manner.

Sec. 205. Section 36.27.020, chapter 4, Laws of 1963 as amended by section 1, chapter 19, Laws of 1975 1st ex. sess. and RCW 36.27.020 are each amended to read as follows:

The prosecuting attorney shall:

(1) Be legal adviser of the board of county commissioners, giving them his or her written opinion when required by the board or the ~~((chairman))~~ chairperson thereof touching any subject which the board may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required ~~((he shall))~~ draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or ~~((his))~~ the county or any school district in ~~((his))~~ the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or ~~((his))~~ the county may be a party, defend all suits brought against the state or ~~((his))~~ the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or ~~((his))~~ the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when ~~((he))~~ the prosecuting attorney has information that any such offense has been committed and ~~((he))~~ the prosecuting attorney shall for that purpose attend when required by them if ~~((he))~~ the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before ~~((justices of the peace))~~ district judges at the trial of which ~~((he))~~ the prosecuting attorney was not present, before they are lodged with the board of county commissioners for payment, whereupon ~~((he))~~ the prosecuting attorney may retax the same and ~~((he))~~ the prosecuting attorney must do so if the board of county commissioners deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to ~~((his))~~ the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine at least once in each year the public records and books of the auditor, assessor, treasurer, superintendent of schools, and sheriff of his or her county and report to the board of county commissioners every failure, refusal, omission, or neglect of such officers to keep such records and books as required by law;

(11) Examine once in each year the official bonds of all county and precinct officers and report to the board of county commissioners any defect in the bonds of any such officer;

(12) Make an annual report to the governor as of the 31st of December of each year setting forth the amount and nature of business transacted by ~~((him))~~ the prosecuting attorney in that year with such other statements and suggestions as ~~((he))~~ the prosecuting attorney may deem useful;

(13) Send to the state liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year, showing in each case, the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding;

(14) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law.

Sec. 206. Section 36.32.120, chapter 4, Laws of 1963 as last amended by section 2, chapter 278, Laws of 1986 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 repayment 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 or a civil violation subject to a monetary penalty: **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~~) district judges.

Sec. 207. Section 36.53.070, chapter 4, Laws of 1963 and RCW 36.53.070 are each amended to read as follows:

Every person obtaining a ferry license shall give constant and diligent attention to such ferry from daylight in the morning until dark in the evening of each day, and shall, moreover, at any hour in the night, if required, except in cases of imminent danger, give passage to all persons requiring the same on the payment of double rate of ferriage allowed to be taken in the daytime.

If (~~he~~) the licensee at any time neglects or refuses to give passage to any person or ~~(his)~~ property, (~~he~~) the licensee shall forfeit and pay to the party aggrieved for every such offense the sum of five dollars, to be recovered before any (~~justice of the peace~~) district judge having jurisdiction; (~~he~~) the licensee shall, moreover, be liable in an action at law for any special damage which such person may have sustained in consequence of such neglect or refusal.

No forfeiture or damages shall be recovered for a failure or refusal to convey any person or property across the stream when it is manifestly hazardous to do so, by reason of any storm, flood, or ice; nor shall any keeper of a ferry be compelled to give passage to any person or property until the fare or toll chargeable by law has been fully paid or tendered.

Sec. 208. Section 36.53.080, chapter 4, Laws of 1963 and RCW 36-53.080 are each amended to read as follows:

Whenever the board of county commissioners grants a license to keep a ferry across any lake or stream, it shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the same, having due regard for the breadth and situation of the stream, and the dangers and difficulties incident thereto, and the publicity of the place at which the same is established, and every keeper of a ferry who at any time demands and receives more than the amount so designated for ferrying shall forfeit and pay to the party aggrieved, for every such offense, the sum of five dollars, over and above the amount which has been illegally received, to be recovered before any ~~((justice of the peace))~~ district judge having jurisdiction.

Sec. 209. Section 36.53.110, chapter 4, Laws of 1963 and RCW 36-53.110 are each amended to read as follows:

All persons shall be received into the ferry boats and conveyed across the stream over which a ferry is established according to their arrival thereat, and if the keeper of a ferry acts contrary to this regulation, ~~((he))~~ the keeper shall forfeit and pay to the party aggrieved the sum of ten dollars for every such offense, to be recovered before any ~~((justice of the peace))~~ district judge having jurisdiction: PROVIDED, That public officers on urgent business, post riders, couriers, physicians, surgeons, and midwives shall in all cases be first carried over, when all cannot go at the same time.

Sec. 210. Section 36.53.140, chapter 4, Laws of 1963 and RCW 36-53.140 are each amended to read as follows:

Any person who maintains any ferry and receives ferriage without first obtaining a license therefor shall pay a fine of ten dollars for each offense, to be collected for the use of the county, by suit before any ~~((justice of the peace))~~ district judge having jurisdiction, and any person may bring such suit: PROVIDED, That it shall not be unlawful for any person to transport any other person or ~~((his))~~ property over any stream for hire, when there is no ferry, or the ferry established at such place was not in actual operation at the time, or in sufficient repair to have afforded to such person or ~~((his))~~ property a safe and speedy passage.

Sec. 211. Section 36.82.210, chapter 4, Laws of 1963 as amended by section 21, chapter 199, Laws of 1969 ex. sess. and RCW 36.82.210 are each amended to read as follows:

All fines and forfeitures collected for violation of any of the provisions of chapters 36.75, and 36.77 to 36.87 RCW, inclusive, when the violation thereof occurred outside of any incorporated city or town shall be distributed and paid into the proper funds for the following purposes: One-half shall be paid into the county road fund of the county in which the violation occurred; one-fourth into the state fund for the support of state parks and

parkways; and one-fourth into the highway safety fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

All fines and forfeitures collected for the violation of any of such provisions when the violation thereof occurred inside any incorporated city or town shall be distributed and paid into the proper funds for the following purposes: One-half shall be paid into the city street fund of such incorporated city or town for the construction and maintenance of city streets; one-fourth into the state fund for the support of state parks and parkways; and one-fourth into the highway safety fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 212. Section 43.24.120, chapter 8, Laws of 1965 as last amended by section 102, chapter 158, Laws of 1979 and RCW 43.24.120 are each amended to read as follows:

Any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the decision of the director of licensing ((to the superior court of Thurston county)), which shall be taken, prosecuted, heard, and determined in the manner provided ((by law for appeals from justices' courts to superior courts)) in chapter 34.04 RCW.

~~((No appeal shall lie from the decision of the superior court of Thurston county on appeals from the director of licensing, but the decision may be reviewed as to matters of law by the supreme court or the court of appeals upon writs of review sued out in the manner provided by law:))~~ The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases.

Sec. 213. Section 46.08.170, chapter 12, Laws of 1961 as last amended by section 40, chapter 136, Laws of 1979 ex. sess. and RCW 46.08.170 are each amended to read as follows:

Any violation of a rule or regulation prescribed under RCW 46.08.150 is a traffic infraction, and the district courts of ((justices of the peace in)) Thurston county shall have jurisdiction over such offenses: PROVIDED, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

*\*Sec. 214. Section 12, chapter 2, Laws of 1983 as amended by section 6, chapter 302, Laws of 1985 and RCW 46.52.100 are each amended to read as follows:*

Every (~~justice of the peace, police judge~~) district court, municipal court, 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~~) the 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~~) district court, municipal court, 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 (~~this~~) the party's 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 (~~this~~) the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all (~~justice~~) district courts shall be before one of the two nearest (~~justices of the peace~~) district judges 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.***

**\*Sec. 214 was vetoed, see message at end of chapter.**

Sec. 215. Section 4, chapter 178, Laws of 1979 ex. sess. as amended by section 7, chapter 274, Laws of 1983 and RCW 46.52.190 are each amended to read as follows:

(1) When a vehicle or hulk is impounded pursuant to RCW 46.61.565 or 46.52.180, the governmental agency at whose direction the impoundment was effected shall, within twenty-four hours after the impoundment, mail notification of the impoundment to the last registered owner and the legal owner of the vehicle as shown on the records of the department or as otherwise reasonably ascertainable. The notification shall contain a certificate of mailing and shall inform the registered and legal owners of the impoundment, redemption procedures, and opportunity for a hearing to contest the basis for the impoundment. The notice need not be mailed if the vehicle is redeemed prior to the mailing of the notice or if the registered owner and the legal owner are not reasonably ascertainable.

Upon impoundment of a vehicle pursuant to this section, the law enforcement officer shall also provide the registered disposer with the name and address of the last registered owner and legal owner of the vehicle as may be shown by the records of the department or as otherwise reasonably ascertainable.

(2) The notification provided for in this section shall inform the registered and legal owners that any hearing request shall be directed to the district court for the (~~justice court~~) district in which the vehicle was impounded and shall be accompanied by a form to be used for the purpose of requesting a hearing. Any request for a hearing pursuant to this section shall be made in writing on the form provided for that purpose and must be received by the district court within ten days of the date the notification provided for in this section was mailed. If the hearing request is not received by the district court within the ten-day period, the right to a hearing is waived and the registered and legal owners shall be liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the district court shall proceed to hear and determine the validity of the impoundment.

(3) If the registered or legal owner timely requests a hearing provided for by this section and prevails at the hearing, the unit of government under whose jurisdiction the impoundment was effected shall be liable for any towing, storage, or other impoundment charges permitted under this chapter.

(4) Removal and storage of a vehicle or hulk under RCW 46.52.170 through 46.52.190 or under RCW 46.61.565 shall be at the registered and legal owners' expense, except as provided in (~~RCW 46.52.104, 46.52.106;~~) chapter 46.55 RCW and subsection (3) of this section.

(5) The department may adopt rules providing that the owner's vehicle license will not be renewed or a new vehicle license issued to the owner unless any outstanding removal and storage charges are paid.

Sec. 216. Section 24, chapter 165, Laws of 1947 as amended by section 145, chapter 3, Laws of 1983 and RCW 47.68.240 are each amended to read as follows:

Any person violating any of the provisions of this chapter, or any of the rules, regulations, or orders issued pursuant thereto, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both such fine and imprisonment: PROVIDED, That any person violating any of the provisions of RCW 47.68.220 or 47.68.230 shall be guilty of a gross misdemeanor which shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both in any proceeding brought in superior court and by a fine of not more than five hundred dollars or by imprisonment for not more than six months or by both in any proceedings brought in (~~justice~~) district court. In addition to, or in lieu of, the penalties provided in this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court.

Sec. 217. Section 7, chapter 191, Laws of 1919 and RCW 49.40.070 are each amended to read as follows:

Any person (~~feeling himself~~) aggrieved by the finding or award of the director of labor and industries (~~may, as in RCW 49.40.060 provided; have~~) has the right of appeal (~~therefrom to the superior court of the county in which the hearing by the director or his deputy was held, by filing a notice of appeal therefrom in the office of the director within thirty days from the date of the findings and award and, upon the filing of any such notice of appeal, the director shall transmit to the clerk of the superior court to which the appeal is taken the original petition and all exhibits and written evidence filed at the hearing and the original findings and award of the director, and such appeal shall be set down for hearing and shall be heard de novo by the court as appeals from justices of the peace are heard, and the clerk of the court shall notify the parties to the dispute, by mail addressed to their last known place of residence, of the time and place of such trial upon appeal~~) in the manner provided in chapter 34.04 RCW.

Sec. 218. Section 60, chapter 35, Laws of 1945 as last amended by section 6, chapter 5, Laws of 1985 ex. sess. and RCW 50.16.010 are each amended to read as follows:

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable. The unemployment compensation fund shall consist of

(1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,

(2) interest earned upon any moneys in the fund,

(3) any property or securities acquired through the use of moneys belonging to the fund,

(4) all earnings of such property or securities,

(5) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended,

(6) all money recovered on official bonds for losses sustained by the fund,

(7) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended,

(8) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and

(9) all moneys received for the fund from any other source.

All moneys in the unemployment compensation fund shall be commingled and undivided.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title after June 20, 1953, all fines and penalties collected pursuant to the provisions of this title, all sums recovered on official bonds for losses sustained by the fund, and revenue received under RCW 50.24.014: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. Moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.



(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

Money in the special account created under RCW 50.24.014 may only be expended, after appropriation, for the purposes specified in this 1985 act.

Sec. 219. Section 7, chapter 92, Laws of 1903 and RCW 58.12.065 are each amended to read as follows:

Any owners of any portion of the property affected by the actual award or final judgment of such board of county commissioners or city council may appeal to the superior court having jurisdiction of appeals from (~~justice of the peace~~) district judges in the locus in quo.

Sec. 220. Section 4, chapter 39, Laws of 1955 as amended by section 1, chapter 288, Laws of 1955 and RCW 66.32.020 are each amended to read as follows:

If, upon the sworn complaint of any person, it is made to appear to any judge of the superior court (~~(, justice of the peace, or magistrate)~~) or district court, that there is probable cause to believe that intoxicating liquor is being manufactured, sold, bartered, exchanged, given away, furnished, or otherwise disposed of or kept in violation of the provisions of this title, such judge (~~(, justice of the peace, or magistrate)~~) shall, with or without the approval of the prosecuting attorney, issue a warrant directed to a civil officer of the state duly authorized to enforce or assist in enforcing any law thereof, or to an inspector of the board, commanding (~~(him)~~) the civil officer or inspector to search the premises, room, house, building, boat, vehicle, structure or place designated and described in the complaint and warrant, and to seize all intoxicating liquor there found, together with the vessels in which it is contained, and all implements, furniture, and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing, or otherwise disposing of the liquor, and to safely keep the same, and to make a return of the warrant within ten days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession they were found, if any, and if no person is found in the possession of the articles, the return shall so state.

Sec. 221. Section 7, chapter 39, Laws of 1955, and RCW 66.32.050 are each amended to read as follows:

Upon the return of the warrant as provided herein, the judge (~~(, justice of the peace, or magistrate)~~) shall fix a time, not less than ten days, and not more than thirty days thereafter, for the hearing of the return, when he or she shall proceed to hear and determine whether or not the articles seized, or any part thereof, were used or in any manner kept or possessed by any person with the intention of violating any of the provisions of this title.

Sec. 222. Section 9, chapter 39, Laws of 1955 and RCW 66.32.070 are each amended to read as follows:

If, upon the hearing, the evidence warrants, or, if no person appears as claimant, the judge(~~(; justice of the peace, or magistrate)~~) shall thereupon enter a judgment of forfeiture, and order such articles destroyed forthwith: PROVIDED, That if, in the opinion of the judge(~~(; justice of the peace, or magistrate)~~), any of the forfeited articles other than intoxicating liquors are of value and adapted to any lawful use, the judge(~~(; justice of the peace, or magistrate)~~) shall, as a part of the order and judgment, direct that the articles other than intoxicating liquor be sold as upon execution by the officer having them in custody, and the proceeds of the sale after payment of all costs of the proceedings shall be paid into the liquor revolving fund.

Sec. 223. Section 55, chapter 62, Laws of 1933 ex. sess. as amended by section 8, chapter 174, Laws of 1935 and RCW 66.32.090 are each amended to read as follows:

In every case in which liquor is seized by a sheriff or (~~(constable)~~) deputy of any county or by a police officer of any municipality or by a member of the Washington state patrol, or any other authorized peace officer or inspector, it shall be the duty of the sheriff or (~~(constable)~~) deputy of any county, or chief of police of the municipality, or the chief of the Washington state patrol, as the case may be, to forthwith report in writing to the board of particulars of such seizure, and to immediately deliver over such liquor to the board, or its duly authorized representative, at such place as may be designated by it.

Sec. 224. Section 70, chapter 62, Laws of 1933 ex. sess. as last amended by section 28, chapter 199, Laws of 1969 ex. sess. and RCW 66.44.010 are each amended to read as follows:

(1) All county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this title, and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all fines imposed for violations of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor shall belong to the county, city or town wherein the court imposing the fine is located, and shall be placed in the general fund for payment of the salaries of those engaged in the enforcement of the provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a (~~(justice)~~) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) In addition to any and all other powers granted, the board shall have the power to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation,

possession, distribution and sale of liquor. The board may appoint and employ, assign to duty and fix the compensation of, officers to be designated as liquor enforcement officers. Such liquor enforcement officers shall have the power, under the supervision of the board, to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They shall have the power and authority to serve and execute all warrants and process of law issued by the courts in enforcing the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They shall have the power to arrest without a warrant any person or persons found in the act of violating any of the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor.

Sec. 225. Section 93, chapter 62, Laws of 1933 ex. sess. as last amended by section 22, chapter 5, Laws of 1981 1st ex. sess. and RCW 66-.44.180 are each amended to read as follows:

Every person guilty of a violation of this title for which no penalty has been specifically provided shall be liable, on conviction, for a first offense to a penalty of not more than five hundred dollars, or to imprisonment for not more than two months, or both; for a second offense to imprisonment for not more than six months; and for a third or subsequent offense to imprisonment for not more than one year. If the offender convicted of an offense referred to in this section is a corporation, it shall for a first offense be liable to a penalty of not more than five thousand dollars, and for a second or subsequent offense to a penalty of not more than ten thousand dollars, or to forfeiture of its corporate license, or both.

Every (~~justice of the peace~~) district judge and (~~magistrate~~) municipal judge shall have concurrent jurisdiction with superior court judges of the state of Washington of all violations of the provisions of this title and may impose any punishment provided therefor.

Sec. 226. Section 12, page 440, Laws of 1873 as amended by section 29, chapter 199, Laws of 1969 ex. sess. and RCW 67.14.120 are each amended to read as follows:

All fines and forfeitures collected under this chapter, and all moneys paid into the treasury of any county for licenses as aforesaid, shall be applied to school or county purposes as the local laws of such county may direct: PROVIDED, That this chapter shall not affect or apply to any private or local laws upon the subject of license in any county in this territory except King county, and no license shall be construed to mean more than the house or saloon kept by the same party or parties: PROVIDED, FURTHER, That no part of this chapter shall in any way apply to the county of Island: AND PROVIDED, FURTHER, That all moneys for licenses within the corporate limits of the town of Olympia shall be paid directly into the

town treasury of said town as a municipal fund for the use of said town: AND PROVIDED FURTHER, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 227. Section 6, chapter 186, Laws of 1973 1st ex. sess. and RCW 69.41.060 are each amended to read as follows:

If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior ((court or justice of the peace)) or district court that there is probable cause to believe that any legend drug is being used, manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such ((justice of the peace or)) judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any peace officer in the county, commanding ((him)) the peace officer to search the premises designated and described in such complaint and warrant, and to seize all legend drugs there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such legend drugs and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such legend drugs, furniture or fixtures so seized, and if no person be found in the possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or, if there be no door, then in any conspicuous place upon the premises.

Sec. 228. Section 69.50.509, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.509 are each amended to read as follows:

If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, ((justice of the peace,)) district court ((judge)), or municipal ((judge)) court that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such ((justice of the peace or)) judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him or her to search the premises designated and described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture

and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter.

Sec. 229. Section 72.40.100, chapter 28, Laws of 1959 as last amended by section 25, chapter 378, Laws of 1985 and RCW 72.40.100 are each amended to read as follows:

Any parent, guardian, or educational service district superintendent who, without proper cause, fails to carry into effect the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any (~~justice of the peace~~) district or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars.

Sec. 230. Section 75.08.230, chapter 12, Laws of 1955 as last amended by section 332, chapter 258, Laws of 1984 and RCW 75.08.230 are each amended to read as follows:

(1) Except as provided in this section, state and county officers receiving the following moneys shall deposit them in the state general fund:

- (a) The sale of licenses required under this title;
- (b) The sale of property seized or confiscated under this title;
- (c) Fines and forfeitures collected under this title;
- (d) The sale of real or personal property held for department purposes;
- (e) Rentals or concessions of the department;
- (f) Moneys received for damages to food fish, shellfish or department property; and

(g) Gifts.

(2) The director shall make weekly remittances to the state treasurer of moneys collected by the department.

(3) All fines and forfeitures collected or assessed by a (~~justice~~) district court for a violation of this title or rule of the director shall be remitted as provided in chapter 3.62 RCW.

(4) Proceeds from the sale of food fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds exceed the estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270 to reimburse the department for unanticipated costs for test fishing operations in excess of the allowance in the budget approved by the legislature.

(5) Proceeds from the sale of salmon and salmon eggs by the department, to the extent these proceeds exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for hatchery operations partially or wholly financed by sources other than state general revenues or for purposes of processing human consumable salmon for disposal.

(6) Moneys received by the director under RCW 75.08.045, to the extent these moneys exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for the specific purpose for which the moneys were received, unless the moneys were received in settlement of a claim for damages to food fish or shellfish, in which case the moneys may be expended for the conservation of these resources.

Sec. 231. Section 2, page 121, Laws of 1890 and RCW 78.12.020 are each amended to read as follows:

Three persons being residents of the county, and knowing or having reason to believe that the provisions of RCW 78.12.010 are being or have been violated within such county, may file a notice with any (~~justice of the peace or police judge~~) district or municipal court therein, which notice shall be in writing, and shall state—First, the location, as near as may be, of the hole, excavation or shaft. Second, that the same is dangerous to persons or animals, and has been left or is being worked contrary to the provisions of this chapter. Third, the name of the person or persons, company or corporation who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. Fourth, if abandoned and no claimant; and Fifth, the estimated cost of fencing or otherwise securing the same against any avoidable accidents.

Sec. 232. Section 4, page 122, Laws of 1890 and RCW 78.12.040 are each amended to read as follows:

The notice thus served shall require the said persons to appear before the (~~justice or~~) judge issuing the same, at a time to be stated therein, not more than ten nor less than three days from the service of said notice, and show to the satisfaction of the court that the provisions of this chapter have been complied with; or if (~~he or they~~) said person or persons fail to appear, judgment will be entered against (~~him or them~~) said person or persons for double the amount stated in the notice on file; and all proceedings had therein shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine not exceeding the sum of one hundred dollars for each and every violation of the provisions of this chapter, which judgments and fines shall be adjudged and collected as provided for by law.

Sec. 233. Section 5, page 122, Laws of 1890 as amended by section 34, chapter 199, Laws of 1969 ex. sess. and RCW 78.12.050 are each amended to read as follows:

Suits commenced under the provisions of this chapter shall be in the name of the state of Washington, and all judgments and fines collected shall be paid into the county treasury for county purposes: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 234. Section 6, page 122, Laws of 1890 and RCW 78.12.060 are each amended to read as follows:

If the notice filed with the ~~((justice of the peace, or police judge))~~ district or municipal court, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, ~~((said justice of the peace, or judge,))~~ the court shall notify the ~~((board of county commissioners of the county, or either of them,))~~ county legislative authority of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced, or otherwise guarded, as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid as other county expenses: PROVIDED, That nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole, unless in their discretion, the same may be considered dangerous to persons or animals.

Sec. 235. Section 88, chapter 36, Laws of 1917 as amended by section 2, chapter 51, Laws of 1939 and RCW 78.40.351 are each amended to read as follows:

Whenever by reason of any explosion or any other accident in or about any coal mine, whereby loss of life or serious injury has occurred, or is thought to have occurred, it shall be the duty of the person having charge of the mine to give notice thereof to the mine inspector by telephone or telegraph, and if any person is killed thereby, to the coroner of the county, who shall give due notice to the mine inspector if an inquest is to be held. In case of any major or fatal accident, the resident district officers of the miners' organization shall be notified by telephone or telegraph at the same time the mine inspector is notified, and shall have the privilege of appearing at all investigations held to determine the cause of such accident, and to recommend safety measures for the prevention of accidents. If the coroner shall determine to hold an inquest, the mine inspector shall be allowed to testify and offer such testimony as he or she shall deem necessary to thoroughly inform the said inquest of the cause of death, and the said inspector shall have authority at any time to appear before such coroner and jury and question or cross-question any witness, and in choosing a jury for the purpose of holding such inquest it shall be the duty of the coroner to impanel a jury, no one of whom shall be directly or indirectly interested. It shall be the

duty of the mine inspector upon being notified as herein provided, to immediately repair to the scene of the accident and make such suggestions as may appear necessary to secure the safety of the ~~((men))~~ workers, and if the results of the explosion or accident do not require an investigation by the coroner, ~~((he))~~ the coroner shall proceed to investigate and ascertain the cause of the explosion or accident, and make a record thereof, which ~~((he))~~ the coroner shall file as provided for, and to enable ~~((him))~~ the coroner to make the investigation ~~((he))~~ the coroner shall have the power to compel the attendance of persons to testify, and administer oaths or affirmations. The cost of such investigation shall be paid by the county in which the accident occurred, in the same manner as costs of inquests held by coroners or ~~((justices of the peace))~~ district judges are paid, and copies of evidence taken at inquests shall be furnished the mine inspector.

Sec. 236. Section 165, chapter 36, Laws of 1917 as last amended by section 114, chapter 154, Laws of 1973 1st ex. sess. and RCW 78.40.606 are each amended to read as follows:

No person under eighteen years of age shall be employed or permitted to be in any mine for the purpose of employment therein. No person under the age of sixteen years shall be employed or permitted to be in or about the surface workings of any mine for the purpose of employment: **PROVIDED**, That this prohibition shall not affect the employment of boys or girls for clerical or messenger duty about the surface workings as permitted under the state and federal laws.

When an employer is in doubt as to the age of any person applying for employment in or about the mine, ~~((he))~~ the employer shall demand and receive proof of the age of such person by certificate from the parents or guardian of such person before such person shall be employed. Said certificate shall consist of an affidavit, sworn and subscribed to before a ~~((justice of the peace))~~ district judge or notary public, that the person making such affidavit, is of the prescribed age for employment.

Any person swearing falsely in regard to the age of a person shall be guilty of perjury and shall be punished as provided in the statutes of the state.

Sec. 237. Section 204, chapter 36, Laws 1917 as amended by section 1, chapter 6, Laws of 1935 and RCW 78.40.723 are each amended to read as follows:

(1) The operator of every coal mine where the miners are paid by the weight of their output, shall provide at such mine suitable and accurate scales for the weighing of such coal, and a correct record shall be kept of all coal so weighed, and each day's record shall be posted where it is open at all hours to the inspection of miners. Sufficient weights shall be furnished by the operator for the purpose of testing the accuracy of said scales: **PROVIDED, HOWEVER**, That where a check ~~((weighman))~~ weigher is employed the operator shall not be required to post each day's record.



(2) The miners employed by or engaged in working at any coal mine in this state shall have the privilege, if they desire, of employing at their expense a check ~~((weighman))~~ weigher, whose compensation shall be deducted by the mine operator before paying the wages due the miner, and who shall have like rights, powers and privileges in the weighing of coal as the regular ~~((weighman))~~ weigher, and be subject to the same oath and penalties as the regular ~~((weighman))~~ weigher. Said oath or affirmation shall be conspicuously posted in the weigh office.

(3) The ~~((weighman))~~ weigher and check ~~((weighman))~~ weigher employed at any mine shall subscribe an oath or affirmation before a ~~((justice of the peace))~~ district judge, or other officer authorized to administer oaths, in form as follows, to wit: (Date) . . . . . I, . . . . . depose and say that I will do justice, as ~~((weighman))~~ weigher, between the employer and employee, and weigh correctly the output of coal from the mine or mines, and keep an accurate record thereof, posting a daily bulletin of such weights for the examination of the employee.

(Sign here) . . . . .

Sworn to and subscribed before me, a . . . . . on the day and dates above written.

(4) Any weigher of coal, check ~~((weighman))~~ weigher, or any person so employed, who shall knowingly violate any of the provisions of this section or ~~((the preceding section))~~ RCW 78.40.720, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment, proceedings to be instituted in any court having jurisdiction therein.

Sec. 238. Section 80.04.400, chapter 14, Laws of 1961 as amended by section 35, chapter 199, Laws of 1969 ex. sess. and RCW 80.04.400 are each amended to read as follows:

Actions to recover penalties under this title shall be brought in the name of the state of Washington in the superior court of Thurston county, or in the superior court of any county in or through which such public service company may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this title shall be paid into the treasury of the state and credited to the state general fund or such other fund as provided by law: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 239. Section 80.24.040, chapter 14, Laws of 1961 as amended by section 36, chapter 199, Laws of 1969 ex. sess. and RCW 80.24.040 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall within thirty days be paid to the state treasurer and by ~~((him))~~ the state treasurer deposited to the public service revolving fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 240. Section 80.24.050, chapter 14, Laws of 1961 as last amended by section 1, chapter 198, Laws of 1979 ex. sess. and RCW 80.24.050 are each amended to read as follows:

Every person, firm, company or corporation, or the officers, agents or employees thereof, failing or neglecting to pay the fees herein required shall be guilty of a misdemeanor. All fines and penalties collected under the provisions of this chapter shall be deposited into the public service revolving fund of the state treasury: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 241. Section 81.04.400, chapter 14, Laws of 1961 as amended by section 38, chapter 199, Laws of 1969 ex. sess. and RCW 81.04.400 are each amended to read as follows:

Actions to recover penalties under this title shall be brought in the name of the state of Washington in the superior court of Thurston county, or in the superior court of any county in or through which such public service company may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this title shall be paid into the treasury of the state and credited to the state general fund or such other fund as provided by law: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 242. Section 81.24.080, chapter 14, Laws of 1961 as amended by section 2, chapter 198, Laws of 1979 ex. sess. and RCW 81.24.080 are each amended to read as follows:

Every person, firm, company or corporation, or the officers, agents or employees thereof, failing or neglecting to pay the fees herein required shall be guilty of a misdemeanor. All fines and penalties collected under the provisions of this chapter shall be deposited into the public service revolving fund of the state treasury: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ~~((justice))~~ district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 243. Section 82.24.140, chapter 15, Laws of 1961 as amended by section 65, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.24.140 are each amended to read as follows:

In all cases of seizure of any property made subject to forfeiture under the provisions of this chapter, which, in the opinion of the person making the seizure, is of the appraised value of one hundred dollars, or more, the said person shall proceed as follows:

(1) He or she shall cause a list containing a particular description of the property seized to be prepared in duplicate, and an appraisal thereof to be made by three sworn appraisers to be selected by him or her, who shall be respectable and disinterested citizens of this state, residing within the county where the seizure was made. Said list and appraisal shall be properly attested by the said person and the said appraisers, for which service each of the said appraisers shall be allowed the sum of one dollar per day for not exceeding two days, to be paid as other costs;

(2) If the property seized is believed, by the person making the seizure, to be of less value than one hundred dollars, no appraisal shall be made;

(3) The person making the seizure shall proceed to give notice thereof for five days, in writing, at three places in the county where the seizure is made. One of the notices shall be posted at the county court house; another at the place where the goods were seized; and the other at some public place. The notice shall describe the property seized, and the time and place and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized, and shall require any person claiming it to appear and make such claim in writing, within five days from the date of the first posting of such notice. Such person making the seizure shall also deliver to the person from whom the property was seized, and also to the owner, if known, a copy of the said notice;

(4) Any person claiming the said property seized as contraband, within the time specified in the notice, may file with the department of revenue a claim, in writing, stating his or her interest in the property seized, and may execute a bond to the department of revenue in a penal sum equal to double the value of the property so seized, but in no case shall said bond be less than one hundred dollars, with sureties to be approved by the clerk of the superior court in the county in which the property is seized, conditioned that in case of condemnation of the property seized, the obligor shall pay to the department of revenue the full value of the property so seized, and all costs and expenses of the proceedings to obtain such condemnation, including a reasonable attorney's fee. And, upon delivery of such bond to the department of revenue, it shall transmit the same with the duplicate list or description of the property seized to the prosecuting attorney of the county in which such seizure was made, and said prosecuting attorney shall prosecute the case to secure the forfeiture of said property in the court having jurisdiction. Upon filing the bond aforesaid, the said property shall be delivered

to the claimant pending the outcome of the case: PROVIDED, That he or she shall at once affix the required stamps thereto;

(5) If no claim is interposed and no bond is filed within the time above specified, such property shall be forfeited, without further proceedings, and the same shall be sold as herein provided, and the proceeds of sale when received by the department of revenue shall be paid into the state treasury as are other funds collected: PROVIDED, That in seizures of property of less value than one hundred dollars, the same may be advertised by the department of revenue with other quantities at Olympia or at any other city or town in which a branch office of the department of revenue is located and disposed of as hereinbefore provided;

(6) In proceedings to secure a confiscation of the property hereinbefore mentioned, where the value of the goods seized at one time is one hundred dollars, or less, the ((justice)) district court of the place where the property is situated, shall have jurisdiction to try the cause. Where the value of the property seized at one time is more than one hundred dollars, then the superior court of the county where the property is seized shall have jurisdiction to try the cause.

The proceedings against property seized, according to the provisions of this chapter, shall be considered a proceeding in rem unless otherwise herein provided.

Within ten days after filing the bond provided for in subdivision (4) hereof, the claimant shall file a petition in the court having jurisdiction of the cause, and the department of revenue or other party authorized to prosecute the confiscation of said property, shall plead to it as if it were an ordinary action at law, and the same rules of pleading and procedure applicable to actions in the ((justice court)) district or superior court shall be observed in this action, and the costs shall be adjudged as in other actions: PROVIDED, HOWEVER, That neither the state, nor the department of revenue, nor any other person representing the state shall be liable for the costs in event the court shall not confiscate the property in controversy.

Sec. 244. Section 82.24.190, chapter 15, Laws of 1961 as amended by section 67, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.24.190 are each amended to read as follows:

When the department of revenue has good reason to believe that any of the articles taxed herein are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter or regulations issued under authority hereof, it may make affidavit of such fact, describing the place or thing to be searched, before any ((justice of the peace, mayor of any city, town or village, or)) judge of any court in this state, and such ((justice, mayor or)) judge shall issue a search warrant directed to the sheriff, any ((constable)) deputy, police officer, or duly authorized agent of the department of revenue commanding him or her diligently to search any building,

room in a building, place or vehicle as may be designated in the affidavit and search warrant, and to seize such tobacco so possessed and to hold the same until disposed of by law, and to arrest the person in possession or control thereof. If upon the return of such warrant, it shall appear that any of the articles taxed herein, unlawfully possessed, were seized, the same shall be sold as provided in this chapter.

Sec. 245. Section 82.36.420, chapter 15, Laws of 1961 as amended by section 40, chapter 199, Laws of 1969 ex. sess. and RCW 82.36.420 are each amended to read as follows:

Fifty percent of all fines and forfeitures imposed in any criminal proceeding by any court of this state for violations of the penal provisions of this chapter shall be paid to the current expense fund of the county wherein collected and the remaining fifty percent shall be paid into the motor vehicle fund of the state: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a (~~justice~~) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. All fees and penalties collected by the director under the penalty provisions of this chapter shall be paid into the motor vehicle fund.

Sec. 246. Section 7, chapter 221, Laws of 1963 and RCW 87.84.090 are each amended to read as follows:

The directors may enact rules and regulations, the violation of which shall be punishable as a misdemeanor, and the (~~justices of the peace~~) district judges in said district shall have exclusive jurisdiction over such offenses. Penalty for violation shall not exceed a five hundred dollar fine or six months in jail: PROVIDED, That where a violation is designated a misdemeanor, the directors shall submit such rules and regulations to the county commissioners of the county or counties in which the district is located who shall review same and approve or disapprove thereof. Rules or regulations disapproved by county commissioners within thirty days of submission shall be of no force or effect.

Sec. 247. Section 10, chapter 18, Laws of 1935 as last amended by section 8, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.150 are each amended to read as follows:

(1) In all cases where no other penalty is prescribed in this chapter, any violation of this chapter or of any rule or regulation of the board shall be punished as a gross misdemeanor, and all violations may be prosecuted in any court of competent jurisdiction in any county where the offense or any part thereof was committed. In any case where the offense was committed upon a ship, boat or vessel, and there is doubt as to the proper county, the same may be prosecuted in any county through any part of which the ship,

boat or vessel passed, during the trip upon which the offense was committed. All fines collected for any violation of this chapter or any rule or regulation of the board shall within thirty days be paid by the official collecting the same to the state treasurer and shall be credited to the pilotage account: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a ((justice)) district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) Notwithstanding any other penalty imposed by this section, any person who shall violate the provisions of this chapter, shall be liable to a maximum civil penalty of five thousand dollars. The board may request the prosecuting attorney of the county in which any violation of this chapter occurs to bring an action for imposing the civil penalties provided for in this subsection.

Moneys collected from civil penalties shall be deposited in the pilotage account.

(3) Any master of a vessel who shall knowingly fail to inform the pilot dispatched to said vessel or any agent, owner, or operator, who shall knowingly fail to inform the pilot dispatcher, or any dispatcher who shall knowingly fail to inform the pilot actually dispatched to said vessel of any special directions mandated by the coast guard captain of the port under authority of the Ports and Waterways Safety Act of 1972, as amended, for the handling of such vessel shall be guilty of a gross misdemeanor.

Sec. 248. Section 5, page 386, Laws of 1854 as amended by section 3246, Code of 1881 and RCW 88.20.050 are each amended to read as follows:

In case the parties cannot agree on the amount to be paid the taker-up, or the ownership, and the sum claimed is less than one hundred dollars, the owner may file a complaint, setting out the facts, and the ((justice)) judge, on hearing, shall decide the same with a jury, or not, and in the same manner as is provided in ordinary civil actions before a ((justice of the peace)) district judge. If the amount claimed by the taker-up is more than one hundred dollars, the owner shall file his or her complaint in the superior court of the county where the property is, and trial shall be had as in other civil actions; but if the taker-up claims more than one hundred dollars, and a less amount is awarded him or her, he or she shall be liable for all the costs in the superior court; and in all cases where the taker-up shall recover a less amount than has been tendered him or her by the owner or claimant, previous to filing his or her complaint, he or she shall pay the costs before the ((justice)) district judge or in the superior court: PROVIDED, That in all cases the owner, after filing his or her complaint before a ((justice of the peace)) district judge, shall be entitled to the possession of such water craft, upon giving bond, with security to the satisfaction of the ((justice)) judge, in double the amount claimed by the taker-up. When the complaint is filed

in the superior court, the clerk thereof shall approve the security of the bond. The bond shall be conditioned to pay such costs as shall be awarded to the finder or taker-up of such scow, boat, skiff, canoe, or other water craft.

Sec. 249. Section 7, page 387, Laws of 1854 as amended by section 3247, Code of 1881 and RCW 88.20.070 are each amended to read as follows:

In case such water craft is of less value than one hundred dollars, and is not claimed within three months, the taker-up may apply to a (~~justice of the peace~~) district judge of the (~~precinct~~) district where the property is, who, upon being satisfied that due notice has been given, and that the owner cannot, with reasonable diligence be found, shall order the scow, boat, skiff, canoe, or other water craft to be sold, and after paying the taker-up such sum as he or she shall be entitled to, and the costs, the balance shall be paid the county treasurer as is provided in the case of the sale of estrays. In case the scow, boat, skiff, canoe, or other water craft, exceeds one hundred dollars, and is not claimed within six months, application shall be made to the superior court of the county, and the same proceeding shall be thereupon had. All sales made under this section shall be conducted as sales of personal property on execution.

Sec. 250. Section 12, chapter 117, Laws of 1917 and RCW 90.03.090 are each amended to read as follows:

The water master shall have the power, within his or her district, to arrest any person in the act of violating any of the provisions of this chapter and to deliver such person promptly into the custody of the sheriff or other competent officer within the county and immediately upon such delivery the water master making the arrest shall, in writing and upon oath, make complaint before the proper (~~justice of the peace~~) district judge against the person so arrested.

NEW SECTION. Sec. 251. The following acts or parts of acts are each repealed:

(1) Section 176, page 261, Laws of 1854, section 193, page 383, Laws of 1873, section 1895, Code of 1881, section 5, chapter 11, Laws of 1891 and RCW 10.04.060;

(2) Section 174, page 260, Laws of 1854, section 191, page 383, Laws of 1873, section 1893, Code of 1881, section 4, chapter 11, Laws of 1891 and RCW 10.04.080;

(3) Sections 174, 175, page 260, Laws of 1854, section 192, page 383, Laws of 1873, section 1894, Code of 1881, section 3, chapter 11, Laws of 1891 and RCW 10.04.090;

(4) Section 8, chapter 29, Laws of 1891 and RCW 10.10.040;

(5) Section 35, page 108, Laws of 1854, section 227, page 395, Laws of 1873, section 1928, Code of 1881 and RCW 10.16.050;

(6) Section 40, page 109, Laws of 1854, section 232, page 396, Laws of 1873, section 1933, Code of 1881 and RCW 10.16.060;

(7) Section 32, page 107, Laws of 1854, section 224, page 395, Laws of 1873, section 1926, Code of 1881, section 12, chapter 11, Laws of 1891 and RCW 10.16.130;

(8) Section 42, page 109, Laws of 1854, section 234, page 397, Laws of 1873, section 1935, Code of 1881 and RCW 10.16.135;

(9) Section 4, page 455, Laws of 1890 and RCW 16.12.040;

(10) Section 5, page 455, Laws of 1890 and RCW 16.12.050;

(11) Section 6, page 455, Laws of 1890 and RCW 15.12.060;

(12) Section 2, chapter 158, Laws of 1943 and RCW 26.20.040;

(13) Section 36.49.080, chapter 4, Laws of 1963 and RCW 36.49.080;

(14) Section 64, chapter 80, Laws of 1947 and RCW 41.32.640;

(15) Section 58, chapter 175, Laws of 1895 and RCW 45.28.080; and

(16) Section 59, chapter 175, Laws of 1895 and RCW 45.28.090.

NEW SECTION. Sec. 252. The following acts or parts of acts are each repealed, effective January 1, 1988:

(1) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.010;

(2) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.020;

(3) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.030;

(4) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.040;

(5) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.050;

(6) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.060;

(7) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.070; and



(8) Section 181, page 262, Laws of 1854, section 181, page 281, Laws of 1860, section 200, page 385, Laws of 1873, section 1902, Code of 1881, section 7, chapter 11, Laws of 1891 and RCW 10.07.080.

Passed the Senate January 21, 1987.

Passed the House April 13, 1987.

Approved by the Governor April 25, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 25, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 143 and 214, Senate Bill No. 5017, entitled:

"AN ACT Relating to conforming the statutes involving district courts to reflect modern terminology and practices."

Sections 143 and 214 are identical to sections 4 and 18 of Senate Bill No. 5015. Since I have signed Senate Bill No. 5015, sections 143 and 214 of this bill are duplicative.

With the exceptions of sections 143 and 214, Senate Bill No. 5017 is approved."

---

## CHAPTER 203

[House Bill No. 194]

### METROPOLITAN PARK DISTRICTS—TREASURER

AN ACT Relating to treasurers of metropolitan park districts; and amending RCW 35.61.180.

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

Sec. 1. Section 35.61.180, chapter 7, Laws of 1965 as amended by section 55, chapter 167, Laws of 1983 and RCW 35.61.180 are each amended to read as follows:

The county treasurer of the county within which all, or the major portion, of the district lies shall be the ex officio treasurer of a metropolitan park district, but shall receive no compensation other than his or her regular salary for receiving and disbursing the funds of a metropolitan park district.

A metropolitan park district may designate someone other than the county treasurer who has experience in financial or fiscal affairs to act as the district treasurer if the board has received the approval of the county treasurer to designate this person. If the board designates someone other than the county treasurer to act as the district treasurer, the board shall

purchase a bond from a surety company operating in the state that is sufficient to protect the district from loss.

Passed the House March 12, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

## CHAPTER 204

[House Bill No. 110]

### ALCOHOL SALES TO MINORS—LANGUAGE IN DOMESTIC RELATIONS CODE DELETED TO ELIMINATE INCONSISTENCY WITH LIQUOR CODE

AN ACT Relating to the sale of alcohol to minors; and amending RCW 26.28.080.

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

Sec. 1. Sections 1, 3, and 4, chapter 126, Laws of 1895 as last amended by section 37, chapter 292, Laws of 1971 ex. sess. and RCW 26.28.080 are each amended to read as follows:

Every person who:

(1) Shall admit to or allow to remain in any concert saloon, or in any place owned, kept, or managed by him where intoxicating liquors are sold, given away or disposed of—except a restaurant or dining room, any person under the age of eighteen years; or,

(2) Shall admit to, or allow to remain in any dance-house, public pool or billiard hall, or in any place of entertainment injurious to health or morals, owned, kept or managed by him, any person under the age of eighteen years; or,

(3) Shall suffer or permit any such person to play any game of skill or chance, in any such place, or in any place adjacent thereto, or to be or remain therein, or admit or allow to remain in any reputed house of prostitution or assignation, or in any place where opium or any preparation thereof, is smoked, or where any narcotic drug is used, any persons under the age of eighteen years; or,

(4) Shall sell or give, or permit to be sold or given to any person under the age of ~~((twenty-one years any intoxicating liquor, or to any person under the age of))~~ eighteen years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form; or

(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol;

Shall be guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

Passed the House February 25, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

## CHAPTER 205

[Engrossed Senate Bill No. 5265]

### BEER RETAILER LICENSEES—PURCHASE RESTRICTIONS MODIFIED

AN ACT Relating to the purchase of beer by retail beer licensees; and amending RCW 66.28.070.

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

Sec. 1. Section 23-H added to chapter 62, Laws of 1933 ex sess. by section 1, chapter 217, Laws of 1937 and RCW 66.28.070 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for any retail beer licensee to purchase beer, except from a duly licensed beer wholesaler, and it shall be unlawful for any brewer or beer wholesaler to purchase beer, except from a duly licensed beer wholesaler or beer importer.

(2) A beer retailer licensee may purchase beer from a government agency which has lawfully seized beer from a licensed beer retailer, or from a board-authorized retailer, or from a licensed retailer which has discontinued business if the wholesaler has refused to accept beer from that retailer for return and refund. Beer purchased under this subsection shall meet the quality standards set by its manufacturer.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

## CHAPTER 206

[Substitute House Bill No. 153]

### ABUSE OR NEGLECT OF DEVELOPMENTALLY DISABLED PERSONS— REPORTING REQUIREMENTS

AN ACT Relating to reporting abuse or neglect of developmentally disabled persons; and amending RCW 26.44.010, 26.44.020, 26.44.030, 26.44.040, 26.44.050, 26.44.070, and 26.44.053.

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

Sec. 1. Section 1, chapter 13, Laws of 1965 as last amended by section 1, chapter 97, Laws of 1984 and RCW 26.44.010 are each amended to read as follows:

The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children: PROVIDED, That such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions: PROVIDED FURTHER, That this chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

Adult dependent or developmentally disabled persons not able to provide for their own protection through the criminal justice system shall also be afforded the protection offered children through the reporting and investigation requirements mandated in this chapter.

Sec. 2. Section 2, chapter 13, Laws of 1965 as last amended by section 2, chapter 97, Laws of 1984 and RCW 26.44.020 are each amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social worker" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Child abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein: PROVIDED, That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare, and safety.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: PROVIDED, That no persons reporting injury, abuse, or neglect to an adult dependent person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and

the person reporting believes in good faith that the adult dependent person has been found legally incompetent pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71.20.016.

Sec. 3. Section 3, chapter 13, Laws of 1965 as last amended by section 1, chapter 145, Laws of 1986 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 or developmentally disabled person has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

(2) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(3) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident 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 or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's

investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them.

(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.

(6) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(7) Persons or agencies exchanging information under subsection (6) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

Sec. 4. Section 4, chapter 13, Laws of 1965 as last amended by section 4, chapter 97, Laws of 1984 and RCW 26.44.040 are each amended to read as follows:

An immediate oral report shall be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, shall be followed by a report in writing. Such reports shall contain the following information, if known:

(1) The name, address, and age of the child or adult dependent or developmentally disabled person;

(2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child or the residence of the adult dependent or developmentally disabled person;

(3) The nature and extent of the injury or injuries;

(4) The nature and extent of the neglect;

(5) The nature and extent of the sexual abuse;

(6) Any evidence of previous injuries, including their nature and extent; and

(7) Any other information which may be helpful in establishing the cause of the child's or adult dependent or developmentally disabled person's death, injury, or injuries and the identity of the perpetrator or perpetrators.

Sec. 5. Section 5, chapter 13, Laws of 1965 as last amended by section 5, chapter 97, Laws of 1984 and RCW 26.44.050 are each amended to read as follows:

Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. Notwithstanding the provisions of RCW 13.04-.130 as now or hereafter amended, the law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child or adult dependent or developmentally disabled person for the purpose of providing documentary evidence of the physical condition of the child, adult dependent or developmentally disabled person.

Sec. 6. Section 6, chapter 35, Laws of 1969 ex. sess. as last amended by section 3, chapter 269, Laws of 1986 and RCW 26.44.070 are each amended to read as follows:

The department shall maintain a central registry of reported cases of child abuse or abuse of an adult dependent or developmentally disabled person and shall adopt such rules and regulations as necessary in carrying out the provisions of this section. Records in the central registry shall be considered confidential and privileged and will not be available except upon court order to any person or agency except (1) law enforcement agencies as defined in this chapter in the course of an investigation of alleged abuse or neglect; (2) protective services workers or juvenile court personnel who are investigating reported incidents of abuse or neglect; (3) department of social and health services personnel who are investigating the character and/or suitability of an agency and other persons who are applicants for licensure, registration, or certification, or applicants for employment with such an agency or persons, or under contract to or employed by an agency or persons directly responsible for the care and treatment of children, expectant mothers, or adult dependent or developmentally disabled persons pursuant to chapter 74.15 RCW; (4) department of social and health services personnel who are investigating the character, suitability, and competence of persons being considered for employment with the department in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons pursuant to chapters 43.20A and 41.06 RCW; (5) department of social and health services personnel who are investigating the character or suitability of any persons with whom children



may be placed under the interstate compact on the placement of children, chapter 26.34 RCW; (6) physicians who are treating the child or adult dependent or developmentally disabled person or family; (7) any child or adult dependent or developmentally disabled person named in the registry who is alleged to be abused or neglected, or his or her guardian ad litem and/or attorney; (8) a parent, guardian, or other person legally responsible for the welfare and safety of the child or adult dependent or developmentally disabled person named in the registry; (9) any person engaged in a bona fide research purpose, as determined by the department, according to rules and regulations, provided that information identifying the persons of the registry shall remain privileged; and (10) any individual whose name appears on the registry shall have access to his or her own records. Those persons or agencies exempted by this section from the confidentiality of the records of the registry shall not further disseminate or release such information so provided to them and shall respect the confidentiality of such information, and any violation of this section shall constitute a misdemeanor.

Sec. 7. Section 8, chapter 217, Laws of 1975 1st ex. sess. and RCW 26.44.053 are each amended to read as follows:

(1) In any judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect the court shall appoint a guardian ad litem for the child: PROVIDED, That the requirement of a guardian ad litem shall be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, when the court finds upon clear, cogent and convincing evidence that an incident of child abuse or neglect has occurred, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist or psychiatrist conducting such an examination may be required to testify in the dispositional hearing concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No testimony given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be a child subjected to abuse or neglect shall be a party to any proceeding

that may as a practical matter impair or impede such person's interest in custody or control of his or her child.

Passed the House February 2, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

---

**CHAPTER 207**

[House Bill No. 200]

**PUBLIC UTILITY TAX ON SEWERAGE COLLECTION BUSINESSES CLARIFIED**

AN ACT Relating to sewerage collection under the public utility tax; and amending RCW 82.16.050.

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

Sec. 1. Section 82.16.050, chapter 15, Laws of 1961 as last amended by section 3, chapter 9, Laws of 1982 2nd ex. sess. and RCW 82.16.050 are each amended to read as follows:

In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: PROVIDED, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, gas distribution or other public service businesses which furnish water, gas or any other commodity, other than electrical energy, in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: PROVIDED, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;

(10) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage.

Passed the House March 2, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

---

## CHAPTER 208

[House Bill No. 203]

### TAXES—GENERAL PROVISIONS REGARDING NOTICE AND ORDER TO WITHHOLD AND DELIVER PROPERTY DUE OR OWED REVISED

AN ACT Relating to the notice and order to withhold and deliver property due or owned by a taxpayer; amending RCW 82.32.235; and adding a new section to chapter 82.32 RCW.

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

Sec. 1. Section 11, chapter 28, Laws of 1963 ex. sess. as last amended by section 85, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.32.235 are each amended to read as follows:

In addition to the remedies provided in this chapter the department is hereby authorized to issue to any person, or to any political subdivision or department of the state, a notice and order to withhold and deliver property of any kind whatsoever when there is reason to believe that there is in the possession of such person, political subdivision or department, property

which is or shall become due, owing, or belonging to any taxpayer against whom a warrant has been filed.

The notice and order to withhold and deliver shall be served by the sheriff of the county wherein the service is made, or by his deputy, or by any duly authorized representative of the department, provided that service by such persons may also be made by certified mail, with return receipt requested, upon those persons, or political subdivision or department, to whom the notice and order to withhold and deliver is directed. Any person, or any political subdivision or department upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice.

In the event there is in the possession of any such person or political subdivision or department, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the department of revenue or its duly authorized representative upon demand to be held in trust by the department for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, there shall be furnished a good and sufficient bond satisfactory to the department conditioned upon final determination of liability.

Should any person or political subdivision fail to make answer to an order to withhold and deliver within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against such person or political subdivision for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW to read as follows:

Upon service, the notice and order to withhold and deliver shall constitute a continuing lien on property of the taxpayer and upon wages due, owing, or belonging to the taxpayer. The department shall include in the caption of the notice and order to withhold and deliver "continuing lien." The effective date of a notice and order to withhold and deliver served under RCW 82.32.235 shall be the date of service thereof.

Passed the House March 2, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

## CHAPTER 209

[House Bill No. 250]

UTILITIES AND TRANSPORTATION COMMISSION—AUTHORITY REGARDING  
ACTION ON PERMITS AFTER HEARINGS MODIFIED

AN ACT Relating to hearings by the utilities and transportation commission; and amending RCW 81.80.280.

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

Sec. 1. Section 81.80.280, chapter 14, Laws of 1961 and RCW 81.80-.280 are each amended to read as follows:

Permits may be canceled, suspended, altered or amended by the commission (~~(after notice and hearing)~~) upon complaint by any interested party, or upon ~~((its))~~ the commission's own motion after notice and opportunity for hearing, when the permittee or his or its agent has repeatedly violated this chapter, the rules and regulations of the commission or the motor laws of this state or of the United States, or the permittee has made unlawful rebates or has not conducted his operation in accordance with the permit granted him. Any person may at the instance of the commission be enjoined from any violation of the provisions of this chapter, or any order, rule or regulation made by the commission pursuant to the terms hereof. If such suit be instituted by the commission no bond shall be required as a condition to the issuance of such injunction.

Passed the House March 4, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

## CHAPTER 210

[House Bill No. 399]

INDUSTRIAL INSURANCE—BUILDING INDUSTRY PREMIUMS BASE RATE  
COMPUTATION REVISED

AN ACT Relating to industrial insurance premiums; and repealing RCW 51.16.050.

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

NEW SECTION. Sec. 1. Section 51.16.050, chapter 23, Laws of 1961, section 1, chapter 274, Laws of 1971 ex. sess. and RCW 51.16.050 are each repealed.

Passed the House February 25, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

CHAPTER 211

[Senate Bill No. 5008]

PROPERTY TAX PAYMENTS—CHECK PAYEE INFORMATION REVISED

AN ACT Relating to county property tax payments; amending RCW 84.56.020; and providing an effective date.

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

Sec. 1. Section 84.56.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 131, Laws of 1984 and RCW 84.56.020 are each amended to read as follows:

The county treasurer shall be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. All taxes upon real and personal property made payable by the provisions of this title shall be due and payable to the treasurer as aforesaid on or before the thirtieth day of April and shall be delinquent after that date: PROVIDED, That each tax statement shall include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . . County" or other appropriate office, but tax statements shall not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual: PROVIDED FURTHER, That when the total amount of tax on personal property or on any lot, block or tract of real property payable by one person is ten dollars or more, and if one-half of such tax be paid on or before the said thirtieth day of April, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date: PROVIDED FURTHER, That when the total amount of tax on any lot, block or tract of real property payable by one person is ten dollars or more, and if one-half of such tax be paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of such tax, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date.

Delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the tax, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

- (1) A penalty of three percent shall be assessed on the amount of tax delinquent on May 31st of the year in which the tax is due.

(2) An additional penalty of eight percent shall be assessed on the total amount of tax delinquent on November 30th of the year in which the tax is due.

(3) Penalties under this section shall not be assessed on taxes that were first delinquent prior to 1982.

For purposes of this chapter, "interest" means both interest and penalties.

All collections of interest on delinquent taxes shall be credited to the county current expense fund; but the cost of foreclosure and sale of real property, and the fees and costs of distraint and sale of personal property, for delinquent taxes, shall, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and shall be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1988.

Passed the Senate April 20, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 26, 1987.

Filed in Office of Secretary of State April 26, 1987.

## CHAPTER 212

[Substitute Senate Bill No. 6048]

## CIVIL ACTIONS AND PROCEDURES—REVISIONS

AN ACT Relating to mandatory arbitration; frivolous lawsuits; release of patients in the mental health system; immunity for elected and appointed officials, volunteer emergency personnel, corporate directors, design professionals, nonprofit corporations, and hospitals; studies on excess insurance, settlement conferences, examination of jurors, appellate evaluation conferences, discovery conferences, and offers of settlement; consortium; limitation of actions involving felonies and intoxication; statute of limitations on health care; physician-patient privilege waiver; attorneys' fees; and workers' compensation liens; amending RCW 7.06.020, 7.06.040, 4.84.185, 71.05.120, 4.24.310, 18.71.210, 23A.12.020, 23A.08.025, 24.03.025, 23.86-.050, 24.32.070, 23.86.030, 24.32.020, 24.06.025, 24.06.035, 23A.04.010, 4.22.020, 4.24.420, 5.40.060, 4.24.264, 7.70.090, 4.16.350, 5.60.060, 4.24.005, 51.24.030, and 4.22.060; adding a new section to chapter 4.24 RCW; adding a new section to chapter 51.24 RCW; creating new sections; repealing RCW 2.08.067, 4.24.268, and 4.96.040; providing an effective date; and declaring an emergency.

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

## PART I

## MANDATORY ARBITRATION

Sec. 101. Section 2, chapter 103, Laws of 1979 as last amended by section 3, chapter 265, Laws of 1985 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))~~ fifteen thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges thereof, up to ~~((twenty-five))~~ thirty-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.

Sec. 102. Section 4, chapter 103, Laws of 1979 and RCW 7.06.040 are each amended to read as follows:

The ~~((qualifications and))~~ appointment of arbitrators shall be prescribed by rules adopted by the supreme court. An arbitrator must be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer arbitrator. The supreme court may prescribe by rule additional qualifications of arbitrators.



Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the superior court.

NEW SECTION. Sec. 103. Section 5, chapter 357, Laws of 1985, section 1, chapter 95, Laws of 1986 and RCW 2.08.067 are each repealed.

## PART II FRIVOLOUS LAWSUITS

Sec. 201. Section 1, chapter 127, Laws of 1983 and RCW 4.84.185 are each amended to read as follows:

In any civil action, the court having jurisdiction may, upon ~~((final judgment and))~~ written findings by the ~~((trial))~~ judge that the action, counterclaim, cross-claim, third party claim, or defense was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action, counterclaim, cross-claim, third party claim, or defense. This determination shall be made upon ~~((post-trial))~~ motion ~~((, and))~~ by the prevailing party after an order of dismissal, order on summary judgment, or final judgment after trial or other final order terminating the action as to the prevailing party. In no event may such motion be filed more than thirty days after entry of the order. The ~~((trial))~~ judge shall consider the action, counterclaim, cross-claim, third party claim, or defense as a whole.

The provisions of this section apply unless otherwise specifically provided by statute.

## PART III RELEASE OF PATIENTS IN THE MENTAL HEALTH SYSTEM

Sec. 301. Section 17, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.120 are each amended to read as follows:

(1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any county designated mental health professional, nor the state, a unit of local government, or an evaluation and treatment facility shall be civilly or criminally liable for performing ~~((his))~~ duties pursuant to this chapter with regard to the decision of whether to admit, release, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence

against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

#### PART IV

#### IMMUNITY FOR ELECTED AND APPOINTED OFFICIALS

NEW SECTION. Sec. 401. A new section is added to chapter 4.24 RCW to read as follows:

(1) An appointed or elected official or member of the governing body of a public agency is immune from civil liability for damages for any discretionary decision or failure to make a discretionary decision within his or her official capacity, but liability shall remain on the public agency for the tortious conduct of its officials or members of the governing body.

(2) For purposes of this section:

(a) "Public agency" means any state agency, board, commission, department, institution of higher education, school district, 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.

(b) "Governing body" means the policy-making body of a public agency.

NEW SECTION. Sec. 402. The following acts of parts of acts are each repealed:

- (1) Section 904, chapter 305, Laws of 1986 and RCW 4.24.268; and
- (2) Section 2, chapter 190, Laws of 1981 and RCW 4.96.040.

#### PART V

#### VOLUNTEER FIREMEN, POLICEMEN, AND EMERGENCY MEDICAL TECHNICIANS

Sec. 501. Section 2, chapter 58, Laws of 1975 as amended by section 20, chapter 443, Laws of 1985 and RCW 4.24.310 are each amended to read as follows:

For the purposes of RCW 4.24.300 the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Compensation" has its ordinary meaning but does not include nominal payments, reimbursement for expenses, or pension benefits, nor does it include payment made to volunteer part-time and volunteer on-call personnel of fire departments, fire districts, ambulance districts, police departments, or any emergency response organizations.

(2) "Emergency care" means care, first aid, treatment, or assistance rendered to the injured person in need of immediate medical attention and includes providing or arranging for further medical treatment or care for

the injured person. Except with respect to the injured person or persons being transported for further medical treatment or care, the immunity granted by RCW 4.24.300 does not apply to the negligent operation of any motor vehicle.

(3) "Scene of an emergency" means the scene of an accident or other sudden or unexpected event or combination of circumstances which calls for immediate action (~~((other than in a hospital, doctor's office, or other place where qualified medical personnel practice or are employed))~~).

Sec. 502. Section 3, chapter 305, Laws of 1971 ex. sess. as last amended by section 4, chapter 68, Laws of 1986 and RCW 18.71.210 are each amended to read as follows:

No act or omission of any physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, as defined in RCW 18.71.200 as now or hereafter amended, ~~((or of))~~ any emergency medical technician as defined in RCW 18.73.030, or any first responder under RCW 18.73.205, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(1) The trained mobile intensive care paramedic, intravenous therapy technician, ~~((or))~~ airway management technician, emergency medical technician, or first responder;

(2) The medical program director;

(3) The supervising physician(s);

(4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(5) Any training agency or training physician(s);

(6) Any licensed ambulance service; or

(7) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained mobile intensive care paramedic, intravenous therapy technician, ~~((or))~~ airway management technician, emergency medical technician, or first responder, as the case may be.

This section shall not relieve a physician or a hospital of any duty otherwise imposed by law upon such physician or hospital for the designation or training of a physician's trained mobile intensive care paramedic, intravenous therapy technician, ~~((or))~~ airway management technician, emergency medical technician, or first responder, nor shall this section relieve any individual or other entity listed in this section of any duty otherwise imposed by law for the provision or maintenance of equipment to be

used by the physician's trained mobile intensive care paramedics, intravenous therapy technicians, ~~((or))~~ airway management technicians, emergency medical technicians, or first responders.

This section shall not apply to any act or omission which constitutes either gross negligence or wilful or wanton ~~((conduct))~~ misconduct.

#### **\*PART VI**

#### **FEASIBILITY STUDY ON EXCESS INSURANCE**

***NEW SECTION. Sec. 601. The risk manager shall conduct or contract for a feasibility study on the cost and benefits of the state of Washington offering, on an optional basis, excess insurance to its political subdivisions based upon sound actuarial principles and pricing.***

***For purposes of the study, it shall be assumed that: (1) Excess coverage can be offered only to those political subdivisions which meet sound risk management and loss control practices and which have instituted primary coverage, either through pooling arrangements, self-insurance, or an authorized insurer, that meets the underwriting requirements established by the risk manager; (2) the funding of an excess insurance program shall be on an actuarially sound basis and all premiums, assessments, and charges are to reflect this policy; (3) no amount in excess of five million dollars may be paid from an excess insurance program for the payment and settlement of any claims arising out of any single occurrence.***

***For purposes of the study, "excess insurance" means a contract by which the state insures, or procures a third person to insure, a political subdivision against property loss or liability in excess of its primary insurance.***

***A report on the results of the study shall be submitted not later than December 31, 1987, to the judiciary committees of the senate and house of representatives.***

***\*Sec. 601 was vetoed, see message at end of chapter.***

#### **PART VII**

#### **CORPORATE AND COOPERATIVE DIRECTORS LIABILITY**

Sec. 701. Section 55, chapter 53, Laws of 1965 as last amended by section 10, chapter 290, Laws of 1985 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 and if such shares are to be divided into classes, the number of shares of each class.

(5) 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.

(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.

(7) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

(8) The address of its initial registered office and the name of its initial registered agent at such address.

(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 are elected and qualify.

(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;

(c) The par value of any authorized shares or class of shares; ~~(and)~~

(d) Eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for conduct as a director, provided that such provisions shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, for conduct violating RCW 23A.08.450, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective; and

(e) 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. 702. Section 2, chapter 58, Laws of 1969 ex. sess. as last amended by section 1, chapter 99, Laws of 1980 and RCW 23A.08.025 are each amended to read as follows:

(1) As used in this section:

(a) "Director" means any person who is or was a director of the corporation and any person who, while a director of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan.

(b) "Corporation" includes any domestic or foreign predecessor entity of the corporation in a merger, consolidation, or other transaction in which the predecessor's existence ceased upon consummation of such transaction.

(c) "Expenses" includes attorneys' fees.

(d) "Official capacity" means: (i) When used with respect to a director, the office of director in the corporation, and (ii) when used with respect to a person other than a director as contemplated in subsection (10) of this section, the elective or appointive office in the corporation held by the officer or the employment or agency relationship undertaken by the employee or agent in behalf of the corporation, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

(e) "Party" includes a person who was, is, or is threatened to be, made a named defendant or respondent in a proceeding.

(f) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative.

(2) A corporation shall have power to indemnify any person made a party to any proceeding (other than a proceeding referred to in subsection (3) of this section) by reason of the fact that he is or was a director against judgments, penalties, fines, settlements and reasonable expenses actually incurred by him in connection with such proceeding if:

(a) He conducted himself in good faith, and: (i) In the case of conduct in his own official capacity with the corporation, he reasonably believed his conduct to be in the corporation's best interests, or (ii) in all other cases, he reasonably believed his conduct to be at least not opposed to the corporation's best interests; and

(b) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself be determinative that the person did not meet the requisite standard of conduct set forth in this subsection.

(3) A corporation shall have power to indemnify any person made a party to any proceeding by or in the right of the corporation by reason of the fact that he is or was a director against reasonable expenses actually

incurred by him in connection with such proceeding if he conducted himself in good faith, and:

(a) In the case of conduct in his official capacity with the corporation, he reasonably believed his conduct to be in its best interests; or

(b) In all other cases, he reasonably believed his conduct to be at least not opposed to its best interests;

**PROVIDED**, That no indemnification shall be made pursuant to this subsection in respect of any proceeding in which such person shall have been adjudged to be liable to the corporation.

(4) A director shall not be indemnified under subsection (2) or (3) of this section in respect of any proceeding (~~charging improper personal benefit to him~~), whether or not involving action in his official capacity, in which he shall have been adjudged to be liable on the basis that (~~personal benefit was improperly received by him~~) the director personally received a benefit in money, property, or services to which the director was not legally entitled.

(5) Unless otherwise limited by the articles of incorporation:

(a) A director who has been wholly successful, on the merits or otherwise, in the defense of any proceeding referred to in subsection (2) or (3) of this section shall be indemnified against reasonable expenses incurred by him in connection with the proceeding; and

(b) A court of appropriate jurisdiction, upon application of a director and such notice as the court shall require shall have authority to order indemnification in the following circumstances:

(i) If the court determines a director is entitled to reimbursement under (a) of this subsection, the court shall order indemnification, in which case the director shall be entitled to recover the expenses of securing such reimbursement; or

(ii) If the court determines that the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he has met the standards of conduct set forth in subsection (2) or (3) of this section or has been adjudged liable under subsection (4) of this section, the court may order such indemnification as the court shall deem proper, except that indemnification with respect to any proceeding referred to in subsection (3) of this section and with respect to any proceeding in which liability shall have been adjudged pursuant to subsection (4) of this section shall be limited to expenses.

A court of appropriate jurisdiction may be the same court in which the proceeding involving the director's liability took place.

(6) No indemnification under subsection (2) or (3) of this section shall be made by the corporation unless authorized in the specific case after a determination that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in the applicable subsection. Such determination shall be made:

(a) By the board of directors by a majority vote of a quorum consisting of directors not at the time parties to such proceeding; or

(b) If such a quorum cannot be obtained, then by a majority vote of a committee of the board, duly designated to act in the matter by a majority vote of the full board (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to such proceeding; or

(c) In a written opinion by legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services within the past three years for the corporation or any party to be indemnified, selected by the board of directors or a committee thereof by vote as set forth in (a) or (b) of this subsection, or if the requisite quorum of the full board cannot be obtained therefor and such committee cannot be established, by a majority vote of the full board (in which selection directors who are parties may participate); or

(d) By the shareholders.

Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by such legal counsel, authorization of indemnification and determination as to reasonableness of expenses shall be made in a manner specified in (c) of this subsection for the selection of such counsel. Shares held by directors who are parties to the proceeding shall not be voted on the subject matter under this subsection.

(7) Reasonable expenses incurred by a director who is party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of such proceeding:

(a) Upon receipt by the corporation of a written undertaking by or on behalf of the director to repay such amount if it shall ultimately be determined that the director has not met the standard of conduct necessary for indemnification by the corporation as authorized by this section; and

(b) Either:

(i) After a determination, made in the manner specified by subsection (6) of this section, that the information then known to those making the determination (without undertaking further investigation for purposes thereof) does not establish that indemnification would not be permissible under subsection (2) or (3) of this section; ~~(and)~~ or

~~((b))~~ (ii) Upon receipt by the corporation of

~~(i))~~ a written affirmation by the director of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation as authorized in this section~~((and~~

~~(ii) A written undertaking by or on behalf of the director to repay such amount if it shall ultimately be determined that he has not met such standard of conduct)).~~



The undertaking required by ~~((b)(ii))~~ (a) of this subsection shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make the repayment. Payments under this subsection may be authorized in the manner specified in subsection (6) of this section.

(8) ~~(No provision for the corporation to indemnify a director who is made a party to a proceeding, whether contained in the articles of incorporation, the bylaws, a resolution of shareholders or directors, an agreement, or otherwise (except as contemplated by subsection (11) of this section), shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent therewith. Nothing contained in this section shall limit the corporation's ability to reimburse expenses incurred by a director in connection with his appearance as a witness in a proceeding at a time when he has not been made a named defendant or respondent in the proceeding.))~~ Any corporation shall have power to make or agree to any further indemnity, including advance of expenses, to any director that is authorized by the articles of incorporation, any bylaw adopted or ratified by the shareholders, or any resolution adopted or ratified, before or after the event, by the shareholders, provided that no such indemnity shall indemnify any director from or on account of acts or omissions of such director finally adjudged to be intentional misconduct or a knowing violation of law, or from or on account of conduct of such director finally adjudged to be in violation of RCW 23A-.08.450, or from or on account of any transaction with respect to which it was finally adjudged that such director personally received a benefit in money, property, or services to which the director was not legally entitled. Unless the articles of incorporation, or any such bylaw or resolution provide otherwise, any determination as to any further indemnity shall be made in accordance with subsection (6) of this section. Each such indemnity may continue as to a person who has ceased to be a director and may inure to the benefit of the heirs, executors, and administrators of such a person.

(9) For purposes of this section, the corporation shall be deemed to have requested a director to serve an employee benefit plan where the performance by him of his duties to the corporation also imposes duties on, or otherwise involves services by, him to the plan or participants or beneficiaries of the plan; excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed "fines"; and action taken or omitted by him with respect to an employee benefit plan in the performance of his duties for a purpose reasonably believed by him to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

(10) Unless otherwise limited by the articles of incorporation:

(a) An officer of the corporation shall be indemnified as and to the extent provided in subsection (5) of this section for a director and shall be entitled to seek indemnification pursuant to subsection (5) of this section to the same extent as a director;

(b) A corporation shall have the power to provide indemnification including advances of expenses, to an officer, employee, or agent of the corporation to the same extent that it may indemnify directors pursuant to this section except that subsection (12) of this section shall not apply to any person other than a director; and

(c) A corporation, in addition, shall have the power to indemnify an officer who is not a director, as well as employees and agents of the corporation who are not directors, to such further extent, consistent with law, as may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

(11) A corporation shall have power to purchase and maintain insurance on behalf of any person who is, or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as an officer, employee or agent of another corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

(12) Any indemnification of a director in accordance with this section, including any payment or reimbursement of expenses, shall be reported to the shareholders with the notice of the next shareholders' meeting or prior thereto in a written report containing a brief description of the proceedings involving the director being indemnified and the nature and extent of such indemnification.

Sec. 703. Section 6, chapter 235, Laws of 1967 as amended by section 75, chapter 35, Laws of 1982 and RCW 24.03.025 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 number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including ~~((any provision for))~~ provisions regarding:

(a) Distribution of assets on dissolution or final liquidation;

(b) The definition, limitation, and regulation of the powers of the corporation, the directors, and the members, if any;

(c) Eliminating or limiting the personal liability of a director to the corporation or its members, if any, for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(d) Any provision which under this title is required or permitted to be set forth in the bylaws.

(5) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(6) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(7) The name and address of each incorporator.

(8) The name of any person or corporations to whom net assets are to be distributed in the event the corporation is dissolved.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

~~((8) The name of any persons or corporations to whom net assets are to be distributed in the event the corporation is dissolved:))~~

Sec. 704. Section 2, chapter 19, Laws of 1913 as last amended by section 171, chapter 35, Laws of 1982 and RCW 23.86.050 are each amended to read as follows:

Every association formed under this chapter shall prepare articles of association in writing, which shall set forth:

(1) The name of the association.

(2) The purpose for which it was formed.

(3) Its principal place of business.

(4) The term for which it is to exist which may be perpetual or for a stated number of years.

(5) The amount of capital stock, the number of shares and the par value of each share.

(6) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the association, including provisions regarding:

(a) Eliminating or limiting the personal liability of a director to the association or its members for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(b) Any provision which under this title is required or permitted to be set forth in the bylaws.

Sec. 705. Section 7, chapter 115, Laws of 1921 as last amended by section 2, chapter 132, Laws of 1959 and RCW 24.32.070 are each amended to read as follows:

Each association formed under this chapter must prepare and file articles of incorporation, setting forth:

- (1) The name of the association.
- (2) The purpose for which it is formed.
- (3) The place where its principal business will be transacted.
- (4) The term for which it is to exist, which may be perpetual.
- (5) The number of directors thereof, which must not be less than five and may be any number in excess thereof, and the term of office of such directors, which term shall not exceed three years as may be provided by the bylaws of the association.

(6) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the association, including provisions regarding:

(a) Eliminating or limiting the personal liability of a director to the association or its members for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(b) Any provision which under this title is required or permitted to be set forth in the bylaws.

(7) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by

which the property rights and interests, respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the articles of incorporation shall not be altered, amended, or repealed except by the written consent or the vote of two-thirds of the members voting upon such change after notice of the proposed change shall have been given to all members entitled to vote thereon, in the manner provided by the bylaws: PROVIDED, That if the total vote upon the proposed change shall be less than twenty-five percent of the total membership of the association, such change shall fail of adoption.

~~((7))~~ (8) If organized with capital stock, the amount of such stock and the number of shares into which it is divided. The capital stock may be divided into preferred and common stock which stock may be of a fixed par value or nonpar value. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each.

~~((8))~~ (9) The articles must be subscribed by the incorporators and acknowledged by three or more of such incorporators before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this state; and when so filed the said articles of incorporation, or certified copies thereof, shall be received in all the courts of this state and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Sec. 706. Section 17, chapter 19, Laws of 1913 and RCW 23.86.030 are each amended to read as follows:

(1) No corporation or association organized or doing business for profit in this state shall be entitled to use the term "cooperative" as a part of its corporate or other business name or title, unless it has complied with the provisions of this chapter; and any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any stockholder or any association legally organized hereunder.

(2) A member of the board of trustees or an officer of any association legally organized under this chapter shall have the same immunity from liability as is granted in RCW 4.24.264.

Sec. 707. Section 2, chapter 115, Laws of 1921 and RCW 24.32.020 are each amended to read as follows:

Five or more persons engaged in the production of agricultural products may form a nonprofit, cooperative association, with or without capital

stock, under the provisions of this chapter. A member of the board of directors or an officer of such a corporation shall have the same immunity from liability as is granted in RCW 4.24.264.

Sec. 708. Section 5, chapter 120, Laws of 1969 ex. sess. as amended by section 120, chapter 35, Laws of 1982 and RCW 24.06.025 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 number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) The qualifications and the rights and responsibilities of the members and the manner of their election, appointment or admission to membership and termination of membership; and, if there is more than one class of members or if the members of any one class are not equal, the relative rights and responsibilities of each class or each member.
- (5) If the corporation is to have capital stock:
  - (a) 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, 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;
  - (b) 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;
  - (c) 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;
  - (d) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.
- (6) If the corporation is to distribute surplus funds to its members, stockholders or other persons, provisions for determining the amount and time of the distribution.
- (7) Provisions for distribution of assets on dissolution or final liquidation.
- (8) Whether a dissenting shareholder or member shall be limited to a return of less than the fair value of his shares or membership.

(9) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

(10) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(11) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(12) The name and address of each incorporator.

(13) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the association, including provisions regarding:

(a) Eliminating or limiting the personal liability of a director to the association or its members for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(b) 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 chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

Sec. 709. Section 7, chapter 120, Laws of 1969 ex. sess. and RCW 24.06.035 are each amended to read as follows:

A corporation subject to the provisions of this chapter shall not engage in any business, trade, a vocation or profession for profit: PROVIDED, That nothing contained herein shall be construed to forbid such a corporation from accumulating reserve, equity, surplus or other funds through subscriptions, fees, dues or assessments, or from charges made its members or other persons for services rendered or supplies or benefits furnished, or from distributing its surplus funds to its members, stockholders or other persons in accordance with the provisions of the articles of incorporation. A member of the board of directors or an officer of such a corporation shall have the same immunity from liability as is granted in RCW 4.24.264.

Sec. 710. Section 3, chapter 53, Laws of 1965 as last amended by section 1, chapter 117, Laws of 1986 and RCW 23A.04.010 are each amended to read as follows:

As used in this title, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this title, except a foreign corporation.

(2) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this title.

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(4) "Shares" means the units into which the proprietary interests in a corporation are divided.

(5) "Subscriber" means one who subscribes for one or more shares in a corporation, whether before or after incorporation.

(6) "Shareholder" means one who is a holder of record of one or more shares in a corporation. If the articles of incorporation or the bylaws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. The resolution shall set forth:

(a) The classification of shareholder who may certify;

(b) The purpose or purposes for which the certification may be made;

(c) The form of certification and information to be contained therein;

(d) If the certification is with respect to a record date or closing of the stock transfer books within which the certification must be received by the corporation; and

(e) Such other provisions with respect to the procedure as are deemed necessary or desirable.

Upon receipt by the corporation of a certification complying with the procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

(7) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(8) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(9) "Conforms to law" as used in this title in connection with duties of the secretary of state in reviewing documents for filing under this title



means the secretary of state has determined the document complies as to form with the applicable requirements of this title.

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

(11) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person submitting the document with the secretary of state.

(12) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary or the treasurer of the corporation.

(13) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a dividend; a purchase, redemption, or other acquisition of shares; or otherwise.

(14) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute, and that has more than three hundred holders of record of its shares.

## PART VIII CONSORTIUM

Sec. 801. Section 2, chapter 138, Laws of 1973 1st ex. sess. as amended by section 10, chapter 27, Laws of 1981 and RCW 4.22.020 are each amended to read as follows:

The contributory fault of one spouse shall not be imputed to the other spouse or the minor child of the spouse to diminish recovery in an action by the other spouse or the minor child of the spouse, or his or her legal representative, to recover damages caused by fault resulting in death or in injury to the person or property, whether separate or community, of the spouse. In an action brought for wrongful death or loss of consortium, the contributory

fault of the decedent or injured person shall be imputed to the claimant in that action.

#### PART IX LIMITATION OF ACTIONS—FELONY

Sec. 901. Section 501, chapter 305, Laws of 1986 and RCW 4.24.420 are each amended to read as follows:

It is a complete defense to any action for damages for personal injury or wrongful death that the person injured or killed was engaged in the commission of a felony~~((,-if))~~ at the time of the occurrence causing the injury or death and the felony was ((causally related to the injury or death in time, place, or activity)) a proximate cause of the injury or death. However, nothing in this section shall affect a right of action under 42 U.S.C. Sec. 1983.

#### PART X INTOXICATION DEFENSE

Sec. 1001. Section 902, chapter 305, Laws of 1986 and RCW 5.40.060 are each amended to read as follows:

It is a complete defense to an action for damages for personal injury or wrongful death that the person injured or killed was under the influence of intoxicating liquor or any drug at the time of the occurrence causing the injury or death and that such condition ~~((contributed more than fifty percent to his or her injuries or death. If the amount of alcohol in a person's blood is shown by chemical analysis of his or her blood, breath, or other bodily substance to have been 0.10 percent or more by weight of alcohol in the blood, it is conclusive proof that the person was under the influence of intoxicating liquor))~~ was a proximate cause of the injury or death and the trier of fact finds such person to have been more than fifty percent at fault. The standard for determining whether a person was under the influence of intoxicating liquor or drugs shall be the same standard established for criminal convictions under RCW 46.61.502, and evidence that a person was under the influence of intoxicating liquor or drugs under the standard established by RCW 46.61.502 shall be conclusive proof that such person was under the influence of intoxicating liquor or drugs.

#### PART XI IMMUNITY FOR DIRECTORS OF NONPROFIT CORPORATIONS

Sec. 1101. Section 903, chapter 305, Laws of 1986 and RCW 4.24.264 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a member of the board of directors or an officer of any nonprofit corporation is not ~~((civ- ility))~~ individually liable for any ~~((act or omission in the course and scope of))~~ discretionary decision or failure to make a discretionary decision within

his or her official capacity as director or officer unless the ~~((act or omission))~~ decision or failure to decide constitutes gross negligence.

(2) Nothing in this section shall limit or modify in any manner the duties or liabilities of a director or officer of a corporation to the corporation or the corporation's ~~((shareholders))~~ members.

## PART XII IMMUNITY FOR DIRECTORS OF HOSPITALS

Sec. 1201. Section 905, chapter 305, Laws of 1986 and RCW 7.70.090 are each amended to read as follows:

Members of the board of directors or other governing body of a public or private hospital are not individually liable for personal injuries or death resulting from health care administered by a health care provider granted privileges to provide health care at the hospital unless the decision to grant the privilege to provide health care at the hospital constitutes gross negligence.

## PART XIII STUDIES BY JUDICIAL COUNCIL

NEW SECTION. Sec. 1301. The judicial council shall study the effects on the administration of justice to litigants and the superior courts of the state of requiring parties to a lawsuit to participate in mandatory settlement conferences prior to a civil action going to trial. The study shall include, but not be limited to, the following issues relating to the use of mandatory settlement conferences in the superior courts of the state.

(1) The present use of settlement conferences in the state and any associated benefits, deficiencies, and costs.

(2) The use of settlement conferences in courts in other states, together with any benefits, deficiencies, and costs.

(3) Costs of instituting a mandatory settlement conference program in the superior courts.

(4) Cost-savings to the courts, attorneys, and litigants from instituting a mandatory settlement conference program.

(5) Potential of reducing court congestion by eliminating the number of civil actions that are required to be heard by a court or jury.

(6) Whether settlement conferences are an effective use of the time of judges, attorneys, court personnel, and litigants.

(7) Short-term and long-term societal benefits in expediting the procedure to resolve conflicts and disputes and increasing the litigant's understanding and participation in any civil action.

(8) Any other issues the council deems appropriate.

The judicial council shall report its findings and recommendations, including proposed legislation, to the judiciary committees of the senate and house of representatives by January 1, 1988.

**NEW SECTION.** Sec. 1302. The judicial council shall study the feasibility of modifying existing practices and procedures for examining prospective jurors to determine their qualifications and any actual or implied bias. The study shall include, but not be limited to, the following issues relating to juror examination:

(1) Determining whether existing juror examination under superior court Civil Rule 47 uses an inordinate amount of time and judicial resources without any corresponding benefits to the parties or the court.

(2) Determining whether the courts should be granted more control over the examination of jurors in order to expedite the examination process.

(3) Reviewing procedures used to examine prospective jurors in other state courts to determine the efficiency and effectiveness of such procedures.

(4) Reviewing procedures in the federal courts for juror examination to determine if they result in cost-savings to the courts and litigants, and if they are a more effective use of the time of judges, attorneys, court personnel, and litigants.

The judicial council shall report its findings and recommendations, including proposed legislation, to the judiciary committees of the senate and house of representatives by January 1, 1988.

**NEW SECTION.** Sec. 1303. The judicial council shall study the effects of requiring parties to an appeal of a civil action to participate in mandatory appellate settlement conferences. The study shall include, but not be limited to, the following issues relating to mandatory appellate settlement conferences:

(1) The present use of appellate settlement conferences in courts of this state and associated benefits, deficiencies, and costs.

(2) The use of appellate settlement conferences in courts in other states, together with any benefits, deficiencies, and costs.

(3) Costs of instituting a mandatory appellate settlement conference program in the superior courts.

(4) Cost-savings to the courts, attorneys, and litigants from instituting a mandatory appellate settlement conference program.

(5) Potential of reducing court congestion by eliminating the number of civil actions that are required to be heard by a court or jury.

(6) Whether settlement conferences are an effective use of the time of judges, attorneys, court personnel, and litigants.

(7) Short-term and long-term societal benefits in expediting the procedure to resolve conflicts and disputes and increasing the litigant's understanding and participation in any civil action.

(8) Any other issues the council deems appropriate.

The judicial council shall report its findings and recommendations, including proposed legislation, to the judiciary committees of the senate and house of representatives by January 1, 1988.

**NEW SECTION.** Sec. 1304. The judicial council shall study the feasibility of instituting mandatory discovery conferences in specified civil actions. The study shall include, but not be limited to, the following issues relating to mandatory discovery conferences:

(1) The existing use of discovery conferences under superior court Civil Rule 26(f) and any associated benefits, deficiencies, and costs.

(2) The use of mandatory discovery conferences in other states, and any benefits, deficiencies, and costs.

(3) Whether existing discovery practices are being used to unnecessarily delay civil actions or to harass opposing parties.

(4) Whether existing discovery practices are unreasonably expensive for the parties.

(5) Whether mandatory discovery conferences would be an effective use of the time of judges, attorneys, court personnel, and litigants.

(6) Whether mandatory discovery conferences would create cost-savings to the litigants and the courts and allow for a more efficient use of court rooms and court personnel.

(7) Any other relevant factors deemed appropriate by the council.

The judicial council shall report its findings and recommendations, including proposed legislation, to the judiciary committees of the senate and house of representatives by January 1, 1988.

**NEW SECTION.** Sec. 1305. The judicial council shall conduct a study on the benefits and detriments of enacting a comprehensive state statute on offers of settlement. This study shall include, but not be limited to, the following issues:

(1) The type of civil actions applicable to an offer of settlement statute.

(2) The appropriateness of monetary limits, "forgiveness margins," prejudgment interest, and granting discretion to the court to excuse payment of attorneys' fees.

(3) Time limits for issuing or rejecting an offer of settlement by the parties.

(4) The relationship of offers of settlement to reasonableness hearings and multiparty defendants.

The judicial council shall report its findings and recommendations, including proposed legislation, to the judiciary committees of the senate and house of representatives by January 1, 1988.

#### PART XIV HEALTH CARE LIMITATIONS

Sec. 1401. Section 1, chapter 80, Laws of 1971 as last amended by section 502, chapter 305, Laws of 1986 and RCW 4.16.350 are each amended to read as follows:

Any civil action for damages for injury occurring as a result of health care which is provided after June 25, 1976 against:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, 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 subsection (1) of this section, 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 subsection (1) of this section, 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;

based upon alleged professional negligence shall be commenced within three years of the act or omission alleged to have caused the injury or condition, or one year of the time the patient or his representative discovered or reasonably should have discovered that the injury or condition was caused by said act or omission, whichever period expires later, except that in no event shall an action be commenced more than eight years after said act or omission: PROVIDED, That the time for commencement of an action is tolled upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect.

For purposes of this section, notwithstanding RCW 4.16.190, the knowledge of a custodial parent or guardian shall be imputed to a person under the age ~~((or {of}))~~ of eighteen years, and such imputed knowledge shall operate to bar the claim of such minor to the same extent that the claim of an adult would be barred under this section. Any action not commenced in accordance with this section shall be barred.

For purposes of this section, with respect to care provided after June 25, 1976, and before August 1, 1986, the knowledge of a custodial parent or guardian shall be imputed as of the effective date of this 1987 section, to persons under the age of eighteen years.

#### PART XV

### ACCELERATED WAIVER OF THE PHYSICIAN-PATIENT PRIVILEGE

Sec. 1501. Section 294, page 187, Laws of 1854 as last amended by section 101, chapter 305, Laws of 1986 and RCW 5.60.060 are each amended to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 71.05 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 71.05 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2) An attorney or counselor shall not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

(3) A clergyman or priest shall not, without the consent of a person making the confession, be examined as to any confession made to him in his professional character, in the course of discipline enjoined by the church to which he belongs.

(4) A physician or surgeon or osteopathic physician or surgeon shall not, without the consent of his patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) ~~((Within))~~ Ninety days ~~((of))~~ after filing an action for personal injuries or wrongful death, the claimant shall ~~((elect whether or not))~~ be deemed to waive the physician-patient privilege. ~~((If the claimant does not waive the physician-patient privilege, the claimant may not put his or her mental or physical condition or that of his or her decedent or beneficiaries in issue and may not waive the privilege later in the proceedings.))~~ Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him in official confidence, when the public interest would suffer by the disclosure.

PART XVI  
ATTORNEYS' FEES

Sec. 1601. Section 201, chapter 305, Laws of 1986 and RCW 4.24.005 are each amended to read as follows:

~~((The court shall, upon petition by a named party in any tort action, except those provided for in RCW 7.70.070, determine the reasonableness of that party's attorneys' fees. The court))~~ Any party charged with the payment of attorney's fees in any tort action may petition the court not later than forty-five days of receipt of a final billing or accounting for a determination of the reasonableness of that party's attorneys' fees. The court shall make such a determination and shall take into consideration the following:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) The fee customarily charged in the locality for similar legal services;
- (4) The amount involved and the results obtained;
- (5) The time limitations imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) Whether the fee is fixed or contingent;
- (9) Whether the fixed or contingent fee agreement was in writing and whether the client was aware of his or her right to petition the court under this section;
- (10) The terms of the fee agreement.

NEW SECTION. Sec. 1602. Section 1601 of this act applies to agreements for attorneys' fees entered into after the effective date of this section.

PART XVII  
WORKERS' COMPENSATION LIENS

Sec. 1701. Section 1, chapter 85, Laws of 1977 ex. sess. as last amended by section 1, chapter 58, Laws of 1986 and RCW 51.24.030 are each amended to read as follows:

- (1) If a third person, not in a worker's same employ, is or may become liable to pay damages on account of a worker's injury for which benefits and compensation are provided under this title, the injured worker or beneficiary may elect to seek damages from the third person.



(2) In every action brought under this section, the plaintiff shall give notice to the department or self-insurer when the action is filed. The department or self-insurer may file a notice of statutory interest in recovery. When such notice has been filed by the department or self-insurer, the parties shall thereafter serve copies of all notices, motions, pleadings, and other process on the department or self-insurer. The department or self-insurer may then intervene as a party in the action to protect its statutory interest in recovery.

(3) For the purposes of this chapter, "injury" shall include any physical or mental condition, disease, ailment or loss, including death, for which compensation and benefits are paid or payable under this title.

~~((3))~~ (4) Damages recoverable by a worker or beneficiary pursuant to the underinsured motorist coverage of an insurance policy shall be subject to this chapter only if the owner of the policy is the employer of the injured worker.

## PART XVIII

### LIABILITY OF DESIGN PROFESSIONALS AND ARCHITECTS

NEW SECTION. Sec. 1801. A new section is added to chapter 51.24 RCW to read as follows:

(1) Notwithstanding RCW 51.24.030(1), the injured worker or beneficiary may not seek damages against a design professional who is a third person and who has been retained to perform professional services on a construction project, or any employee of a design professional who is assisting or representing the design professional in the performance of professional services on the site of the construction project, unless responsibility for safety practices is specifically assumed by contract, the provisions of which were mutually negotiated, or the design professional actually exercised control over the portion of the premises where the worker was injured.

(2) The immunity provided by this section does not apply to the negligent preparation of design plans and specifications.

(3) For the purposes of this section, "design professional" means an architect, professional engineer, land surveyor, or landscape architect, who is licensed or authorized by law to practice such profession, or any corporation organized under chapter 18.100 RCW or authorized under RCW 18.08.420 or 18.43.130 to render design services through the practice of one or more of such professions.

## PART XIX

### MISCELLANEOUS

Sec. 1901. Section 14, chapter 27, Laws of 1981 and RCW 4.22.060 are each amended to read as follows:

(1) A party prior to entering into a release, covenant not to sue, covenant not to enforce judgment, or similar agreement with a claimant shall give five days' written notice of such intent to all other parties and the

court. The court may for good cause authorize a shorter notice period. The notice shall contain a copy of the proposed agreement. A hearing shall be held on the issue of the reasonableness of the amount to be paid with all parties afforded an opportunity to present evidence. A determination by the court that the amount to be paid is reasonable must be secured. If an agreement was entered into prior to the filing of the action, a hearing on the issue of the reasonableness of the amount paid at the time it was entered into may be held at any time prior to final judgment upon motion of a party.

The burden of proof regarding the reasonableness of the settlement offer shall be on the party requesting the settlement.

(2) A release, covenant not to sue, covenant not to enforce judgment, or similar agreement entered into by a claimant and a person liable discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it so provides. However, the claim of the releasing person against other persons is reduced by the amount paid pursuant to the agreement unless the amount paid was unreasonable at the time of the agreement in which case the claim shall be reduced by an amount determined by the court to be reasonable.

(3) A determination that the amount paid for a release, covenant not to sue, covenant not to enforce judgment, or similar agreement was unreasonable shall not affect the validity of the agreement between the released and releasing persons nor shall any adjustment be made in the amount paid between the parties to the agreement.

NEW SECTION. Sec. 1902. Sections 101 and 102 of this act shall take effect July 1, 1988.

\*NEW SECTION. Sec. 1903. Sections 401 and 402, ~~601~~, 701 through 710, 901, 1001, 1101, 1201, 1401, 1501, 1601 and 1602, and 1701 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.

\*Sec. 1903 was partially vetoed, see message at end of chapter.

Passed the Senate April 21, 1987.

Passed the House April 14, 1987.

Approved by the Governor April 29, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 29, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 601, Substitute Senate Bill No. 6048, entitled:

"AN ACT Relating to mandatory arbitration."

Substitute Senate Bill No. 6048 makes a number of technical and substantive changes to the Tort Reform Act of 1986.

Section 601 requires the state Risk Manager to conduct or contract for a feasibility study on the cost and benefits of the State of Washington providing excess liability and property insurance to political subdivisions of the state. No appropriation is provided for this study and the Risk Manager currently faces the possibility of budgetary reductions. In order to conduct the study, it would require an experienced actuary and such personnel are not available on staff.

Also, local governments currently have the opportunity of establishing joint cooperative self-insurance funds under the provisions of RCW 48.62. I would encourage them to pursue the possibilities of establishing excess coverage through such a mechanism in a joint cooperative effort.

With the exception of section 601 and the reference to it in section 1903, Substitute Senate Bill No. 6048 is approved."

---

## CHAPTER 213

[House Bill No. 654]

### UNEMPLOYMENT INSURANCE—EXPERIENCE RATING REVISIONS

AN ACT Relating to unemployment insurance experience rating for employers; amending RCW 50.29.010; reenacting and amending RCW 50.29.020; creating a new section; repealing RCW 50.29.022; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. Section 1, chapter 270, Laws of 1985, section 3, chapter 111, Laws of 1986 and RCW 50.29.022 are each repealed.

Sec. 2. Section 10, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 111, Laws of 1986 and RCW 50.29.010 are each amended to read as follows:

As used in this chapter:

"Computation date" means July 1st of any year;

"Cut-off date" means September 30th next following the computation date;

"Qualification date" means April 1st of the third year preceding the computation date;

"Rate year" means the calendar year immediately following the computation date;

"Payroll" means all wages (as defined for contribution purposes) paid by an employer to individuals in his employment;

"Qualified employer" means any employer who (1) reported some employment in the twelve-month period beginning with the qualification date, (2) had no period of four or more consecutive calendar quarters for which he or she reported no employment in the two calendar years immediately preceding the computation date, and (3) has submitted by the cut-off date all reports, contributions, interest, and penalties required under this title for the period preceding the computation date. Unpaid contributions, interest, and penalties may be disregarded for the purposes of this section if they constitute less than either (~~twenty-five~~) one hundred dollars or one-half of one percent of the employer's total tax reported for the twelve-month

period immediately preceding the computation date. Late reports, contributions, penalties, or interest from employment defined under RCW 50.04.160 may be disregarded for the purposes of this section if showing is made to the satisfaction of the commissioner that an otherwise qualified employer acted in good faith and that forfeiture of qualification for a reduced contribution rate because of such delinquency would be inequitable.

Sec. 3. Section 11, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 42, Laws of 1985 and by section 2, chapter 270, Laws of 1985 and by section 1, chapter 299, Laws of 1985 and 50.29.020 are each reenacted and amended to read as follows:

(1) An experience rating account shall be established and maintained for each employer, except 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(~~(; except as provided in RCW 50.29.022)~~).

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers 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) 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.

(i) Benefits paid to an individual who does not successfully complete an approved on-the-job training program under RCW 50.12.240 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. 4. 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 thereunder.

**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 February 25, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 214

[Substitute House Bill No. 237]

## EMERGENCY MEDICAL SERVICES—REVISIONS

AN ACT Relating to emergency medical services; amending RCW 18.73.010, 18.73.030, 18.73.050, 18.73.060, 18.73.070, 18.73.073, 18.73.085, 18.73.130, 18.73.140, 18.73.170, 18.73.180, 18.73.190, 18.73.210, 18.73.220, and 18.73.230; adding new sections to chapter 18.73 RCW; adding a new chapter to Title 18 RCW; recodifying RCW 18.73.210, 18.73.220, and 18.73.230; and repealing RCW 18.73.077, 18.73.080, 18.73.090, 18.73.100, 18.73.110, 18.73.160, and 18.73.205.

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

Sec. 1. Section 1, chapter 208, Laws of 1973 1st ex. sess. and RCW 18.73.010 are each amended to read as follows:

The legislature finds that a state-wide program of emergency medical care is necessary to promote the health, safety, and welfare of the citizens of this state. The intent of the legislature is that the secretary of the department of social and health services develop and implement a ((program)) system to promote immediate prehospital treatment for victims of motor vehicle accidents, suspected coronary illnesses, and other acute illness or trauma.

The legislature further recognizes that emergency medical care and transportation methods are constantly changing and conditions in the various regions of the state vary markedly. The legislature, therefore, seeks to establish a flexible method of implementation and regulation to meet those conditions.

Sec. 2. Section 3, chapter 208, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 112, Laws of 1983 and RCW 18.73.030 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as used in this chapter shall have the meanings indicated.

(1) "Secretary" means the secretary of the department of social and health services.

(2) "Department" means the department of social and health services.

(3) "Committee" means the emergency medical services committee.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "((First)) Aid vehicle" means a vehicle used to carry ((first)) aid equipment and individuals trained in first aid or emergency medical procedure.

(6) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to ((RCW 18-73.110 as now or hereafter amended)) section 7 of this 1987 act.

(7) "Ambulance operator" means a person who owns one or more ambulances and operates them as a private business.

(8) "Ambulance director" means a person who is a director of a service which operates one or more ambulances provided by a volunteer organization or governmental agency.

(9) "~~((First))~~ Aid vehicle operator" means a person who owns one or more ~~((first))~~ aid vehicles and operates them as a private business.

(10) "~~((First))~~ Aid director" means a person who is a director of a service which operates one or more ~~((first))~~ aid vehicles provided by a volunteer organization or governmental agency.

(11) "Emergency medical care" or "emergency medical service" means such medical treatment and care which may be rendered ~~((to persons injured, sick, or incapacitated in order to reduce the risk of loss of life or aggravation of illness or injury, including care rendered))~~ at the scene of a medical emergency and while transporting a patient ((from)) in an ambulance ((or other vehicle)) to an appropriate ((location within a hospital or other)) medical facility.

(12) "Communications system" means a radio ~~((or))~~ and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services system.

(13) "Emergency medical services region" means a region established by the secretary of the department of social and health services pursuant to RCW 18.73.060, as now or hereafter amended.

(14) ~~(("Patient care guidelines" mean the written guidelines adopted by local or regional emergency medical services councils which direct the care of the emergency patient. These guidelines shall be based upon the assessment of the patient's medical needs and his geographic location, and shall address which medical care vehicles will be dispatched to the scene; what treatment will be provided for serious conditions, which hospital will first receive the patient, and which hospitals are appropriate for transfer if necessary.))~~ "Patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the care of the emergency patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for serious conditions.

(15) "Patient care guidelines" means written operating procedures adopted by the local or regional emergency medical services councils and the emergency medical services medical program director and may include which level of medical care personnel will be dispatched to an emergency scene, which hospital will first receive the patient and which hospitals are appropriate for transfer if necessary.

(16) "Emergency medical services medical program director" means a person who is an approved medical program director ~~((under))~~ as defined by RCW 18.71.205(4).

~~((+6))~~ (17) "Council" means the local or regional emergency medical services advisory council.

~~((+7))~~ (18) "Basic life support" means emergency medical treatment services.

~~((+8))~~ (19) "Advanced life support" means emergency medical services requiring advanced ((emergency)) medical treatment skills~~((, i.e., intravenous technicians, airway technicians, and paramedics))~~ as defined by chapter 18.71 RCW.

~~((+9))~~ (20) "System service area" means an emergency medical service area that develops because of trade, patient catchment, market, or other factors and may include county or multicounty boundaries.

~~((+20))~~ (21) "First responder" means a person who is authorized by the secretary to render emergency medical care ~~((pursuant to RCW 18.73-205))~~ as defined by section 7 of this 1987 act.

Sec. 3. Section 5, chapter 208, Laws of 1973 1st ex. sess. as amended by section 3, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.050 are each amended to read as follows:

The committee shall:

(1) Advise the secretary regarding emergency medical care needs throughout the state.

(2) Review regional emergency medical services plans and recommend changes to the secretary before adoption of the plans.

(3) Review all administrative rules proposed for adoption by the secretary under this chapter or under RCW 18.71.205. The secretary shall submit all such rules to the committee in writing. The committee shall, within forty-five days of receiving the proposed rules, advise the secretary of its recommendations. If the committee fails to notify the secretary within forty-five days of receipt of a proposed rule it shall be deemed to be approved by the committee.

~~((+3))~~ (4) Assist the secretary, at the secretary's request, to fulfill any duty or exercise any power under this chapter.

Sec. 4. Section 6, chapter 208, Laws of 1973 1st ex. sess. and RCW 18.73.060 are each amended to read as follows:

(1) The secretary shall designate at least eight planning and service ~~((areas))~~ regions so that all parts of the state are within such an area. These regional designations are to be made on the basis of convenience and efficiency of delivery of needed emergency medical services.

(2) The secretary shall conduct a ~~((public hearing))~~ regional emergency medical services advisory council meeting in a major city of each planning and service ~~((area))~~ region at least sixty days prior to the formulation of a ~~((comprehensive))~~ plan for prehospital emergency medical services.



Such ~~((hearing))~~ meetings shall (a) afford an opportunity for participation by those interested in the determination of the need for, and the location of ambulances and first aid vehicles and (b) provide a public forum that affords a full opportunity for presenting views on any relevant aspect of pre-hospital emergency medical services.

Sec. 5. Section 7, chapter 208, Laws of 1973 1st ex. sess. as amended by section 5, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.070 are each amended to read as follows:

After conducting a ~~((public hearing))~~ regional emergency medical services advisory council meeting in one or more major cities in each emergency medical service region, affording ~~((a))~~ interested persons an opportunity to present their views on any relevant aspect of emergency medicine, the secretary shall adopt a ~~((state-wide comprehensive))~~ regional plan for the development and implementation of emergency medical care systems ~~((based upon the regional plans))~~. The ~~((hearings))~~ meetings shall be held at least sixty days before adoption or revision of the plan. Components of this plan shall include but not be limited to: Facilities, vehicles, medical and communications equipment, personnel and training, transportation, public information and education, patient care protocols, and coordination of services.

The secretary, with the advice and assistance of the regional emergency medical services advisory council, shall encourage communities and medical care providers to implement the regional plan.

Sec. 6. Section 8, chapter 112, Laws of 1983 and RCW 18.73.073 are each amended to read as follows:

(1) A county or group of counties may create a local emergency medical services advisory council composed of persons representing health services providers, consumers, and local government agencies involved in the delivery of emergency medical services.

(2) Regional emergency medical services advisory councils shall be created by the department with representatives from the local emergency medical services councils within the region and whose representation is determined by the local councils.

(3) Power and duties of the councils are as follows:

(a) Local emergency medical services advisory councils shall review ~~((and))~~, evaluate, and provide recommendations to the department regarding the provision of emergency medical services in the community/system service area, and provide recommendations to the regional emergency medical services advisory councils on ~~((standards and matters relating to))~~ the plan for emergency medical services.

(b) Regional emergency medical services advisory councils shall make recommendations to the department on ~~((projects, programs, and legislation))~~ components of the regional plan needed to improve emergency medical services ~~((in the state))~~ systems.

**NEW SECTION.** Sec. 7. A new section is added to chapter 18.73 RCW to read as follows:

In addition to other duties prescribed by law, the secretary shall:

- (1) Prescribe minimum requirements for:
  - (a) Ambulance, air ambulance, and aid vehicles and equipment;
  - (b) Ambulance and aid services; and
  - (c) Emergency medical communication systems;
- (2) Prescribe minimum standards for first responder and emergency medical technician training including:
  - (a) Adoption of curriculum and period of certification;
  - (b) Procedures for certification, recertification, decertification, or modification of certificates;
  - (c) Procedures for reciprocity with other states or national certifying agencies;
  - (d) Review and approval or disapproval of training programs; and
  - (e) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;
- (3) Prescribe minimum standards for evaluating the effectiveness of emergency medical systems in the state;
- (4) Adopt a format for submission of regional plans;
- (5) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and
- (6) Certify emergency medical program directors.

Sec. 8. Section 8, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.085 are each amended to read as follows:

(1) The secretary, with the assistance of the ~~((regional))~~ state emergency medical services ~~((councils))~~ advisory committee, shall adopt a program for the disbursement of funds for the development of the emergency medical ~~((care))~~ service system. Under the program, the secretary shall disburse funds to each regional council, or their chosen fiscal agent or agents, which shall be city or county governments, stipulating the purpose for which the funds shall be expended. The regional council shall use such funds to make available matching grants in an amount not to exceed fifty percent of the cost of the proposal for which the grant is made. Grants shall be made to any public or private nonprofit agency which, in the judgment of the regional council, will best fulfill the purpose of the grant.

(2) Grants may be awarded for any of the following purposes:

- (a) Establishment and initial development of an emergency medical service ~~((program))~~ system;
- (b) Expansion and improvement of an emergency medical service ~~((program))~~ system;

(c) Purchase of equipment for the operation of an emergency medical service ((program)) system; and

(d) Training and continuing education of emergency medical personnel.

(3) Any emergency medical service ((program)) agency which receives a grant shall stipulate that it will:

(a) Operate in accordance with patient care ((guidelines)) protocols adopted by the ((regional-council)) medical program directors; and

(b) Provide, without prior inquiry as to ability to pay, emergency medical care to all patients requiring such care.

**NEW SECTION.** Sec. 9. A new section is added to chapter 18.73 RCW to read as follows:

The secretary may grant a variance from a provision of this chapter if no detriment to health and safety would result from the variance and compliance is expected to cause reduction or loss of existing emergency medical services. Variances may be granted for a period of no more than one year. A variance may be renewed by the secretary upon approval of the committee.

Sec. 10. Section 13, chapter 208, Laws of 1973 1st ex. sess. as last amended by section 13, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.130 are each amended to read as follows:

An ambulance operator, ambulance director, ((first)) aid vehicle operator or ((first)) aid director may not operate a service in the state of Washington without holding a license for such operation, issued by the secretary when such operation is consistent with the comprehensive plan established pursuant to RCW 18.73.070, indicating the general area to be served and the number of vehicles to be used, with the following exceptions:

(1) The United States government;

(2) Ambulance operators and ambulance directors providing service in other states when bringing patients into this state;

(3) Owners of businesses in which ambulance or ((first)) aid vehicles are used exclusively on company property but occasionally in emergencies may bring patients to hospitals not on company property;

(4) Operators of vehicles pressed into service for transportation of patients in emergencies when licensed ambulances are not available or cannot meet overwhelming demand.

The license shall be valid for a period of three years and shall be renewed on request provided the holder has consistently complied with the regulations of the department and the department of licensing and provided also that the needs of the area served have been met satisfactorily. The license shall not be transferable.

Sec. 11. Section 14, chapter 208, Laws of 1973 1st ex. sess. as amended by section 14, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.140 are each amended to read as follows:

The secretary shall ~~((approve the issuance of))~~ issue an ambulance or aid vehicle license for each vehicle so designated. The license shall be for a period of one year and may be reissued on expiration if the vehicle and its ~~((operation))~~ equipment meet requirements in force at the time of expiration of the license period. The license may be revoked if the ambulance or aid vehicle is found to be operating in violation of the regulations promulgated by the department or without required equipment. The license shall be terminated automatically if the vehicle is sold or transferred to the control of anyone not currently licensed as an ambulance or aid vehicle operator or ~~((ambulance))~~ director. The ~~((ambulance))~~ license number shall be prominently displayed on each vehicle.

~~((Licensed ambulances shall be inspected periodically by the secretary at the location of the ambulance station. Inspection shall include adequacy and maintenance of medical equipment and supplies and the mechanical condition of the vehicle including its mechanical and electrical equipment.))~~

Sec. 12. Section 17, chapter 208, Laws of 1973 1st ex. sess. as amended by section 17, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.170 are each amended to read as follows:

The ~~((first))~~ aid vehicle shall be operated in accordance with standards promulgated by the secretary, by at least one person holding a certificate recognized under RCW 18.73.120.

The ~~((first))~~ aid vehicle may be used for transportation of patients only when it is impossible or impractical to obtain an ambulance or when a wait for arrival of an ambulance would place the life of the patient in jeopardy. If so used, the vehicle shall be under the command of a person holding a certificate recognized pursuant to ~~((RCW 18.73.110))~~ section 7 of this 1987 act other than the driver ~~((who shall be in attendance to the patient))~~.

NEW SECTION. Sec. 13. A new section is added to chapter 18.73 RCW to read as follows:

The secretary shall adopt a self-inspection program to assure compliance with minimum standards for vehicles and for medical equipment and personnel on all licensed vehicles. The self-inspection shall coincide with the vehicle licensing cycle and shall be recorded on forms provided by the department. The department may perform an on-site inspection of any licensed service or vehicles as needed.

Sec. 14. Section 18, chapter 208, Laws of 1973 1st ex. sess. as amended by section 18, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.180 are each amended to read as follows:

Other vehicles not herein defined by this chapter shall not be used ~~((commercially or by public services))~~ for transportation of patients who

must be carried on a stretcher (~~and~~) or who may require medical attention en route, except that such transportation may be used when a disaster creates a situation that cannot be served by licensed ambulances.

Sec. 15. Section 19, chapter 208, Laws of 1973 1st ex. sess. and RCW 18.73.190 are each amended to read as follows:

Any person who (~~shall~~) violates any of the provisions of this chapter and for which a penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars for each day of the violation, or may be imprisoned in the county jail not exceeding six months.

Sec. 16. Section 1, chapter 178, Laws of 1980 and RCW 18.73.210 are each amended to read as follows:

The legislature finds that accidental and purposeful (~~ingestions of~~) exposure to drugs and poisonous substances continues to be a severe health problem in the state of Washington. It further finds that a significant reduction in the consequences of such accidental (~~ingestions~~) exposures have occurred as a result of the (~~development of regional~~) services provided by poison information centers.

The purpose of (~~RCW 18.73.210 through 18.73.230~~) this chapter is to reduce morbidity and mortality associated with overdose and poisoning incidents by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and (~~by establishing an effective~~) public education and prevention programs. Further, the purpose is to improve utilization of drugs by providing information to health professionals relating to appropriate therapeutic drug use.

The legislature recognizes that enhanced cooperation between the emergency medical system and poison control centers will aid in responding to emergencies resulting from exposure to drugs and poisonous substances.

Sec. 17. Section 2, chapter 178, Laws of 1980 and RCW 18.73.220 are each amended to read as follows:

(~~As limited by the availability of funds appropriated by this act,~~) The department shall, in a manner consistent with this chapter, provide support for the (~~establishment of a~~) state-wide program of poison (~~control~~) and drug information services (~~with regional units to be~~) conducted by poison information centers located in the (~~city~~) cities of Seattle and (~~the city of~~) Spokane and satellite units (~~that may be established~~) located in the cities of Tacoma and Yakima. The services of this program shall be:

- (1) Emergency telephone management and treatment referral of victims of poisoning and overdose incidents;
- (2) Information to health professionals involved in management of poisoning and overdose victims;

(3) Community education programs designed to inform the public of poison prevention methods; and

(4) Information to health professionals (~~(relating to)~~) regarding appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions.

Sec. 18. Section 3, chapter 178, Laws of 1980 and RCW 18.73.230 are each amended to read as follows:

(1) The principal activities of the poison (~~(control and drug information program)~~) information centers shall be answering requests by telephone for poison information and making recommendations for appropriate emergency management and treatment referral of poisoning exposure and overdose victims. These services, provided around-the-clock, will involve determining whether treatment can be accomplished (~~(in the home setting)~~) at the scene of the incident or whether transport to an emergency treatment facility is required; recommending treatment measures to appropriate personnel; and carrying out follow-up to assure that adequate care is provided.

(2) (~~(Program)~~) Poison center personnel shall provide follow-up education to prevent future similar incidents. They shall also provide community education programs designed to improve public awareness of poisoning and overdose problems, and to educate the public regarding prevention.

(3) (~~(Program)~~) Poison center personnel shall answer drug information questions from health professionals by providing current, accurate, and unbiased information (~~(relating to)~~) regarding drugs and their therapeutic uses.

(4) (~~(The program)~~) Poison centers shall utilize physicians, pharmacists, nurses, and supportive personnel trained in various aspects of toxicology, poison control and prevention, and drug information retrieval and analysis.

**NEW SECTION.** Sec. 19. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Department" means the department of social and health services.

(2) "Poison information center medical director" means a person who: (a) Is licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW; (b) is certified by the secretary under standards adopted under section 20 of this act; and (c) provides services enumerated under sections 17 and 18 of this act, and is responsible for supervision of poison information specialists.

(3) "Poison information specialist" means a person who provides services enumerated under sections 17 and 18 of this act under the supervision of a poison information center medical director and is certified by the secretary under standards adopted under section 20 of this act.

(4) "Secretary" means the secretary of social and health services.

**NEW SECTION.** Sec. 20. The secretary with the advice of the emergency medical services committee established under RCW 18.73.050 shall adopt rules, under chapter 34.04 RCW, prescribing:

- (1) Standards for the operation of a poison information center;
- (2) Standards and procedures for certification, recertification and decertification of poison center medical directors and poison information specialists; and
- (3) Standards and procedures for reciprocity with other states or national certifying agencies.

**NEW SECTION.** Sec. 21. (1) A person may not act as a poison center medical director or poison information specialist of a poison information center without being certified by the secretary under this chapter.

(2) Notwithstanding subsection (1) of this section, if a poison center medical director terminates certification or is decertified, that poison center medical director's authority may be delegated by the department to any other person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW for a period of thirty days, or until a new poison center medical director is certified, whichever comes first.

**NEW SECTION.** Sec. 22. (1) No act done or omitted in good faith while performing duties as a poison center medical director or poison information specialist of a poison information center shall impose any liability on the poison center, its officers, the poison center medical director, the poison information specialist, or other employees.

(2) This section:

(a) Applies only to acts or omissions committed or omitted in the performance of duties which are within the area of responsibility and expertise of the poison center medical director or poison information specialist.

(b) Does not relieve the poison center or any person from any duty imposed by law for the designation or training of a person certified under this chapter.

(c) Does not apply to any act or omission which constitutes gross negligence or wilful or wanton conduct.

**NEW SECTION.** Sec. 23. The department shall defend any poison center medical director or poison information specialist for any act or omission subject to section 22 of this act.

**NEW SECTION.** Sec. 24. Sections 19 through 23 of this act shall constitute a new chapter in Title 18 RCW.

**NEW SECTION.** Sec. 25. RCW 18.73.210, 18.73.220, and 18.73.230 are each recodified as sections in the chapter created under section 24 of this act.

**NEW SECTION.** Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 27. The following acts or parts of acts are each repealed:

- (1) Section 7, chapter 112, Laws of 1983 and RCW 18.73.077;
- (2) Section 8, chapter 208, Laws of 1973 1st ex. sess., section 6, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.080;
- (3) Section 9, chapter 208, Laws of 1973 1st ex. sess., section 9, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.090;
- (4) Section 10, chapter 208, Laws of 1973 1st ex. sess., section 10, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.100;
- (5) Section 11, chapter 208, Laws of 1973 1st ex. sess., section 11, chapter 261, Laws of 1979 ex. sess., section 1, chapter 53, Laws of 1982 and RCW 18.73.110;
- (6) Section 16, chapter 208, Laws of 1973 1st ex. sess., section 16, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.160; and
- (7) Section 6, chapter 112, Laws of 1983 and RCW 18.73.205.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 215

[Senate Bill No. 5513]

### STATE PATROL RETIREMENT CONTRIBUTIONS—REVISIONS REGARDING WITHDRAWAL, RESTORATION, AND INTEREST

AN ACT Relating to withdrawal, restoration, and interest on state patrol retirement contributions; amending RCW 43.43.130 and 43.43.280; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 43.43.130, chapter 8, Laws of 1965 as last amended by section 1, chapter 154, Laws of 1986 and RCW 43.43.130 are each amended to read as follows:

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been



credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later re-enter, he shall be treated in all respects as a new employee: PROVIDED, That a member who reenters or has reentered service within ten years from the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus ((earned)) interest as determined by the director, which restoration must be completed within ((four)) five years after resumption of service, be returned to the status of membership he earned at the time of termination.

(3) (a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in subsection (3)(b) of this section.

(b) Within sixty days of notification of a member's cadet service transfer as provided in subsection (3)(a) of this section, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(4) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(5) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's

contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(6) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(7) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsection (5) of this section or establish additional credit as provided in subsection (6) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system.

Sec. 2. Section 43.43.280, chapter 8, Laws of 1965 as last amended by section 29, chapter 52, Laws of 1982 1st ex. sess. and RCW 43.43.280 are each amended to read as follows:

(1) If a member dies before retirement, and has no surviving spouse or children under the age of eighteen years, all contributions made by the member with interest (~~((at two and one-half percent compounded annually))~~) as determined by the director shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under RCW 43.43.130 (2) and (3) and, the individual may withdraw the member's contributions to the retirement fund, with interest (~~((at two and one-half percent compounded annually))~~) as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall

remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: **PROVIDED**, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply.

**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 July 1, 1987.

Passed the Senate February 25, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 216

[Substitute House Bill No. 750]

### FARM LABOR CONTRACTORS' SECURITY BONDS—WAGE CLAIMS

AN ACT Relating to surety bond security; and amending RCW 19.30.040, 19.30.045, 19.30.081, 19.30.160, and 19.30.170.

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

Sec. 1. Section 4, chapter 392, Laws of 1955 as last amended by section 15, chapter 197, Laws of 1986 and RCW 19.30.040 are each amended to read as follows:

(1) The director shall require the deposit of a surety bond by any person 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 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 on payment ~~((in full))~~ of ~~((all))~~ sums legally ~~((due on wage claims of employees under this chapter and RCW 49.52.050 et seq))~~ owing under contract to an agricultural employee. 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, recognizance, 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 RCW 19.30.030 at the time of issuance of the bond, undertaking, recognizance, or other obligation.

(4) Surety bonds may not be canceled or terminated during the period in which the bond is executed unless thirty days' notice is provided by the surety to the department. The bond is written for a one-year term and may be renewed or extended by continuation certification at the option of the surety.

(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. 2. Section 19, chapter 197, Laws of 1986 and RCW 19.30.045 are each amended to read as follows:

(1) Any person, having a claim for wages pursuant to this ~~((act or RCW 49.52.050 et seq.))~~ 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 ~~((: PROVIDED, That the right of action shall not be included in any suit or action against the farm labor contractor but must be exercised independently after first procuring a judgment, decree or other form of adequate proof of liability established after notice and hearing under RCW 19.30.160. The filing of such an action against the farm labor contractor tolls the three-year statute of limitations referred to in RCW 19.30.170)).~~

(2) The right of action is assignable in the name of the director or any other person ~~((: and must be included with an assignment of a wage claim, any other appropriate claim, or of a judgment thereon.~~

~~(3) 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 expiration or revocation of the license.~~

~~(4) 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.~~

~~(5) 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 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.~~

~~(6) 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 order that judgment was rendered.~~

~~(7) 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.~~

~~(8) 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).~~

Sec. 3. Section 8, chapter 280, Laws of 1985 as amended by section 16, chapter 197, Laws of 1986 and RCW 19.30.081 are each amended 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)) evidence of a renewed bond be submitted and that the contractor have a bond in full force and effect.

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 have evidence of a bond in full force and effect, 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. 4. Section 15, chapter 280, Laws of 1985 as amended by section 17, chapter 197, Laws of 1986 and RCW 19.30.160 are each amended 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 other remedies provided in this chapter, the department may bring suit upon the surety bond filed by the farm labor contractor on behalf of a worker whose rights under this chapter have been violated by the contractor. The action may be commenced in any court of competent jurisdiction. In any such action, there shall be compliance with the notice and service requirements set forth in RCW 19.30.170.

Sec. 5. Section 16, chapter 280, Laws of 1985 as amended by section 18, chapter 197, Laws of 1986 and RCW 19.30.170 are each amended 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 other remedies provided in this chapter, a person having a claim against the farm labor contractor for any violation of this chapter may bring suit against the farm labor contractor and 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.

(4) An action upon the bond or security deposit shall be commenced by serving and filing the summons and complaint within three years from the date of expiration or cancellation of the bond or expiration or cancellation of the license, whichever is sooner, or in the case of a security deposit, within three years of the date of expiration or revocation of the license.

(5) A copy of the summons and 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.

(6) 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 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.

(7) 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) Other contractual damage owed to the employee;
- (c) Any costs and attorneys' fees the claimant may be entitled to recover by contract or statute.

(8) If any final judgment impairs 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 the 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.

(9) A claimant against a security deposit shall be entitled to damages under subsection (2) of this section. 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.

Passed the House March 12, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

---

## CHAPTER 217

[Substitute Senate Bill No. 5212]

### LIQUOR LICENSES—TEMPORARY RETAIL AND WHOLESALE LICENSES

AN ACT Relating to the issuance of temporary retail and wholesale liquor licenses; and amending RCW 66.24.010.

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

Sec. 1. Section 27, chapter 62, Laws of 1933 ex. sess. as last amended by section 3, chapter 160, Laws of 1983 and RCW 66.24.010 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license, the liquor control board may consider any prior criminal conduct of the applicant and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The board may, in its discretion, grant or refuse the license applied for. No retail license of any kind may be issued to:

(a) A person who has not resided in the state for at least one month prior to making application, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;



(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be. The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.04.105, as now or hereafter amended. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension, with a memorandum of the suspension written or stamped upon the face thereof in red ink. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5) (a) At the time of the original issuance of a class H license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required. (b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of

the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.04 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by the regulations in force from time to time.

(7) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(8) Before the board shall issue a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application be for a license within an incorporated city or town, or to the county legislative authority, if the application be for a license outside the boundaries of incorporated cities or towns; and such incorporated city or town, through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a formal hearing subject to the applicable provisions of Title 34 RCW, as now or hereafter amended. Upon the granting of a license under this title the board shall send a duplicate of the license or written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(9) Before the board issues any license to any applicant, it shall give (a) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (b) written notice by certified mail of the application to churches, schools, and public institutions within five hundred feet of the premises to be licensed. The board shall issue no beer retailer license class A, B, D, or E or wine retailer license class C or F or class H license covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the outer property line of the school grounds to the nearest public entrance of the premises proposed for license, and if, after receipt by the school or public institution of the

notice as provided in this subsection, the board receives written notice, within twenty days after posting such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies. It is the intent under this subsection that a retail license shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board shall fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in the preceding subsection shall not prohibit the board from authorizing the transfer of existing licenses now located within the restricted area to other persons or locations within the restricted area: **PROVIDED**, Such transfer shall in no case result in establishing the licensed premises closer to a church or school than it was before the transfer.

(11) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or wholesaler license to a transferee of a retail or wholesaler license to continue the operation of the retail or wholesaler premises during the period a transfer application for the license from person to person at the same premises is pending and when the following conditions exist:

(a) The licensed premises has been operated under a retail or wholesaler license within ninety days of the date of filing the application for a temporary license;

(b) The retail or wholesaler license for the premises has been surrendered pursuant to issuance of a temporary operating license;

(c) The applicant for the temporary license has filed with the board an application for transfer of the retail or wholesaler license at such premises to himself or herself; and

(d) The application for a temporary license is accompanied by a temporary license fee established by the board by rule.

A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at

the discretion of the board for an additional sixty-day period upon payment of an additional fee and upon compliance with all conditions required in this section.

Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 and chapter 34.04 RCW shall apply to temporary licenses.

Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

Passed the Senate March 19, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 218

[Senate Bill No. 5522]

### PUBLIC WORKS—SMALL WORKS ROSTER LIMIT RAISED

AN ACT Relating to public works; and amending RCW 39.04.150.

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

Sec. 1. Section 2, chapter 98, Laws of 1982 and RCW 39.04.150 are each amended to read as follows:

(1) As used in this section, "agency" means the department of general administration, the department of fisheries, the department of game, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than ~~((twenty-five))~~ fifty thousand dollars are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from

contractors chosen by random number generated by computer from the contractors on the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency is unable to solicit quotations from five qualified contractors on the small works roster for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations randomly from contractors on the small works roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster: PROVIDED, That whenever possible, the agency shall invite at least one proposal from a minority contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall 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.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this section.

Passed the Senate March 19, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

---

## CHAPTER 219

[Senate Bill No. 5408]

### ASBESTOS REMOVAL PROJECTS—PROCEDURES REVISED TO CONFORM WITH THE INDUSTRIAL SAFETY AND HEALTH ACT

AN ACT Relating to asbestos projects; and amending RCW 49.26.130 and 49.26.140.

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

Sec. 1. Section 3, chapter 387, Laws of 1985 and RCW 49.26.130 are each amended to read as follows:

(1) The department shall administer RCW 49.26.110 through 49.26.140.

(2) The director of the department shall adopt, in accordance with chapters 34.04 and 49.17 RCW, rules necessary to carry out RCW 49.26.110 through 49.26.140.

(3) The department may prescribe fees for the issuance and renewal of certificates.

Sec. 2. Section 5, chapter 387, Laws of 1985 and RCW 49.26.140 are each amended to read as follows:

(1) ~~((The department may assess a civil penalty, not to exceed five thousand dollars for each violation, against any person or individual who knowingly violates a provision of RCW 49.26.110 through 49.26.130.))~~ Unless specifically provided otherwise by statute, this chapter shall be implemented and enforced, including penalties, violations, citations, and other administrative procedures, pursuant to the Washington industrial safety and health act, chapter 49.17 RCW.

(2) A person or individual who previously has been assessed a civil penalty under this section, and who knowingly violates a provision of RCW 49.26.110 through 49.26.130 or a rule adopted pursuant to RCW 49.26.110 through 49.26.130 is guilty of a misdemeanor.

Passed the Senate March 18, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 220

[Engrossed House Bill No. 403]

### AIRCRAFT REGISTRATION AND EXCISE TAX COLLECTION RESPONSIBILITY TRANSFERRED FROM THE LICENSING DEPARTMENT TO THE TRANSPORTATION DEPARTMENT—ADMINISTRATIVE REVISIONS

AN ACT Relating to aeronautics; amending RCW 47.68.230, 47.68.233, 47.68.250, 82.48.010, 82.48.020, 82.48.070, 82.48.080, and 82.48.090; adding a new section to chapter 82.36 RCW; creating a new section; and making an appropriation.

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

Sec. 1. Section 23, chapter 165, Laws of 1947 as last amended by section 205, chapter 158, Laws of 1979 and RCW 47.68.230 are each amended to read as follows:

It shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license is required by the United States, and a current registration certificate issued by the ~~((director of licensing))~~ secretary of transportation, if registration of the aircraft with the department of ~~((licensing))~~ transportation is required by this chapter. It shall be unlawful for any person to engage in aeronautics as an airman in the state

unless he has an appropriate effective airman certificate, permit, rating or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if such certificate, permit, rating or license is required by the United States and a current airman's registration certificate issued by the department of transportation as required by RCW 47.68.233.

Where a certificate, permit, rating or license is required for an airman by the United States or by RCW 47.68.233, it shall be kept in his personal possession when he is operating within the state. Where a certificate, permit or license is required by the United States or by this chapter for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state and shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors. Such certificates shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official or employee of the department of transportation authorized pursuant to this chapter to enforce the aeronautics laws, or any official, manager or person in charge of any airport, or upon the reasonable request of any person.

Sec. 2. Section 2, chapter 207, Laws of 1967 as last amended by section 355, chapter 7, Laws of 1984 and RCW 47.68.233 are each amended to read as follows:

The department shall require that every pilot who is a resident of this state and every nonresident pilot who regularly operates any aircraft in this state be registered with the department (~~(for each calendar year by January 31st thereof)~~). The department shall charge an annual fee not to exceed ~~((five))~~ ten dollars for each registration. (~~(Registration under this section is required thirty days after June 8, 1967.)~~) All registration certificates issued under this section (~~((expire on December 31st of each year))~~) shall be renewed annually during the month of the registrant's birthdate.

The registration fee imposed by this section shall be used by the department for the purpose of (a) search and rescue of lost and downed aircraft and airmen under the direction and supervision of the secretary and (b) safety and education.

Registration shall be effected by filing with the department a certified written statement that contains the information reasonably required by the department. The department shall issue certificates of registration and in connection therewith shall prescribe requirements for the possession and exhibition of the certificates.

The provisions of this section do not apply to:

- (1) A pilot who operates an aircraft exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia;
- (2) A pilot registered under the laws of a foreign country;

(3) A pilot engaged exclusively in commercial flying constituting an act of interstate or foreign commerce;

(4) A person piloting an aircraft equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of the controls and the flight is solely for instruction or for the demonstration of the aircraft to a bona fide prospective purchaser.

Failure to register as provided in this section is a violation of RCW 47.68.230 and subjects the offender to the penalties incident thereto.

Sec. 3. Section 25, chapter 165, Laws of 1947 as last amended by section 206, chapter 158, Laws of 1979 and RCW 47.68.250 are each amended to read as follows:

Every aircraft shall be registered with the department (~~(of licensing)~~) for each calendar year in which the aircraft is operated within this state. A fee of four dollars shall be charged for each such registration and each annual renewal thereof.

Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section shall be the only requisites for registration of an aircraft under this section.

The registration fee imposed by this section shall be payable to and collected by the (~~(director of licensing)~~) secretary. The fee for any calendar year must be paid during the month of January, and shall be collected by the (~~(director of licensing)~~) secretary at the time of the collection by him or her of the said excise tax. If the (~~(director of licensing)~~) secretary is satisfied that the requirements for registration of the aircraft have been met, he or she shall thereupon issue to the owner of the aircraft a certificate of registration therefor. The (~~(director of licensing)~~) secretary shall pay to the state treasurer the registration fees collected under this section, which registration fees shall be credited to the aeronautics account in the general fund.

It shall not be necessary for the registrant to provide the (~~(director of licensing)~~) secretary with originals or copies of federal certificates, permits, ratings, or licenses. The (~~(director of licensing)~~) secretary shall issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

The provisions of this section shall not apply to:

(1) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or



the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft registered under the laws of a foreign country;

(3) An aircraft which is owned by a nonresident and registered in another state: **PROVIDED**, That if said aircraft shall remain in and/or be based in this state for a period of ninety days or longer it shall not be exempt under this section;

(4) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(5) An aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(6) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW.

The (~~director of licensing~~) secretary shall be notified within one week of any change in ownership of a registered aircraft. The notification shall contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the (~~director of licensing~~) secretary, the registration of that aircraft may be canceled by the (~~director of licensing~~) secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

**NEW SECTION.** Sec. 4. A new section is added to chapter 82.36 RCW to read as follows:

At least once each fiscal year, the director shall request the state treasurer to refund from the motor vehicle fund, to the aeronautics account created under RCW 82.42.090, an amount equal to 0.028 percent of the gross motor vehicle fuel tax less an amount equal to aircraft fuel taxes transferred to that account as a result of nonhighway refunds claimed by motor fuel purchasers. The refund shall be considered compensation for unclaimed motor vehicle fuel that is used in aircraft for purposes taxable under RCW 82.42.020. The director shall also remit from the motor vehicle fund the taxes required by RCW 82.12.0256(3)(c) for the unclaimed refunds, provided that the sum of the amount refunded and the amount remitted in accordance with RCW 82.12.0256(3)(c) shall not exceed the unclaimed refunds.

Sec. 5. Section 82.48.010, chapter 15, Laws of 1961 as last amended by section 21, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.48.010 are each amended to read as follows:

For the purposes of this chapter, unless otherwise required by the context:

(1) "Aircraft" means any weight-carrying device or structure for navigation of the air which is designed to be supported by the air;

(2) (~~"Director" means the director of licensing~~) "Secretary" means the secretary of transportation;

(3) "Person" includes a firm, partnership or corporation;

(4) "Small multi-engine fixed wing" means any piston-driven multi-engine fixed wing aircraft with a maximum gross weight as listed by the manufacturer of less than seventy-five hundred pounds; and

(5) "Large multi-engine fixed wing" means any piston-driven multi-engine fixed wing aircraft with a maximum gross weight as listed by the manufacturer of seventy-five hundred pounds or more.

Sec. 6. Section 82.48.020, chapter 15, Laws of 1961 as last amended by section 27, chapter 7, Laws of 1983 and RCW 82.48.020 are each amended to read as follows:

An annual excise tax is hereby imposed for the privilege of using any aircraft in the state. A current certificate of air worthiness with a current inspection date from the appropriate federal agency and/or the purchase of aviation fuel shall constitute the necessary evidence of aircraft use or intended use. The tax shall be collected (~~for each calendar year by the director of licensing, and must be paid during the month of January, except that the tax for 1983 is due on June 30, 1983~~) annually or under a staggered collection schedule as required by the secretary by rule. No additional tax shall be imposed under this chapter upon any aircraft upon the transfer of ownership thereof, if the tax imposed by this chapter with respect to such aircraft has already been paid for the year in which transfer of ownership occurs. A violation of this chapter is a misdemeanor punishable as provided in chapter 9A.20 RCW.

Sec. 7. Section 82.48.070, chapter 15, Laws of 1961 as amended by section 4, chapter 9, Laws of 1967 ex. sess. and RCW 82.48.070 are each amended to read as follows:

The (~~director~~) secretary shall give a receipt to each person paying the excise tax.

Sec. 8. Section 82.48.080, chapter 15, Laws of 1961 as last amended by section 8, chapter 54, Laws of 1974 ex. sess. and RCW 82.48.080 are each amended to read as follows:

The (~~director~~) secretary shall regularly pay to the state treasurer the excise taxes collected under this chapter, which shall be credited by the state treasurer as follows: Ninety percent to the general fund and ten percent to the aeronautics account in the general fund for administrative expenses.

Sec. 9. Section 82.48.090, chapter 15, Laws of 1961 as last amended by section 5, chapter 414, Laws of 1985 and RCW 82.48.090 are each amended to read as follows:

In case a claim is made by any person that he has paid an erroneously excessive amount of excise tax under this chapter, he may apply to the department of ((licensing)) transportation for a refund of the claimed excessive amount. The department shall review such application, and if it determines that an excess amount of tax has actually been paid by the taxpayer, such excess amount shall be refunded to the taxpayer by means of a voucher approved by the department of ((licensing)) transportation and by the issuance of a state warrant drawn upon and payable from such funds as the legislature may provide for that purpose. No refund shall be allowed, however, unless application for the refund is filed with the department of ((licensing)) transportation within ninety days after the claimed excessive excise tax was paid and the amount of the overpayment exceeds five dollars.

NEW SECTION. Sec. 10. All powers, duties, and functions as well as all reports, documents, surveys, books, records, files, papers, or written material of the department of licensing pertaining to aircraft registration are transferred to the department of transportation. All existing contracts and obligations shall remain in full force and shall be performed by the department of transportation.

NEW SECTION. Sec. 11. There is hereby appropriated for the biennium ending June 30, 1989, from the aeronautics account of the general fund \$223,787 or so much thereof as may be necessary to the department of transportation to accomplish the purpose of this act and for the management and support of the aeronautics division of the department of transportation.

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 House March 6, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

---

## CHAPTER 221

[Substitute Senate Bill No. 5584]

### LABOR AND INDUSTRIES REPORTS—FRAUDULENT FILING BY EMPLOYERS OR EMPLOYEES—CRIMINAL PENALTIES

AN ACT Relating to penalties for inaccurate reports and claims made to the department of labor and industries; amending RCW 51.48.020; and prescribing penalties.

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

Sec. 1. Section 51.48.020, chapter 23, Laws of 1961 as last amended by section 22, chapter 323, Laws of 1977 ex. sess. and RCW 51.48.020 are each amended to read as follows:

(1) Any employer, who misrepresents to the department the amount of his or her payroll upon which the premium under this title is based, shall be liable to the state in ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department. ~~((Such))~~ If such misrepresentations are made knowingly, an employer shall also be guilty of a ((class E)) felony ((if such misrepresentations are made knowingly, if the amount of the difference in premiums is five hundred dollars or more and shall be guilty of a gross misdemeanor if such amount is less than five hundred dollars)), or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW.

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a ~~((class E))~~ felony ((when such claim or application involves an amount of five hundred dollars or more. When such claim or application involves an amount less than five hundred dollars, the person giving such information shall be guilty of a gross misdemeanor)), or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW.

Passed the Senate March 17, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

---

## CHAPTER 222

[Substitute House Bill No. 259]

### WATER RECREATION FACILITIES REGULATED

AN ACT Relating to water recreation; amending RCW 70.90.110, 70.90.120, 70.90.160, 70.90.170, 70.90.180, and 70.90.190; adding new sections to chapter 70.90 RCW; repealing RCW 70.90.010, 70.90.020, 70.90.030, 70.90.040, 70.90.100, 70.90.220, and 70.90.900; 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 70.90 RCW to read as follows:

The legislature finds that water recreation facilities are an important source of recreation for the citizens of this state. To promote the public health, safety, and welfare, the legislature finds it necessary to continue to regulate these facilities.

Sec. 2. Section 2, chapter 236, Laws of 1986 and RCW 70.90.110 are each amended to read as follows:

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

(1) "Water recreation facility" means any artificial basin or other structure containing water used or intended to be used for recreation, bathing, relaxation, or swimming, where body contact with the water occurs or is intended to occur and includes auxiliary buildings and appurtenances. The term includes, but is not limited to:

- (a) Conventional swimming pools, wading pools, and spray pools;
- (b) Recreational water contact facilities as defined in this chapter;
- (c) Spa pools and tubs using hot water, cold water, mineral water, air induction, or hydrojets; and
- (d) Any area designated for swimming in natural waters with artificial boundaries within the waters.

~~((2))~~ (2) "Recreational water contact facility" means an artificial water ~~((contact))~~ associated facility with design and operational features that provide patron recreational activity which is different from that associated with a conventional swimming pool and purposefully involves immersion of the body partially or totally in the water, ~~((including))~~ and that includes but is not limited to, water slides, wave pools, and water ~~((amusement))~~ lagoons ~~((which bring water in contact with patrons)).~~

~~((2))~~ (3) "Local health officer" means the health officer of the city, county, or city-county department or district or a representative authorized by the local health officer.

~~((3))~~ (4) "Secretary" means the secretary of social and health services.

~~((4))~~ (5) "Person" means an individual, firm, partnership, co-partnership, corporation, company, association, club, government entity, or organization of any kind.

~~((5))~~ (6) "Department" means the department of social and health services.

~~((6))~~ (7) "Board" means the state board of health.

**NEW SECTION.** Sec. 3. A new section is added to chapter 70.90 RCW to read as follows:

This chapter applies to all water recreation facilities regardless of whether ownership is public or private and regardless of whether the intended use is commercial or private, except that this chapter shall not apply to:

- (1) Any water recreation facility for the sole use of residents and invited guests at a single family dwelling;
- (2) Therapeutic water facilities operated exclusively for physical therapy; and
- (3) Steam baths and saunas.

**NEW SECTION.** Sec. 4. A new section is added to chapter 70.90 RCW to read as follows:

Every seller of spas, pools and tubs under RCW 70.90.110(1) (a) and (c) shall furnish to the purchaser a complete set of operating instructions which shall include detailed instructions on the safe use of the spa, pool, or tub and for the proper treatment of water to reduce health risks to the purchaser. Included in the instructions shall be information about the health effects of hot water and a specific caution and explanation of the health effects of hot water on pregnant women.

Sec. 5. Section 3, chapter 236, Laws of 1986 and RCW 70.90.120 are each amended to read as follows:

(1) The board shall adopt rules under the administrative procedure act, chapter 34.04 RCW, ~~((setting))~~ governing safety, sanitation, and water quality ~~((standards))~~ for ~~((recreational water contact facilities))~~ water recreation facilities. The rules shall include but not be limited to requirements for design; operation; injury and illness ~~((reports))~~ reporting; biological and chemical contamination standards; water quality monitoring; inspection; permit application and issuance ~~((; fees sufficient to cover the costs incurred by the department for the administration and enforcement of this chapter))~~; and enforcement procedures. However, a water recreation facility intended for the exclusive use of residents of any apartment house complex or of a group of rental housing units of less than fifteen living units, or of a mobile home park, or of a condominium complex or any group or association of less than fifteen home owners shall not be subject to preconstruction design review, routine inspection, or permit or fee requirements; and water treatment of hydroelectric reservoirs or natural streams, creeks, lakes, or irrigation canals shall not be required.

(2) In adopting rules under subsection (1) of this section regarding the operation or design of a recreational water contact facility, the board shall review and consider any recommendations made by the recreational water contact facility advisory committee.

NEW SECTION. Sec. 6. A new section is added to chapter 70.90 RCW to read as follows:

Nothing in this chapter shall prohibit any local board of health from establishing and enforcing any provisions governing safety, sanitation, and water quality for any water recreation facility, regardless of ownership or use, in addition to those rules established by the state board of health under this chapter.

Sec. 7. Section 7, chapter 236, Laws of 1986 and RCW 70.90.160 are each amended to read as follows:

A permit is required for any modification to or construction of any recreational water contact facility after June 11, 1986, and for any other water recreation facility after the effective date of this section. Water recreation facilities existing on the effective date of this section which do not comply with the design and construction requirements established by the

state board of health under this chapter may continue to operate without modification to or replacement of the existing physical plant, provided the water quality, sanitation, and life saving equipment are in compliance with the requirements established under this chapter. However, if any modifications are made to the physical plant of an existing water recreation facility the modifications shall comply with the requirements established under this chapter. The plans and specifications for the modification or construction shall be submitted to the applicable local authority or the department as applicable, but a person shall not be required to submit plans at both the state and local levels or apply for both a state and local permit. The plans shall be reviewed and may be approved or rejected or modifications or conditions imposed consistent with this chapter as the public health or safety may require, and a permit shall be issued or denied within thirty days of submittal.

Sec. 8. Section 8, chapter 236, Laws of 1986 and RCW 70.90.170 are each amended to read as follows:

An operating permit from the department or local health officer, as applicable, is required for each ~~((recreational))~~ water ~~((contact))~~ recreation facility operated in this state. The permit shall be renewed annually. The permit shall be conspicuously displayed at the ~~((recreational water contact))~~ water recreation facility.

Sec. 9. Section 9, chapter 236, Laws of 1986 and RCW 70.90.180 are each amended to read as follows:

Nothing in this chapter or the rules adopted under this chapter creates or forms the basis for any liability: (1) On the part of the state and local health jurisdictions, or their officers, employees, or agents, for any injury or damage resulting from the failure of the owner or operator of ~~((recreational))~~ water ~~((contact))~~ recreation facilities to comply with this chapter or the rules adopted under this chapter; or (2) by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter or the rules adopted under this chapter on the part of the state and local health jurisdictions, or by their officers, employees, or agents.

All actions of local health officers and the secretary shall be deemed an exercise of the state's police power.

Sec. 10. Section 10, chapter 236, Laws of 1986 and RCW 70.90.190 are each amended to read as follows:

Any person operating a ~~((recreational water contact facility))~~ water recreation facility shall report to the local health officer or the department any serious injury, communicable disease, or death occurring at or caused by the ~~((recreational))~~ water ~~((contact))~~ recreation facility.

NEW SECTION. Sec. 11. A new section is added to chapter 70.90 RCW to read as follows:

The violation of any provisions of this chapter and any rules adopted under this chapter shall be a misdemeanor punishable by a fine of not more than five hundred dollars.

**NEW SECTION.** Sec. 12. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 57, Laws of 1957, section 115, chapter 141, Laws of 1979 and RCW 70.90.010;

(2) Section 2, chapter 57, Laws of 1957, section 116, chapter 141, Laws of 1979 and RCW 70.90.020;

(3) Section 3, chapter 57, Laws of 1957, section 117, chapter 141, Laws of 1979 and RCW 70.90.030;

(4) Section 4, chapter 57, Laws of 1957, section 118, chapter 141, Laws of 1979 and RCW 70.90.040;

(5) Section 1, chapter 236, Laws of 1986 and RCW 70.90.100;

(6) Section 13, chapter 236, Laws of 1986 and RCW 70.90.220; and

(7) Section 5, chapter 57, Laws of 1957 and RCW 70.90.900.

**NEW SECTION.** Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 223

[Engrossed Substitute House Bill No. 258]  
PUBLIC HEALTH FEES REVISED

AN ACT Relating to public health fees; amending RCW 35A.70.070, 69.06.010, 69.06-.020, and 69.06.040; adding a new section to chapter 69.06 RCW; adding new sections to chapter 70.58 RCW; and repealing RCW 43.20A.630.

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) "Department" means the department of social and health services.

(2) "Vital records" means records of birth, death, fetal death, marriage, dissolution, annulment, and legal separation, as maintained under the supervision of the state registrar of vital statistics.

**NEW SECTION.** Sec. 2. (1) The state registrar may prepare typewritten, photographic, electronic, or other reproductions of records of birth, death, fetal death, marriage, or decrees of divorce, annulment, or legal separation registered under law or that portion of the record of any birth which



shows the child's full name, sex, date of birth, and date of filing of the certificate. Such reproductions, when certified by the state registrar, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein.

(2) The department may authorize by regulation the disclosure of information contained in vital records for research purposes. All research proposals must be submitted to the department and must be reviewed and approved as to scientific merit and to ensure that confidentiality safeguards are provided in accordance with department policy.

(3) Local registrars may, upon request, furnish certified copies of the records of birth, death, and fetal death, subject to all provisions of state law applicable to the state registrar. Local registrars in health districts or departments that have within their jurisdiction cities of the first class may issue certified copies only if they have an original certificate in their possession at the time of issuance of a certified copy or have a copy of the original certificate transmitted to the state registrar which was produced by a photographic or other exact reproduction method. Local registrars of all counties or districts may, upon request, furnish certified copies of the records of birth, death, and fetal death during the period that the original certificates are in their possession prior to transmittal of the original certificates to the state registrar. Certified copy forms used by local registrars furnishing certified copies while the original records are in their possession shall be supplied or approved by the state registrar and no other forms shall be used.

**NEW SECTION. Sec. 3.** The department of social and health services shall charge a fee of eleven dollars for certified copies of records and for copies or information provided for research, statistical, or administrative purposes, and eight dollars for a search of the files or records when no copy is made. The department shall prescribe by regulation fees to be paid for preparing sealed files and for opening sealed files.

No fee may be demanded or required for furnishing certified copies of a birth, death, fetal death, marriage, divorce, annulment, or legal separation record for use in connection with a claim for compensation or pension pending before the veterans administration.

The state department of social and health services shall keep a true and correct account of all fees received and turn the fees over to the state treasurer on a weekly basis.

Local registrars shall charge the same fees as the state as hereinabove provided and as prescribed by department regulation, except that local registrars shall charge eleven dollars for the first copy of a death certificate and six dollars for each additional copy of the same death certificate when the additional copies are ordered at the same time as the first copy. All such fees collected, except for three dollars of each fee for the issuance of a certified copy, shall be paid to the jurisdictional health department.

All local registrars in cities and counties shall keep a true and correct account of all fees received under this section for the issuance of certified copies and shall turn three dollars of the fee over to the state treasurer on or before the first day of January, April, July, and October.

Three dollars of each fee imposed for the issuance of certified copies at both the state and local levels shall be held by the state treasurer in the death investigations account established by RCW 43.79.445.

Sec. 4. Section 35A.70.070, chapter 119, Laws of 1967 ex. sess. as last amended by section 12, chapter 213, Laws of 1985 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) control and provide for treatment of venereal diseases as authorized by chapter 70.24 RCW; (4) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, 70.32, and 70.54 RCW; (5) participate in health districts as authorized by chapter 70.46 RCW; (6) exercise control over water pollution as provided in chapter 35.88 RCW; (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~~); (8) observe and enforce the provisions relating to fireworks as provided in chapter 70.77 RCW; (9) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; (10) enforce the provisions of chapter 18.20 RCW when applicable; (11) perform the functions relating to mentally ill prescribed in chapters 72.06 and 71.12 RCW; (12) cooperate with the state department of social and health services in mosquito control as authorized by RCW 70.22.060; and (13) inspect nursing homes as authorized by RCW 18.51.145.

Sec. 5. Section 1, chapter 197, Laws of 1957 and RCW 69.06.010 are each amended to read as follows:

It shall be unlawful for any person to be employed in the handling of unwrapped or unpackaged food unless he or she shall furnish and place on file with the person in charge of such establishment, a food and beverage service worker's permit, as prescribed by the state board of health. Such permit shall be kept on file by the employer or kept by the employee on his or her person and open for inspection at all reasonable hours by authorized public health officials. Such permit shall be returned to the employee upon termination of employment. (~~Permits shall be valid for two years from date~~

~~of issuance, and each employee shall furnish the person in charge of said food handling establishments such permit biennially.))~~ Initial permits shall be valid for two years from the date of issuance. Subsequent renewal permits shall be valid for five years from the date of issuance.

Sec. 6. Section 2, chapter 197, Laws of 1957 and RCW 69.06.020 are each amended to read as follows:

The permit provided in RCW 69.06.010 shall be valid in every city, town and county in the state, for the period for which it is issued, and no other health certificate shall be required of such employees by any municipal corporation or political subdivision of the state. The cost of the permit shall be uniform throughout the state and shall be in that amount set by the state board of health ~~((; not to exceed two dollars)).~~ The cost of the permit shall reflect actual costs of food worker training and education, administration of the program, and testing of applicants. The state board of health shall periodically review the costs associated with the permit program and adjust the fee accordingly. The board shall also ensure that the fee is not set at an amount that would prohibit low-income persons from obtaining permits.

Sec. 7. Section 4, chapter 197, Laws of 1957 and RCW 69.06.040 are each amended to read as follows:

This chapter shall apply ~~((only))~~ to any retail establishment ~~((s-regularly))~~ engaged in the business of food handling or food service.

NEW SECTION. Sec. 8. A new section is added to chapter 69.06 RCW to read as follows:

As used in this section, "temporary food service establishment" means a food service establishment operating at a fixed location for a period of time of not more than twenty-one consecutive days in conjunction with a single event or celebration. This chapter applies to temporary food service establishments with the following exceptions:

(1) Only the operator or person in charge of a temporary food service establishment shall be required to secure a food and beverage service workers' permit; and

(2) The operator or person in charge of a temporary food service establishment shall secure a valid food and beverage service workers' permit before commencing the food handling operation.

NEW SECTION. Sec. 9. Section 43.20.090, chapter 8, Laws of 1965, section 3, chapter 26, Laws of 1967, section 1, chapter 25, Laws of 1970 ex. sess., section 36, chapter 42, Laws of 1975-'76 2nd ex. sess., section 1, chapter 52, Laws of 1979 ex. sess., section 11, chapter 16, Laws of 1983 1st ex. sess. and RCW 43.20A.630 are each repealed.

**NEW SECTION.** Sec. 10. Sections 1 through 3 of this act are each added to chapter 70.58 RCW.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 224

[House Bill No. 753]

### CRIMINAL MISTREATMENT SENTENCING REVISED

AN ACT Relating to classification of the seriousness of crimes for sentencing purposes; amending RCW 9.94A.320; declaring an emergency; and providing an effective date.

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

Sec. 1. Section 3, chapter 115, Laws of 1983 as last amended by section 23, chapter 257, Laws of 1986 and RCW 9.94A.320 are each amended to read as follows:

#### TABLE 2

#### CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030)
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW ( <del>9A.36.010</del> ) <u>9A.36.011</u> )
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Statutory Rape 1 (RCW 9A.44.070) Explosive devices prohibited (RCW 70.74.180) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a))

- Inciting Criminal Profiteering (RCW ((9A.82.061(1)(b)))  
9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)  
 Rape 2 (RCW 9A.44.050)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling heroin for profit (RCW 69.50.410)
- VII Burglary 1 (RCW 9A.52.020)  
 Vehicular Homicide (RCW 46.61.520)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Statutory Rape 2 (RCW 9A.44.080)  
 Indecent Liberties (with forcible compulsion) (RCW  
 9A.44.100(1)(a))  
 Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))  
 Dealing in depictions of minor engaged in sexually explicit con-  
 duct (RCW 9.68A.050)  
 Sending, bringing into state depictions of minor engaged in  
 sexually explicit conduct (RCW 9.68A.060)
- VI Bribery (RCW 9A.68.010)  
 Manslaughter 2 (RCW 9A.32.070)  
 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
 Damaging building, etc., by explosion with no threat to human  
 being (RCW 70.74.280(2))  
 Endangering life and property by explosives with no threat to  
 human being (RCW 70.74.270)  
 Indecent Liberties (without forcible compulsion) (RCW  
 9A.44.100(1) (b) ((and)), (c), and (d))  
 Incest 1 (RCW 9A.64.020(1))  
 Selling for profit (controlled or counterfeit) any controlled sub-  
 stance (except heroin) (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or  
 narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)
- V Criminal Mistreatment 1 (RCW 9A.42.020)  
 Rape 3 (RCW 9A.44.060)  
 Kidnapping 2 (RCW 9A.40.030)  
 Extortion 1 (RCW 9A.56.120)  
 Incest 2 (RCW 9A.64.020(2))  
 Perjury 1 (RCW 9A.72.020)  
 Extortionate Extension of Credit (RCW 9A.82.020)  
 Advancing money or property for extortionate extension of  
 credit (RCW 9A.82.030)

- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- IV Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW (~~9A.36.020~~) 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72-.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Wilful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Vehicular Assault (RCW 46.61.522)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Mistreatment 2 (RCW 9A.42.030)
- Statutory Rape 3 (RCW 9A.44.090)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW (~~9A.36.030~~) 9A.36.031)
- Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Wilful Failure to Return from Work Release (RCW 72.65.070)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 1 (RCW 9A.56.080)

- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Livestock 2 (RCW 9A.56.080)
- Burglary 2 (RCW 9A.52.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
  
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))

**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 on July 1, 1987. It shall apply to crimes committed on or after July 1, 1987.

Passed the House March 12, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

---

## CHAPTER 225

[Substitute Senate Bill No. 5104]

### PARKS AND RECREATION COMMISSION—PUBLICATION AND SALE OF INTERPRETIVE MATERIALS—USE OF PARK PROPERTY BY PRIVATE NONPROFIT GROUPS

AN ACT Relating to the parks and recreation commission; amending RCW 43.51.050 and 43.51.060; and adding a new section to chapter 43.51 RCW.

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

Sec. 1. Section 43.51.050, chapter 8, Laws of 1965 and RCW 43.51-.050 are each amended to read as follows:

The commission may: (1) Study and appraise parks and recreational needs of the state and assemble and disseminate information relative to parks and recreation;

(2) Make provisions for the publication and sale in state parks facilities of interpretive, recreational, and historical materials and literature. Proceeds from such sales shall be directed to the parks improvement account; and

(3) Coordinate the parks and recreational functions of the various state departments, and cooperate with state and federal agencies in the promotion of parks and recreational opportunities.

NEW SECTION. Sec. 2. A new section is added to chapter 43.51 RCW to read as follows:

The parks improvement account is hereby established in the state treasury. The parks and recreation commission shall deposit all moneys received from the sale of interpretive, recreational, and historical literature and materials in this account. Moneys in the account may be spent only for development, production, and distribution costs associated with literature and materials, and for enhancements to park facilities that are supplementary to those improvements approved through the appropriation process. Disbursements from the account shall be on the authority of the director of the parks and recreation commission, or the director's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW. No appropriation is required for disbursement of moneys to be used for support of further production of materials provided for in section 1(2) of this act but any moneys to be used for other capital or operating purposes must be appropriated.

Sec. 3. Section 43.51.060, chapter 8, Laws of 1965 as last amended by section 2, chapter 89, Laws of 1980 and RCW 43.51.060 are each amended to read as follows:

The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; and provide for private nonprofit groups to use state park property and facilities to raise money solely for gifts and grants to the commission for the purposes of this chapter with the support of available agency personnel and services. However, none of the moneys raised may inure to the benefit of the nonprofit



group, except in its status as a public user of park facilities. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. All fees received by the commission shall be deposited with the state treasurer in the state general fund;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed ten years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040, and upon his recommendation, a supervisor of recreation, and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose.

Passed the Senate February 26, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

CHAPTER 226

[Senate Bill No. 5245]

REFLECTORIZED WARNINGS ON BROKEN-DOWN VEHICLES

AN ACT Relating to reflectORIZED warnings on disabled vehicles; and amending RCW 46.37.450.

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

Sec. 1. Section 46.37.450, chapter 12, Laws of 1961 as amended by section 1, chapter 119, Laws of 1984 and RCW 46.37.450 are each amended to read as follows:

(1) Whenever any motor truck, passenger bus, truck tractor over eighty inches in overall width, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside any municipality at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (2) of this section:

(a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(b) As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), three lighted red electric lanterns, or three portable red emergency reflectors on the traveled portion of the highway in the following order:

(i) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.

(ii) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(iii) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with subdivision (a) of this subsection, it may be used for this purpose.

(2) Whenever any vehicle referred to in this section is disabled within five hundred feet of a curve, hillcrest, or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than five hundred feet from the disabled vehicle.

(3) Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights

are required, the appropriate warning devices prescribed in subsections (1) and (5) of this section shall be placed as follows:

One at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

(4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside any municipality at any time when the display of fusees, flares, red electric lanterns, or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

(5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in subsection (1) of this section, the driver of such vehicle shall immediately display the following warning devices: One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle, and two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of this disabled vehicle in the center of the traffic lane occupied by such vehicle. Flares, fusees, or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

(6) Whenever any vehicle, other than those described in subsection (1) of this section, is disabled upon the traveled portion of any highway or shoulder thereof outside any municipality (~~at any time when lights are required on vehicles~~), the state patrol or the county sheriff shall, upon discovery of the disabled vehicle, place a reflectorized warning device on (~~or near~~) the vehicle. The warning device and its placement shall be in accordance with rules adopted by the commission on equipment. Neither the standards for, placement or use of, nor the lack of placement or use of a warning device under this subsection gives rise to any civil liability on the part of the state of Washington, the state patrol, any county, or any law enforcement agency or officer.

(7) The flares, fuseses, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the requirements of RCW 46.37.440 applicable thereto.

Passed the Senate March 10, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 227

[Senate Bill No. 5735]

### APPROACH ROADS ON STATE HIGHWAY RIGHTS OF WAY—RULE-MAKING AUTHORITY GRANTED CONCERNING PERMITS

AN ACT Relating to approach roads on state highway rights of way; and amending RCW 47.32.160.

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

Sec. 1. Section 47.32.160, chapter 13, Laws of 1961 as amended by section 186, chapter 7, Laws of 1984 and RCW 47.32.160 are each amended to read as follows:

The department is hereby authorized and empowered at its discretion to adopt reasonable rules (~~((and issue permits, not inconsistent with previous laws in effect,))~~) governing the issuance of permits under RCW 47.32.150 for the construction of any approach road, facility, thing, or appurtenance, upon state highway rights of way. The rules ((and permits may include, but need not be limited to, provisions for construction of culverts under approaches, requirements as to depth of fills over culverts, and requirements for such drainage facilities insofar as the department deems any of such provisions or requirements to be necessary, and)) shall be designed to achieve and preserve reasonable standards of highway safety and the operational integrity of the state highway facility. Any permit issued may contain such terms and conditions as may be prescribed. All such construction shall be under the supervision of the department and at the expense of the applicant. After completion of the construction of the particular approach road, facility, thing, or appurtenance, it shall be maintained at the expense of the applicant and in accordance with the directions of the department.

Passed the Senate March 19, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 29, 1987.

Filed in Office of Secretary of State April 29, 1987.

## CHAPTER 228

[Senate Bill No. 5013]

## STREET VACATIONS

AN ACT Relating to street vacations; amending RCW 35.79.030; and adding a new section to chapter 35.79 RCW.

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

Sec. 1. Section 4, chapter 28, Laws of 1969 as amended by section 1, chapter 254, Laws of 1985 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.

NEW SECTION. Sec. 2. A new section is added to chapter 35.79 RCW to read as follows:

(1) A city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless:

(a) The vacation is sought to enable the city or town to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;

(b) The city or town, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or

(c) The vacation is sought to enable a city or town to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline area to which the streets or alleys sought to be vacated abut, had the properties included in the plan not been vacated.

(2) Before adopting a resolution vacating a street or alley under subsection (1) (b) of this section, the city or town shall:

(a) Compile an inventory of all rights of way within the city or town that abut the same body of water that is abutted by the street or alley sought to be vacated;

(b) Conduct a study to determine if the street or alley to be vacated is suitable for use by the city or town for any of the following purposes: Port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;

(c) Hold a public hearing on the proposed vacation in the manner required by this chapter, where in addition to the normal requirements for publishing notice, notice of the public hearing is posted conspicuously on the street or alley sought to be vacated, which posted notice indicates that the area is public access, it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to a particular official indicating his or her objection; and

(d) Make a finding that the street or alley sought to be vacated is not suitable for any of the purposes listed under (b) of this subsection, and that the vacation is in the public interest.

(3) No vacation shall be effective until the fair market value has been paid for the street or alley that is vacated. Moneys received from the vacation may be used by the city or town only for acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites.

Passed the Senate April 18, 1987.

Passed the House April 14, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

## CHAPTER 229

[Engrossed Senate Bill No. 5097]

LIFELINE TELEPHONE ASSISTANCE PROGRAM ESTABLISHED—DOUBLE  
AMENDMENTS CORRECTED

AN ACT Relating to regulations of the utility and transportation commission; amending RCW 80.36.390; reenacting RCW 80.04.010; reenacting and amending RCW 80.04.130; adding new sections to chapter 80.36 RCW; and providing an expiration date.

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 1, chapter 161, Laws of 1985 and by section 1, chapter 167, Laws of 1985 and by section 2, chapter 450, Laws of 1985 and RCW 80.04.010 are each reenacted 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.

"Competitive telecommunications company" means a telecommunications company which has been classified as such by the commission pursuant to RCW 80.36.320.

"Competitive telecommunications service" means a service which has been classified as such by the commission pursuant to RCW 80.36.330.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or partnership.

"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.

"LATA" means a local access transport area as defined by the commission in conformance with applicable federal law.

"Private telecommunications system" means a telecommunications system controlled by a person or entity for the sole and exclusive use of such person, entity, or affiliate thereof, including the provision of private shared telecommunications services by such person or entity. "Private telecommunications system" does not include a system offered for hire, sale, or resale to the general public.

"Private shared telecommunications services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to interexchange telecommunications companies.

"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.

"Telecommunications 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 facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.

"Facilities" means lines, 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 telecommunications company to facilitate the provision of telecommunications service.

"Telecommunications" is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. As used in this



definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

"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 one hundred customers where the average annual gross revenue per customer does not exceed 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, telecommunications company, and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

"Local exchange company" means a telecommunications company providing local exchange telecommunications service.

"Department" means the department of social and health services.

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 last amended by section 2, chapter 161, Laws of 1985 and by section 1, chapter 206, Laws of 1985 and by section 12, chapter 450, Laws of 1985 and RCW 80.04.130 are each reenacted and amended to read as follows:

(1) 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)) telecommunications service. The commission shall not accept for filing or approve, prior to June 1, 1987, a tariff filed by a ((telephone)) telecommunications 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.

(4) The implementation of lifeline service is a major policy change in available telecommunications service. The implementation of lifeline service will aid in achieving the stated goal of universal telephone service.

NEW SECTION. Sec. 3. The legislature finds that universal telephone service is an important policy goal of the state. The legislature further finds that recent changes in the telecommunications industry, such as federal access charges, raise concerns about the ability of low-income persons to continue to afford access to local exchange telephone service. Therefore, the legislature finds that it is in the public interest to take steps to mitigate the effects of these changes on low-income persons.

NEW SECTION. Sec. 4. Lifeline assistance shall be available to participants of department programs set forth in section 9 of this act. Lifeline assistance shall consist of the following components:

(1) A discount on service connection fees of fifty percent as set forth in section 8 of this act.

(2) A waiver of deposit requirements on local exchange service, as set forth in section 8 of this act.

(3) A discounted flat rate lifeline service rate for local exchange service, which shall be subject to the following conditions:

(a) The commission shall establish a single lifeline service rate for all local exchange companies operating in the state of Washington. The lifeline service rate shall include any federal end user access charges and any other charges necessary to obtain local exchange service.

(b) The commission shall, in establishing the lifeline service rate, consider all charges for local exchange service, including federal end user access charges, mileage charges, extended area service, and any other charges necessary to obtain local exchange service.

(c) The lifeline service rate shall only be available to eligible customers subscribing to the lowest available local exchange flat rate service, where the lowest local exchange flat rate, including any federal end user access charges and any other charges necessary to obtain local exchange service, is greater than the lifeline service rate.

(d) The cost of providing the lifeline service shall be paid, to the maximum extent possible, by a waiver of all or part of the federal end user access charge and, to the extent necessary, from the lifeline fund created by section 5 of this act.

**NEW SECTION.** Sec. 5. Costs associated with lifeline telephone service shall be recovered through a lifeline surcharge on all other switched access lines. The lifeline surcharge shall be applied equally to all residential and business access lines not to exceed sixteen cents per month. The surcharge collected by the telecommunications companies shall not be construed as gross income or gross receipts for purposes of state, county or municipal public utility taxes. All money collected from the lifeline surcharge shall be transferred to a lifeline fund administered by the department. Local exchange companies shall bill the fund for their expenses incurred in offering lifeline telecommunications services, including administrative and program expenses. The department shall disburse the money to the local exchange companies. The department shall recover its administrative costs from the fund.

**NEW SECTION.** Sec. 6. The commission and the department may adopt any rules necessary to implement sections 3 through 10 of this act.

**NEW SECTION.** Sec. 7. Lifeline service shall be limited to one residential access line per eligible household.

**NEW SECTION.** Sec. 8. Local exchange companies shall file tariffs with the commission which waive deposits on local exchange service for eligible subscribers and which establish a fifty percent discount on service connection fees for eligible subscribers. The remaining portion of the connection fee to be paid by the subscriber shall be expressly payable by installment fees spread over a period of months. A subscriber may, however, choose to pay the connection fee in a lump sum. Costs associated with the

waiver and discount shall be accounted for separately and recovered from the lifeline fund. Eligible subscribers shall be allowed one waiver of a deposit and one discount on service connection fees per year.

**NEW SECTION.** Sec. 9. Participants in the following department programs are eligible for lifeline assistance: Aid to families with dependent children, chore services, food stamps, supplemental security income, refugee assistance, and community options program entry system (COPES). The department shall notify the participants of their eligibility.

**NEW SECTION.** Sec. 10. The energy and utilities committees of the legislature shall review the results of the lifeline program and shall explore by December 15, 1989, whether additional lifeline measures are warranted.

**NEW SECTION.** Sec. 11. Sections 3 through 10 of this act are each added to chapter 80.36 RCW.

**NEW SECTION.** Sec. 12. Sections 3 through 10 of this act shall expire June 30, 1990, unless extended by the legislature.

Sec. 13. Section 2, chapter 277, Laws of 1986 and RCW 80.36.390 are each amended to read as follows:

(1) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a residential telephone customer and conversation for the purpose of encouraging a person to purchase property, goods, or services or soliciting donations of money, property, goods, or services. "Telephone solicitation" does not include:

(a) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than twelve months prior to the telephone contact;

(b) Calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;

(c) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(d) Business-to-business contacts.

For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization. For purposes of this section, an organization as defined in RCW 29.01.090 or 29.01.100 and organized pursuant to RCW 29.42.010 shall not be considered a commercial or nonprofit company or organization.

(2) A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first thirty seconds of the telephone call.

(3) If, at any time during the telephone contact, the called party states or indicates that he or she does not wish to be called again by the company or organization or wants to have his or her name and individual telephone number removed from the telephone lists used by the company or organization making the telephone solicitation, then:

(a) The company or organization shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year; and

(b) The company or organization shall not sell or give the called party's name and telephone number to another company or organization: PROVIDED, That the company or organization may return the list, including the called party's name and telephone number, to the company or organization from which it received the list.

(4) A violation of subsection (2) or (3) of this section is punishable by a fine of up to one thousand dollars for each violation.

(5) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general shall notify the company with a letter of warning that the section has been violated.

(6) A person aggrieved by ((α)) repeated violations of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least one hundred dollars for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

(7) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual inserts in the billing statements mailed to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories.

Passed the Senate April 18, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

---

## CHAPTER 230

[Substitute Senate Bill No. 5253]

### DISPLACED HOMEMAKER ACT REAUTHORIZED—MARRIAGE LICENSE SURCHARGE—DISPLACED HOMEMAKER PROGRAM ADVISORY COMMITTEE CREATED

AN ACT Relating to displaced homemakers; amending RCW 36.18.010; adding a new section to chapter 28B.04 RCW; repealing section 11, chapter 15, Laws of 1982 1st ex. sess. (uncodified); establishing an effective date; and declaring an emergency.

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

Sec. 1. Section 36.18.010, chapter 4, Laws of 1963 as last amended by section 2, chapter 44, Laws of 1985 and RCW 36.18.010 are each amended to read as follows:

County auditors shall collect the following fees for their official services:

For recording instruments, for the first page, legal size (eight and one-half by thirteen inches or less), five dollars; for each additional legal size page, one dollar;

For preparing and certifying copies, for the first legal size page, three dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, 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)~~) ten-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)~~). The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, 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 recording of miscellaneous records, not listed above, for first legal size page, five dollars; for each additional legal size page, one dollar.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.04 RCW to read as follows:

(1) The executive coordinator of the higher education coordinating board shall establish an advisory committee, to be known as the displaced homemaker program advisory committee.

(2) The advisory committee shall be advisory to the executive coordinator and staff of the board.

(3) Committee membership shall not exceed twenty-two persons and shall be geographically and generally representative of the state. At least one member of the advisory committee shall either be or recently have been a displaced homemaker.

(4) Functions of the advisory committee shall be:

(a) To provide advice on all aspects of administration of the displaced homemaker program, including content of program rules, guidelines, and application procedures;

(b) To assist in coordination of activities under the displaced homemaker program with related activities of other state and federal agencies, with particular emphasis on facilitation of coordinated funding.

**NEW SECTION.** Sec. 3. Section 11, chapter 15, Laws of 1982 1st ex. sess. (uncodified) is 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 July 1, 1987.

Passed the Senate April 20, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

## CHAPTER 231

[Substitute House Bill No. 138]

### WASHINGTON AWARD FOR VOCATIONAL EXCELLENCE PROGRAM REVISED

AN ACT Relating to the Washington award for vocational excellence; amending RCW 28B.15.545, 28C.04.530, 28C.04.525, and 28C.04.545; adding a new section to chapter 28B.15 RCW; and providing an effective date.

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

Sec. 1. Section 6, chapter 267, Laws of 1984 as amended by section 31, chapter 390, Laws of 1985 and RCW 28B.15.545 are each amended to read as follows:

The boards of regents and trustees of the state universities, regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees for a maximum of (~~one academic year~~) six quarters or four semesters for recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00 in the first year shall be required to qualify for the second-year waiver. The tuition waiver shall be granted for undergraduate studies only.

Sec. 2. Section 3, chapter 267, Laws of 1984 and RCW 28C.04.530 are each amended to read as follows:

(1) The commission for vocational education or a successor agency shall have the responsibility for the development and administration of the Washington award for vocational excellence program. The commission or

successor agency shall develop the program in consultation with other state agencies and private organizations having interest and responsibility in vocational education, including but not limited to: The state board for community college education, the office of the superintendent of public instruction, a voluntary professional association of vocational educators, and representatives from business, labor, and industry.

(2) The commission or successor agency shall establish a planning committee to develop the criteria for screening and selecting the students who will receive the award. This criteria shall include but not be limited to the following characteristics: Proficiency in their chosen fields, attendance, attitude, character, leadership, and civic contributions.

Sec. 3. Section 2, chapter 267, Laws of 1984 and RCW 28C.04.525 are each amended to read as follows:

The Washington award for vocational excellence program is established. The purposes of this annual program are to:

(1) Maximize public awareness of the achievements, leadership ability, and community contributions of the state's public vocational-technical students;

(2) Emphasize the dignity of work in our society;

(3) Instill respect for those who become skilled in crafts and technology;

(4) Recognize the value of vocational education and its contribution to the economy of this state;

(5) Foster business, labor, and community involvement in vocational-technical training programs and in this award program; and

(6) Recognize the outstanding achievements of up to three (~~graduating~~) vocational or technical students, at least two of whom should be graduating high school students, in each legislative district. Students who have completed at least one year of a vocational-technical program in a community college or public vocational-technical institute may also be recognized.

Sec. 4. Section 7, chapter 267, Laws of 1984 and RCW 28C.04.545 are each amended to read as follows:

The respective governing boards of the public vocational-technical institutes shall provide fee waivers for a maximum of (~~one school~~) two years for recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540. To qualify for the waiver, recipients shall enter the public vocational-technical institute within three years of receiving the award. An above average rating at the vocational-technical institute in the first year shall be required to qualify for the second-year waiver.

NEW SECTION. Sec. 5. A new section is added to chapter 28B.15 RCW to read as follows:



Students receiving the Washington award for vocational excellence in 1987 and thereafter are eligible for a second-year waiver.

NEW SECTION. Sec. 6. Section 3 of this act shall take effect January 1, 1988.

Passed the House March 18, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

## CHAPTER 232

[House Bill No. 770]

### SCHOOL SCIENCE CURRICULUM TO PLACE AN EMPHASIS ON THE ENVIRONMENT

AN ACT Relating to environmental education; and amending RCW 28A.05.010.

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

Sec. 1. Section 28A.05.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 4, chapter 149, Laws of 1986 and RCW 28A.05.010 are each amended to read as follows:

All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcoholic stimulants and narcotics on the human system, (~~the history of the United States~~) science with special reference to the environment, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

Passed the House March 18, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

## CHAPTER 233

[Senate Bill No. 5976]

## LIVESTOCK LIENS—VETERINARIAN SHALL HAVE LIEN FOR UNPAID AMOUNTS—CRUELTY TO ANIMALS, TEMPORARY CARETAKER HAS A LIEN—EXPIRATION PERIOD OF SIXTY DAYS CREATED

AN ACT Relating to livestock liens; amending RCW 60.56.010 and 60.56.050; adding new sections to chapter 60.56 RCW; and repealing RCW 60.56.020, 60.56.030, and 60.56.040.

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

Sec. 1. Section 1, chapter 176, Laws of 1909 and RCW 60.56.010 are each amended to read as follows:

Any farmer, ranchman, herder of cattle, tavern keeper, livery and boarding stable keeper, veterinarian, or any other person, to whom any horses, mules, cattle or sheep shall be entrusted for the purpose of feeding, herding, pasturing, and training, caring for or ranching, shall have a lien upon said horses, mules, cattle or sheep for such amount that may be due for said feeding, herding, pasturing, training, caring for, and ranching, and shall be authorized to retain possession of said horses, mules or cattle or sheep, until said amount is paid or the lien expires, whichever first occurs. The lien attaches on the date such amounts are due and payable but are unpaid.

NEW SECTION. Sec. 2. A new section is added to chapter 60.56 RCW to read as follows:

If a law enforcement officer authorizes removal of an animal pursuant to chapter 16.52 RCW, the person or entity receiving the animal and aiding in its care or restoration to health shall have a lien upon the animal for the cost of feeding, pasturing, and caring otherwise for the animal. The lien attaches on the date such costs are due and payable but are unpaid. Any such person is authorized to retain possession of the animal until such costs are paid or the lien expires, whichever first occurs.

NEW SECTION. Sec. 3. A new section is added to chapter 60.56 RCW to read as follows:

Any lien created by this chapter shall expire sixty days after it attaches, unless, within that period, an action to enforce the lien is filed pursuant to RCW 60.56.050.

Sec. 4. Section 2, chapter 80, Laws of 1891 and RCW 60.56.050 are each amended to read as follows:

Any person having a lien under the provisions of (~~RCW 60.56.040~~;) this chapter may enforce the same by an action in any court of competent jurisdiction; and said property may be sold on execution for the purpose of satisfying the amount of such judgment and costs of sale, together with the proper costs of keeping the same up to the time of said sale.

**NEW SECTION.** Sec. 5. The following act or parts of acts are each repealed:

- (1) Section 2, chapter 176, Laws of 1909 and RCW 60.56.020;
- (2) Section 3, chapter 176, Laws of 1909 and RCW 60.56.030; and
- (3) Section 1, chapter 80, Laws of 1891 and RCW 60.56.040.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

## CHAPTER 234

[House Bill No. 825]

### MOTOR VEHICLE FUNDS MAY BE USED BY CITIES AND TOWNS FOR CHIP-SEALING, SEAL-COATING, OR FOR THE MAINTENANCE OF ARTERIAL HIGHWAYS

AN ACT Relating to the use of motor vehicle funds; and amending RCW 46.68.115.

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

Sec. 1. Section 10, chapter 317, Laws of 1977 ex. sess. as amended by section 1, chapter 43, Laws of 1983 and RCW 46.68.115 are each amended to read as follows:

The sums distributed to cities and towns as set forth in subsection (2) of RCW 46.68.100(~~(, as now or hereafter amended,)~~) shall be allocated between them as provided by RCW 46.68.110, subject to the provisions of RCW 35.76.050, to be used exclusively: For the construction, improvement, chip sealing, seal-coating, and repair of arterial highways and city streets as those terms are defined in RCW 46.04.030 and 46.04.120; for the maintenance of arterial highways and city streets(~~(, as approved by the department of transportation, state aid engineer,)~~) for those cities with a population of less than ~~((five))~~ fifteen thousand; or for the payment of any municipal indebtedness which may be incurred ~~((after June 12, 1963,))~~ in the construction, improvement, chip sealing, seal-coating, and repair of arterial highways and city streets.

Passed the House March 20, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

CHAPTER 235

[Substitute Senate Bill No. 5107]

MOTOR VEHICLE REGISTRATION—REGISTRATION METHOD WHICH INSURES THAT THE TAX IS LEVIED ONLY FOR THE REGISTRATION PERIOD

AN ACT Relating to motor vehicle excise tax; adding a new section to chapter 82.44 RCW.

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

NEW SECTION. Sec. 1. By January 1, 1988, the department of licensing and the department of revenue shall propose to the legislature a method of vehicle registration to insure that excise tax is levied only for the effective registration period.

Passed the Senate April 20, 1987.

Passed the House March 14, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

CHAPTER 236

[Senate Bill No. 5160]

POISONS AND HAZARDOUS SUBSTANCES—REGULATORY AUTHORITY

AN ACT Relating to poisons and hazardous substances; and adding a new section to chapter 70.106 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.106 RCW to read as follows:

The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director. However, the director shall designate the Washington state board of pharmacy to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof.

Passed the Senate February 26, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

CHAPTER 237

[Substitute Senate Bill No. 5423]

HONORARY CONSUL LICENSE PLATES

AN ACT Relating to special license plates for honorary consuls of foreign governments; and adding a new section to chapter 46.16 RCW.

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:

(1) Every honorary consul or official representative of any foreign government who is a citizen or resident of the United States of America, duly licensed and holding an exequatur issued by the department of state of the United States of America is entitled to apply to the director for, and upon satisfactory showing, and upon payment of regular license fees and excise tax, to receive, in lieu of the regular motor vehicle license plates, such special plates of a distinguishing color and running in a separate numerical series, as the director shall prescribe. Application for renewal of the license plates shall be as prescribed for the license renewal of other vehicles.

(2) Whenever the owner or lessee as provided in subsection (1) of this section transfers or assigns his interest or title in the motor vehicle to which the special plates were attached, the plates shall be removed from the motor vehicle, and if another vehicle is acquired, attached thereto, and the director shall be immediately notified of the transfer of the plates; otherwise the removed plates shall be immediately forwarded to the director to be destroyed. Whenever the owner or lessee as provided in subsection (1) of this section is for any reason relieved of his duties as an honorary consul or official representative of a foreign government, he shall immediately forward the special plates to the director, who shall upon receipt thereof provide such plates as are otherwise provided by law.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor April 30, 1987.

Filed in Office of Secretary of State April 30, 1987.

## CHAPTER 238

[Substitute House Bill No. 154]

### HAZARDOUS MATERIAL INCIDENTS—PROCEDURES—LIABILITY

AN ACT Relating to hazardous materials liability; amending RCW 70.136.020, 70.136.030, 70.136.050, 70.136.060, and 70.136.070; and adding a new section to chapter 70.136 RCW.

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

Sec. 1. Section 2, chapter 172, Laws of 1982 and RCW 70.136.020 are each amended to read as follows:

The definitions set forth in this section apply throughout RCW 70.136.010 through 70.136.070.

(1) "Hazardous materials" means:

(a) Materials which, if not contained may cause unacceptable risks to human life within a specified area adjacent to the spill, seepage, fire, explosion, or other release, and will, consequently, require evacuation;

(b) Materials that, if spilled, could cause unusual risks to the general public and to emergency response personnel responding at the scene;

(c) Materials that, if involved in a fire will pose unusual risks to emergency response personnel;

(d) Materials requiring unusual storage or transportation conditions to assure safe containment; or

(e) Materials requiring unusual treatment, packaging, or vehicles during transportation to assure safe containment.

(2) "Applicable political subdivisions of the state" means cities, towns, counties, fire districts, and those port authorities with emergency response capabilities.

(3) "Person" means an individual, partnership, corporation, or association.

(4) "Public agency" means 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.

(5) "Hazardous materials incident" means an incident creating a danger to persons, property, or the environment as a result of spillage, seepage, fire, explosion, or release of hazardous materials, or the possibility thereof.

~~((5))~~ (6) "Governing body" means the elected legislative council, board, or commission or the chief executive of the applicable political subdivision of the state with public safety responsibility.

~~((6))~~ (7) "Incident ~~((commander))~~ command agency" means the ~~((commanding officer))~~ predesignated or appointed agency charged with coordinating all activities and resources at the incident scene ~~((who is representing the designated hazardous materials incident command agency))~~.

~~((7))~~ (8) "Representative" means an agent ~~((of the incident commander))~~ from the designated hazardous materials incident command agency with the authority to secure the services of persons with hazardous materials expertise or equipment.

~~((8))~~ (9) "Profit" means compensation for rendering care, assistance, or advice in excess of expenses actually incurred.

Sec. 2. Section 4, chapter 172, Laws of 1982 as last amended by section 50, chapter 266, Laws of 1986 and RCW 70.136.030 are each amended to read as follows:

The governing body of each applicable political subdivision of this state ~~((may))~~ shall designate a hazardous materials incident command agency within its respective boundaries, and file this designation with the director of

community development. 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. If a political subdivision has not designated an incident command agency within six months after the effective date of this section, the Washington state patrol shall then assume the role of incident command agency by action of the chief until a designation has been made.

**NEW SECTION.** Sec. 3. A new section is added to chapter 70.136 RCW to read as follows:

In political subdivisions where an incident command agency has been designated, the Washington state patrol shall continue to respond with a supervisor to provide assistance to the incident command agency.

Sec. 4. Section 5, chapter 172, Laws of 1982 as amended by section 2, chapter 165, Laws of 1984 and RCW 70.136.050 are each amended to read as follows:

An incident command agency in the good faith performance of its duties, is not liable for civil damages resulting from any act or omission in the performance of its duties, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

Any person or public agency whose assistance has been requested by an incident command agency, who has entered into a written hazardous materials assistance agreement before or at the scene of the incident pursuant to RCW 70.136.060 and 70.136.070, and who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident, is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or ((willful)) willful or wanton misconduct((, if:

~~(1) The political subdivision has designated a hazardous materials incident command agency; and~~

~~(2) The designated incident command agency and the person whose assistance is requested have entered into a written hazardous materials assistance agreement prior to the incident which incorporates the terms and conditions of RCW 70.136.060, except as specified in RCW 70.136.070;~~

~~(3) The request for assistance comes from the designated incident command agency)).~~

Sec. 5. Section 6, chapter 172, Laws of 1982 and RCW 70.136.060 are each amended to read as follows:

Hazardous materials emergency assistance agreements which are executed prior to a hazardous materials incident shall include the following terms and conditions:

(1) The person or public agency requested to assist shall not be obligated to assist;

(2) The person or public agency requested to assist may act only under the direction of the incident ~~((commander or his))~~ command agency or its representative;

(3) The person or public agency requested to assist may withdraw ~~((his))~~ its assistance if ~~((he))~~ it deems the actions or directions of the incident ~~((commander))~~ command agency to be contrary to accepted hazardous materials response practices;

(4) The person or public agency requested to assist shall not profit from rendering the assistance;

~~(5) ((The person requested to assist shall not be a public employee acting in his official capacity within the boundaries of his political subdivision;~~

~~(6))~~ Any person responsible for causing the hazardous materials incident shall not be covered by the liability standard defined in RCW 70.136.050.

It is the responsibility of both parties to ensure that mutually agreeable procedures are established for identifying the ~~((designated))~~ incident command agency when assistance is requested, for recording the name of the person or public agency whose assistance is requested, and the time and date of the request, which records shall be retained for three years by the ~~((designated))~~ incident command agency. A copy of the official incident command agency designation shall be a part of the assistance agreement specified in this section.

Sec. 6. Section 7, chapter 172, Laws of 1982 and RCW 70.136.070 are each amended to read as follows:

(1) Verbal hazardous materials emergency assistance agreements may be entered into at the scene of an incident where execution of a written agreement prior to the incident is not possible. A notification of the terms of this section shall be presented at the scene by the incident ~~((commander or his))~~ command agency or its representative to the person or public agency whose assistance is requested. The incident ~~((commander))~~ command agency and the person or public agency whose assistance is requested shall both sign the notification which appears in subsection (2) of this section, indicating the date and time of signature. If a requesting incident command agency deliberately misrepresents individual or agency status, that agency shall assume full liability for any damages resulting from the actions of the person or public agency whose assistance is requested, other than those damages resulting from gross negligence or ~~((willful))~~ willful or wanton misconduct.



(2) The notification required by subsection (1) of this section shall be in substantially the following form:

**NOTIFICATION OF "GOOD SAMARITAN" LAW**

You have been requested to provide emergency assistance by a representative of a ~~((designated))~~ hazardous materials incident command agency. To encourage your assistance, the Washington state legislature has passed "Good Samaritan" legislation ~~((chapter 4.24 RCW, part))~~ RCW 70.136-.050 to protect you from potential liability. The law reads, in part:

"Any person or public agency whose assistance has been requested by an incident command agency, who has entered into a written hazardous materials assistance agreement . . . at the scene of the incident pursuant to . . . RCW 70.136.070, and who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident, is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or ~~((willful))~~ willful or wanton misconduct."

The law requires that you be advised of certain conditions to ensure your protection:

1. You are not obligated to assist and you may withdraw your assistance at any time.
2. You cannot profit from assisting.
3. You must agree to act under the direction of the incident ~~((commander))~~ command agency.
4. You are not covered by this law if you caused the initial accident ~~((or if you are a public employee doing your official duty))~~.

I have read and understand the  
the above.  
(Name) \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

I am a representative of a designated  
hazardous materials incident  
command agency and I am  
authorized to make this request  
for assistance.

(Name) \_\_\_\_\_

(Agency) \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

Passed the House March 4, 1987.  
Passed the Senate April 16, 1987.  
Approved by the Governor May 1, 1987.  
Filed in Office of Secretary of State May 1, 1987.

## CHAPTER 239

[Substitute House Bill No. 238]

## GARBAGE AND REFUSE COLLECTION COMPANIES—COMPLIANCE WITH LOCAL SOLID WASTE MANAGEMENT PLANS IS A CONDITION OF OPERATION—COUNTY DUTIES CONCERNING REVIEW OF COMPANIES

AN ACT Relating to solid waste management; amending RCW 81.77.030 and 81.77.040; and adding a new section to chapter 81.77 RCW.

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

Sec. 1. Section 4, chapter 295, Laws of 1961 as amended by section 1, chapter 105, Laws of 1965 ex. sess. and RCW 81.77.030 are each amended to read as follows:

The commission shall supervise and regulate every garbage and refuse collection company in this state,

(1) By fixing and altering its rates, charges, classifications, rules and regulations;

(2) By regulating the accounts, service, and safety of operations;

(3) By requiring the filing of annual and other reports and data;

(4) By supervising and regulating such persons or companies in all other matters affecting the relationship between them and the public which they serve;

(5) By reviewing compliance with local solid waste management plans through letters of compliance submitted by the county legislative authority. The compliance letters shall become part of the record in any rate, compliance, or any hearing held by the commission on the issuance, revocation, or reissuance of a certificate as provided for in RCW 81.77.070.

The commission, on complaint made on its own motion or by an aggrieved party, at any time, after the holding of a hearing of which the holder of any certificate has had notice and an opportunity to be heard, and at which it shall be proven that the holder has wilfully violated or refused to observe any of the commission's orders, rules, or regulations, or has failed to operate as a garbage and refuse collection company for a period of at least one year preceding the filing of the complaint, may suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter.

Sec. 2. Section 5, chapter 295, Laws of 1961 and RCW 81.77.040 are each amended to read as follows:

No garbage and refuse collection company shall hereafter operate for the hauling of garbage and refuse for compensation without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. A condition of operating a garbage and refuse company in the unincorporated areas of a county shall be complying with the solid waste management plan prepared under chapter 70.95 RCW applicable in the company's franchise area.

Issuance of the certificate of necessity shall be determined upon, but not limited to, the following factors: The present service and the cost thereof for the contemplated area to be served; an estimate of the cost of the facilities to be utilized in the plant for garbage and refuse collection and disposal, sworn to before a notary public; a statement of the assets on hand of the person, firm, association or corporation which will be expended on the purported plant for garbage and refuse collection and disposal, sworn to before a notary public; a statement of prior experience, if any, in such field by the petitioner, sworn to before a notary public; and sentiment in the community contemplated to be served as to the necessity for such a service.

When an applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, the commission may, after hearing, issue the certificate only if the existing garbage and refuse collection company or companies serving the territory will not provide service to the satisfaction of the commission.

In all other cases, the commission may, with or without hearing, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

Any right, privilege, certificate held, owned, or obtained by a garbage and refuse collection company may be sold, assigned, leased, transferred, or inherited as other property, but only upon authorization by the commission.

Any garbage and refuse collection company which upon July 1, 1961 is operating under authority of a common carrier or contract carrier permit issued under the provisions of chapter 81.80 RCW shall be granted a certificate of necessity without hearing upon compliance with the provisions of this chapter. Such garbage and refuse collection company which has paid the plate fee and gross weight fees required by chapter 81.80 RCW for the year 1961 shall not be required to pay additional like fees under the provisions of this chapter for the remainder of such year.

**NEW SECTION.** Sec. 3. A new section is added to chapter 81.77 RCW to read as follows:

A county legislative authority shall periodically comment to the commission in writing concerning the authority's perception of the adequacy of service being provided by regulated franchisees serving the unincorporated areas of the county. The county legislative authority shall also receive and forward to the commission all letters of comment on services provided by regulated franchise holder(s) serving unincorporated areas of the county. Any such written comments or letters shall become part of the record of any

rate, compliance, or any other hearing held by the commission on the issuance, revocation, or reissuance of a certificate provided for in RCW 81.77.040.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

---

CHAPTER 240

[House Bill No. 310]

MOTOR VEHICLE INSURANCE—COLLISION AND COMPREHENSIVE  
COVERAGE SHALL OFFER DEBT AND REFINANCING COVERAGE

AN ACT Relating to motor vehicle insurance; adding a new section to chapter 48.22 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 48.22 RCW to read as follows:

Every insurer that writes collision and comprehensive coverage for loss or damage to a motor vehicle shall provide, upon the insured's request, coverage that will pay, in the event of loss or damage, an amount sufficient to satisfy any outstanding indebtedness secured by and incurred in conjunction with the financing of the purchase of a new motor vehicle.

Nothing in this section prohibits an insurer from denying or excluding such coverage where the insured or someone acting on the insured's behalf acts in a fraudulent manner to obtain or file a claim under such coverage.

NEW SECTION. Sec. 2. The effective date of this act is January 1, 1988.

Passed the House April 20, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

---

CHAPTER 241

[House Bill No. 815]

STORM WATER CONTROL FACILITIES—DELINQUENT CHARGES—INTEREST,  
LIENS, OR FORECLOSURE

AN ACT Relating to interest rates, liens, and foreclosures for delinquent storm water control facility service charges; amending RCW 36.89.090; and adding new sections to chapter 36.89 RCW.

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

Sec. 1. Section 8, chapter 30, Laws of 1970 ex. sess. and RCW 36.89-.090 are each amended to read as follows:

The county shall have a lien for delinquent service charges, including interest thereon, against any property against which they were levied for storm water control facilities, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such lien shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67-.200 through 35.67.290: PROVIDED, That a county may, by resolution or ordinance, adopt all or any part of the alternative interest rate, lien, and foreclosure procedures as set forth in sections 2 through 4 of this 1987 act.

NEW SECTION. Sec. 2. A new section is added to chapter 36.89 RCW to read as follows:

Any county may provide, by resolution or ordinance, that delinquent storm water service charges bear interest at a rate of twelve percent per annum, computed on a monthly basis, in lieu of the interest rate provided for in RCW 35.67.200.

NEW SECTION. Sec. 3. A new section is added to chapter 36.89 RCW to read as follows:

Any county may, by resolution or ordinance, provide that the storm water service charge lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor, in lieu of the provisions provided for in RCW 35.67.210.

NEW SECTION. Sec. 4. A new section is added to chapter 36.89 RCW to read as follows:

Any county may, by resolution or ordinance, provide that an action to foreclose a storm water service charge lien may be commenced after three years from the date storm water service charges become delinquent, in lieu of the provisions provided for in RCW 35.67.230.

Passed the House March 13, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

---

## CHAPTER 242

[House Bill No. 1014]

### PUBLIC CORPORATIONS MAY USE LOCAL IMPROVEMENT DISTRICT FINANCING

AN ACT Relating to local improvements; amending RCW 35.43.010, 35.43.190, 35.44-.020, and 35.51.020; adding a new section to chapter 35.43 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. It is declared to be the public policy of the state that public improvements owned and operated by public corporations that confer special benefits on property, including without limitation museum, cultural, or arts facilities or structures, should be able to use the local improvement district financing of municipalities.

Sec. 2. Section 35.43.010, chapter 7, Laws of 1965 and RCW 35.43-.010 are each amended to read as follows:

Whenever the words "city council" or "town council" are used in this and the following chapters relating to municipal local improvements, they shall be construed to mean the council or other legislative body of such city or town. Whenever the word "mayor" is used therein, it shall be construed to mean the presiding officer of said city or town. Whenever the words "installment" or "installments" are used therein, they shall be construed to include installment or installments of interest. Whenever the words "local improvement," "local improvements," or "municipal local improvements" are used therein, they shall be construed to include improvements owned or operated by a public corporation or by a public corporation and a city, town, or another public corporation. Whenever the words "public corporation" are used therein, they shall mean a public corporation, commission, or authority created pursuant to RCW 35.21.730 through 35.21.755.

Sec. 3. Section 35.43.190, chapter 7, Laws of 1965 as amended by section 6, chapter 116, Laws of 1971 ex. sess. and RCW 35.43.190 are each amended to read as follows:

All local improvements, the funds for the making of which are derived in whole or in part from assessments upon property specially benefited shall be made by contract on competitive bids whenever the estimated cost of such improvement including the cost of materials, supplies, labor, and equipment will exceed the sum of five thousand dollars. The city ((or)), town, or public corporation may reject any and all bids. The city ((or)), town, or public corporation itself may make the local improvements if all the bids received exceed by ten percent preliminary cost estimates prepared by an independent consulting engineer or registered professional engineer retained for that purpose by the city ((or)), town, or public corporation.

Sec. 4. Section 35.44.020, chapter 7, Laws of 1965 as last amended by section 4, chapter 397, Laws of 1985 and RCW 35.44.020 are each amended to read as follows:

There shall be included in the cost and expense of every local improvement for assessment against the property in the district created to pay the same, or any part thereof:

(1) The cost of all of the construction or improvement authorized for the district including, but not limited to, that portion of the improvement within the street intersections;

(2) The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the city or town engineer;

(3) The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

(4) The estimated cost and expense of advertising, mailing, and publishing all necessary notices;

(5) The estimated cost and expense of accounting, clerical labor, and of books and blanks extended or used on the part of the city or town clerk and city or town treasurer in connection with the improvement;

(6) All cost of the acquisition of rights of way, property, easements, or other facilities or rights, whether by eminent domain, purchase, gift, or in any other manner;

(7) The cost for legal, financial, and appraisal services and any other expenses incurred by the city (( $\sigma$ )), town, or public corporation for the district or in the formation thereof, or by the city (( $\sigma$ )), town, or public corporation in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds and the cost of providing for increases in the local improvement guaranty fund, or providing for a separate reserve fund or other security for the payment of principal of and interest on such bonds.

Any of the costs set forth in this section may be excluded from the cost and expense to be assessed against the property in such local improvement district and may be paid from any other moneys available therefor if the legislative body of the city or town so designates by ordinance at any time.

Sec. 5. Section 6, chapter 397, Laws of 1985 and RCW 35.51.020 are each amended to read as follows:

A municipality may contract with any other municipality, with a public corporation, or with the state of Washington, for the following purposes:

(1) To have the acquisition or construction of the whole or any part of an improvement performed by another municipality, by a public corporation, or by the state of Washington;

(2) To pay, from assessments on property within a local improvement district or from the proceeds of local improvement district bonds, notes or warrants, the whole or any part of the expense of an improvement ordered, constructed, acquired, or owned by another municipality or a public corporation; or

(3) To integrate the planning, financing, construction, acquisition, management, or operation, or any combination thereof, of the improvements of one municipality or a public corporation with the planning, financing, construction, acquisition, management, or operation, or any combination thereof, of the improvements of another municipality or public corporation on such terms and conditions as may be mutually agreed upon including, but not limited to, the allocation of the costs of the improvements and the

allocation of planning, financing, construction, management, operation, or other responsibilities.

**NEW SECTION.** Sec. 6. A new section is added to chapter 35.43 RCW to read as follows:

The provisions of this and the following chapters relating to municipal local improvements apply to local improvements owned or operated by a public corporation or by a public corporation and a city, town, or another public corporation as if they were owned or operated by a city or town. Whenever a section in such chapters refers to improvements made by, ordered by, owned by, operated by, constructed by, acquired by, or otherwise provided for or undertaken by a city or town or other municipality, it shall be construed to refer also to improvements made by, ordered by, owned by, operated by, constructed by, acquired by, or otherwise provided for or undertaken by a public corporation.

Passed the House March 13, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

## CHAPTER 243

[Engrossed Senate Bill No. 5178]

### COMMODITY CONTRACTS AND OPTIONS REGULATED

AN ACT Relating to commodities; amending RCW 21.30.010, 21.30.030, 21.30.040, 21.30.190, and 21.30.350; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature intends that this chapter, and any rules, regulations, or orders promulgated pursuant hereto, apply to transactions in commodities which constitute commodity contracts or commodity options as defined in this chapter, unless the context clearly requires otherwise.

Sec. 2. Section 1, chapter 14, Laws of 1986 and RCW 21.30.010 are each amended to read as follows:

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

(1) "Administrator" means the person designated by the director in accordance with the provisions of RCW 21.20.460.

(2) "Board of trade" means any person or group of persons engaged in buying or selling any commodity or receiving any commodity for sale on consignment, whether such person or group of persons is characterized as a board of trade, exchange, or other form of marketplace.

(3) "Director" means the director of the department of licensing.



(4) "Commodity broker-dealer" means, for the purposes of registration in accordance with this chapter, any person engaged in the business of making offers, sales, or purchases of commodities under commodity contracts or under commodity options.

(5) "Commodity sales representative" means, for the purposes of registration in accordance with this chapter, any person (~~employed by or representing~~) authorized to act and acting for a commodity broker-dealer ((or issuer in making an offer, sale, or purchase of any commodity under any)) in effecting or attempting to effect a transaction in a commodity contract or ((under)) commodity option.

(6) "Commodity exchange act" means the act of congress known as the commodity exchange act, as amended, codified at 7 U.S.C. Sec. 1 et seq.

(7) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the commodity exchange act.

(8) "CFTC rule" means any rule, regulation, or order of the commodity futures trading commission in effect on October 1, 1986, and all subsequent amendments, additions, or other revisions thereto, unless the administrator, within ten days following the effective date of any such amendment, addition, or revision, disallows the application thereof by rule or order.

(9) "Commodity" means, except as otherwise specified by the director by rule or order, any agricultural, grain, or livestock product or by-product, any metal or mineral (including a precious metal set forth in subsection (17) of this section), any gem or gemstone (whether characterized as precious, semiprecious, or otherwise), any fuel (whether liquid, gaseous, or otherwise), any foreign currency, and all other goods, articles, products, or items of any kind. However, the term commodity does not include (a) a numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains, (b) real property or any timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property, or (c) any work of art offered or sold by art dealers, at public auction, or offered or sold through a private sale by the owner thereof.

(10) "Commodity contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. Any commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation

or investment purposes. A commodity contract shall not include any contract or agreement which requires, and under which the purchaser receives, within twenty-eight calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(11) "Commodity option" means any account, agreement, or contract giving a party thereto the right to purchase or sell one or more commodities and/or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but does not include a commodity option traded on a national securities exchange registered with the United States securities and exchange commission.

(12) "Commodity merchant" means any of the following, as defined or described in the commodity exchange act or by CFTC rule:

- (a) Futures commission merchant;
- (b) Commodity pool operator;
- (c) Commodity trading advisor;
- (d) Introducing broker;
- (e) Leverage transaction merchant;
- (f) An associated person of any of the foregoing;
- (g) Floor broker; and

(h) Any other person (other than a futures association) required to register with the commodity futures trading commission.

(13) "Financial institution" means a bank, savings institution, or trust company organized under, or supervised pursuant to, the laws of the United States or of any state.

(14) "Offer" or "offer to sell" includes every offer, every attempt to offer to dispose of, or solicitation of an offer to buy, to purchase, or to acquire, for value.

(15) "Sale" or "sell" includes every sale, contract of sale, contract to sell, or disposition, for value.

(16) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government, but does not include a contract market designated by the commodity futures trading commission or any clearinghouse thereof or a national securities exchange registered with the United States securities and exchange commission (or any employee, officer, or director of such contract market, clearinghouse, or exchange acting solely in that capacity).

(17) "Precious metal" means:

- (a) Silver, in either coin, bullion, or other form;
- (b) Gold, in either coin, bullion, or other form;
- (c) Platinum, in either coin, bullion, or other form; and

(d) Such other items as the director may specify by rule or order.

Sec. 3. Section 3, chapter 14, Laws of 1986 and RCW 21.30.030 are each amended to read as follows:

The prohibition in RCW 21.30.020 does not apply to any transaction offered by and in which any of the following persons (or any employee, officer, or director thereof acting solely in that capacity) is the purchaser or seller:

(1) A person registered with the commodity futures trading commission as a futures commission merchant or as a leverage transaction merchant but only as to those activities that require such registration;

(2) A person affiliated with, and whose obligations and liabilities are guaranteed by, a person referred to in subsection (1) or (5) of this section;

(3) A person who is a member of a contract market designated by the commodity futures trading commission (or any clearinghouse thereof);

(4) A financial institution;

(5) A person registered under chapter 21.20 RCW as a securities broker-dealer holding a general securities license whose activities require such registration; ((or))

(6) A person registered as a commodity broker-dealer or commodity sales representative in accordance with this chapter; or

(7) Any person who meets all of the following conditions:

(a) Prior to engaging in any transaction which would otherwise be prohibited under RCW 21.30.020, the person:

(i) Files a claim of exemption on a form prescribed by the director; and

(ii) Files a consent to service of process pursuant to RCW 21.30.190;

(b) The person files a renewal of a claim for exemption not less than every two years on a form prescribed by the director;

(c) The person engages only in those commodity transactions in which the purchaser pays, and the seller receives, one hundred percent of the purchase price in cash or cash equivalent within ten days of the contract of sale;

(d) The person receives no more than twenty-five percent of the total dollar amount of its gross sales of commodities in any fiscal year from commodity contracts or commodity options;

(e) The person's gross profit on all transactions in commodity contracts or commodity options does not exceed five hundred thousand dollars in the fiscal year immediately preceding any year for which the person claims the exemption contained in this subsection, or one million dollars in the two fiscal years immediately preceding any year for which the person claims the exemption;

(f) The person maintains standard property and casualty insurance in an amount sufficient to cover the value of commodities stored for customers.

"Registered," for the purposes of this section, means holding a registration that has not expired, been suspended, or been revoked. The exemptions under this section shall not apply to any transaction or activity which is prohibited by the commodity exchange act or CFTC rule.

Sec. 4. Section 4, chapter 14, Laws of 1986 and RCW 21.30.040 are each amended to read as follows:

(1) The prohibition in RCW 21.30.020 does not apply to the following:

(a) An account, agreement, or transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the commodity exchange act;

(b) A commodity contract for the purchase of one or more precious metals (~~(which requires, and under which the purchaser receives, within seven calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by such payment. However, for purposes of this paragraph, physical delivery is deemed to have occurred if, within such seven-day period))~~ in which, within seven calendar days from the payment in good funds of any portion of the purchase price, the quantity of precious metals purchased by the payment is delivered (whether in specifically segregated or fungible bulk form) into the possession of a depository (other than the seller) which is either (i) a financial institution, (ii) a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission, (iii) a storage facility licensed or regulated by the United States or any agency thereof, or (iv) a depository designated by the director, and the depository (or other person which itself qualifies as a depository as aforesaid) issues and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser;

(c) A commodity contract solely between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject thereto, or any by-products thereof; or

(d) A commodity contract under which the offeree or the purchaser is a person referred to in RCW 21.30.030, a person registered with the federal securities and exchange commission as a broker-dealer, an insurance company, an investment company as defined in the federal investment company act of 1940, or an employee pension and profit sharing or benefit plan (other than a self-employed individual retirement plan, or individual retirement account).

(2) The director may issue rules or orders prescribing the terms and conditions of all transactions and contracts covered by this chapter which are not within the exclusive jurisdiction of the commodity futures trading commission as granted by the commodity exchange act, exempting any person or transaction from any provision of this chapter conditionally or unconditionally and otherwise implementing this chapter for the protection of purchasers and sellers of commodities.

Sec. 5. Section 20, chapter 14, Laws of 1986 and RCW 21.30.190 are each amended to read as follows:

(1) Every applicant for registration under this chapter or person filing a claim of exemption under RCW 21.30.030(7) shall file with the administrator in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or successor in office to be his or her attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or successor executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless (a) the plaintiff, who may be the administrator in a suit, action, or proceeding instituted by the administrator, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address on file with the administrator, and (b) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) If a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order of the director, the engaging in the conduct shall constitute the appointment of the administrator as the person's attorney to receive service of any lawful process in a noncriminal proceeding against the person, a successor, or personal representative, which arises out of that conduct and which is brought under this chapter or any rule or order of the director with the same force and validity as if served personally.

Sec. 6. Section 36, chapter 14, Laws of 1986 and RCW 21.30.350 are each amended to read as follows:

(1) The administrator may, by order, deny, suspend, or revoke any license or an exemption granted under RCW 21.30.030(7), limit the activities which an applicant or licensed person may perform in this state, conserve any applicant or licensed person, or bar any applicant or licensed person from association with a licensed commodity broker-dealer, if the administrator finds that (a) the order is in the public interest and (b) that the applicant or licensed person or, in the case of a commodity broker-dealer any

partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the commodity broker-dealer:

(i) Has filed an application for licensing with the administrator or the designee of the administrator which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(ii) (A) Has violated or failed to comply with a provision of this chapter, a predecessor act, or a rule or order under this chapter or a predecessor act, (B) is the subject of an adjudication or determination within the last five years by a securities agency or administrator or court of competent jurisdiction that the person has wilfully violated the federal securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, or the securities law of any other state (but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this state);

(iii) Has, within the last ten years, pled guilty or nolo contendere to, or been convicted of any crime indicating a lack of fitness to engage in the investment commodities business;

(iv) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in, or continuing, any conduct or practice indicating a lack of fitness to engage in the investment commodities business;

(v) Is the subject of an order of the administrator denying, suspending, or revoking the person's license as a commodity or securities broker-dealer, securities salesperson or commodity sales representative, or investment adviser or investment adviser salesperson;

(vi) Is the subject of any of the following orders which are currently effective and which were issued within the last five years:

(A) An order by a securities agency or administrator of another state, Canadian province or territory, or the federal securities and exchange commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a commodities or securities broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms;

(B) A suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the commodity exchange act;

(C) A United States postal service fraud order;

(D) A cease and desist order entered after notice and opportunity for hearing by the administrator or the securities agency or administrator of

any other state, Canadian province or territory, the securities and exchange commission, or the commodity futures trading commission;

(E) An order entered by the commodity futures trading commission denying, suspending, or revoking registration under the commodity exchange act;

(vii) Has engaged in any unethical or dishonest conduct or practice in the investment commodities or securities business;

(viii) Is insolvent, either in the sense that liabilities exceed assets, or in the sense that obligations cannot be met as they mature;

(ix) Is not qualified on the basis of such factors as training, experience, and knowledge of the investment commodities business;

(x) Has failed reasonably to supervise sales representatives or employees; or

(xi) Has failed to pay the proper filing fee within thirty days after being notified by the administrator of the deficiency. However, the administrator shall vacate any order under (xi) of this subsection when the deficiency has been corrected.

An order entered under this subsection shall be governed by subsection (2) of this section and RCW 21.30.200 and 21.30.210.

The administrator shall not institute a suspension or revocation proceeding on the basis of a fact or transaction disclosed in the license application unless the proceeding is instituted within the next ninety days following issuance of the license.

(2) If the public interest or the protection of investors so requires, the administrator may, by order, summarily suspend a license or postpone the effective date of a license. Upon the entry of the order, the administrator shall promptly notify the applicant or licensed person, as well as the commodity broker-dealer with whom the person is or will be associated if the applicant or licensed person is a commodity sales representative, that an order has been entered and of the reasons therefore and that within twenty days after the receipt of a written request the matter will be set down for hearing. The provisions of RCW 21.30.200 and 21.30.210 apply with respect to all subsequent proceedings.

(3) If the administrator finds that any applicant or licensed person is no longer in existence or has ceased to do business as a commodity broker-dealer or commodity sales representative or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the administrator may, by order, cancel the application or license.

Passed the Senate April 20, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

## CHAPTER 244

[Senate Bill No. 5605]

## PROPORTIONAL REGISTRATION OF MOTOR VEHICLES

AN ACT Relating to proportional registration of motor vehicles; amending RCW 46.12.020, 46.16.040, 46.16.070, 46.16.085, 46.16.111, 46.16.160, 46.16.280, 46.85.010, 46.85.020, 46.85.030, 46.85.050, 46.85.090, 46.85.100, 46.85.130, 46.87.010, 46.87.020, 46.87.030, 46.87.040, 46.87.050, 46.87.060, 46.87.070, 46.87.080, 46.87.090, 46.63.020, and 82.44.170; adding new sections to chapter 46.87 RCW; repealing RCW 46.85.120, 46.85.125, 46.85.130, 46.85.140, 46.85.145, 46.85.150, 46.85.160, 46.85.170, 46.85.180, 46.85.190, 46.85.200, 46.85.210, 46.85.220, 46.85.270, 46.85.280, 46.85.290, 46.85.300, 46.85.310, 46.85.320, 46.85.330, 46.85.340, 46.85.350, 46.85.360, 46.85.370, 46.85.380, and 46.85.390; prescribing penalties; and providing effective dates.

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

Sec. 1. Section 46.12.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 424, Laws of 1985 and RCW 46.12.020 are each amended to read as follows:

(1) No vehicle license number plates or certificate of license registration, whether original issues or duplicates, may be issued or furnished by the department unless the applicant, at the same time, makes satisfactory application for a certificate of ownership or presents satisfactory evidence that such a certificate of ownership covering the vehicle has been previously issued.

(2) Except as otherwise provided in this section, no (~~renewal or duplicate~~) vehicle license number plates or certificate of license registration, whether original issues or duplicates, and no renewed vehicle license may be issued by the department unless the applicant possesses a valid driver's license. In the case of joint application by more than one person, each applicant shall possess a valid driver's license.

(3) Subsection (2) of this section applies only to applicants who are individual persons and does not apply to corporations, other businesses, or vehicles proportionally registered under chapter 46.87 RCW.

(4) Subsection (2) of this section does not apply to any applicant with respect to whom the department determines that:

(a) The applicant's driver's license is not currently suspended or revoked and the applicant is not in suspended or revoked status;

(b) The applicant has not been convicted of a violation of RCW 46.20.021, 46.20.342, 46.20.416, 46.20.420, or 46.65.090; and

(c) Circumstances not related to any violation of Title 46 RCW account for the applicant's current lack of a driver's license and the applicant's need to register a vehicle. The applicant shall by affidavit indicate:

(i) The reason for the applicant's lack of a driver's license;

(ii) The need the applicant has for registering a vehicle; and

(iii) That the applicant will not knowingly allow a person without a driver's license to drive any vehicle registered in the applicant's name.



(5) It is unlawful for any person in whose name a vehicle is registered knowingly to allow another person to drive the vehicle knowing that the other person is not authorized to do so under the laws of this state.

(6) A violation of subsection (5) of this section, or a knowingly made material misstatement on an affidavit under subsection (4)(c) of this section is a misdemeanor.

(7) No denial under this section of issuance or of renewal of plates or certificates affects the right of any person to maintain, transfer, or acquire title in any vehicle. Unless the parties to the contract agree otherwise, no such denial affects the rights or obligations of any party to a contract for the purchase, or for the financing of the purchase, of a motor vehicle.

Sec. 2. Section 2, chapter 170, Laws of 1969 ex. sess. as amended by section 15, chapter 25, Laws of 1975 and RCW 46.16.040 are each amended to read as follows:

Application for original vehicle license shall be made on form furnished for the purpose by the department. Such application shall be made by the owner of the vehicle or duly authorized agent over the signature of such owner or agent, and the applicant shall certify that the statements therein are true to the best of the applicant's knowledge. The application must show:

(1) Name and address of the owner of the vehicle and, if the vehicle is subject to a security agreement, the name and address of the secured party;

(2) Trade name of the vehicle, model, year, type of body, the identification number thereof;

(3) The power to be used—whether electric, steam, gas or other power;

(4) The purpose for which said vehicle is to be used and the nature of the license required;

(5) The ~~((maximum))~~ licensed gross ~~((license))~~ weight for such vehicle which in the case of for hire vehicles and auto stages with seating capacity of more than six shall be the ~~((maximum))~~ adult seating capacity thereof, ~~((exclusive of))~~ including the operator, ~~((and))~~ as provided for in RCW 46.16.111. In ~~((cases))~~ the case of motor trucks, tractors, and truck tractors, ~~((trailers and semitrailers))~~ the licensed gross weight shall be the ~~((maximum))~~ gross weight declared by the applicant pursuant to the provisions of RCW 46.16.111;

(6) The unladen weight of such vehicle, if it be a motor truck or trailer, which shall be the shipping weight thereof as given by the manufacturer thereof unless another weight is shown by weight slip verified by a certified weighmaster, which slip shall be attached to the original application;

(7) Such other information as shall be required upon such application by the ~~((director))~~ department.

Sec. 3. Section 46.16.070, chapter 12, Laws of 1961 as last amended by section 4, chapter 18, Laws of 1986 and RCW 46.16.070 are each amended to read as follows:

In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the excise tax prescribed in chapter 82.44 RCW and the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six ((or more)), based upon the declared combined gross ((vehicle)) weight or declared gross ((vehicle)) weight thereof pursuant to the provisions of chapter 46.44 RCW, the following licensing fees by such gross ((vehicle)) weight:

4,000 lbs. ....	\$ 27.75
6,000 lbs. ....	\$ 32.72
8,000 lbs. ....	\$ 40.30
10,000 lbs. ....	\$ 45.37
12,000 lbs. ....	\$ 52.62
14,000 lbs. ....	\$ 59.86
16,000 lbs. ....	\$ 67.31
18,000 lbs. ....	\$ 99.02
20,000 lbs. ....	\$ 109.94
22,000 lbs. ....	\$ 118.76
24,000 lbs. ....	\$ 127.95
26,000 lbs. ....	\$ 135.08
28,000 lbs. ....	\$ 158.66
30,000 lbs. ....	\$ 182.18
32,000 lbs. ....	\$ 218.78
34,000 lbs. ....	\$ 232.06
36,000 lbs. ....	\$ 251.39
38,000 lbs. ....	\$ 275.51
40,000 lbs. ....	\$ 314.99
42,000 lbs. ....	\$ 327.16
44,000 lbs. ....	\$ 334.02
46,000 lbs. ....	\$ 358.91
48,000 lbs. ....	\$ 374.19
50,000 lbs. ....	\$ 405.36
52,000 lbs. ....	\$ 426.45
54,000 lbs. ....	\$ 460.02
56,000 lbs. ....	\$ 485.21
58,000 lbs. ....	\$ 504.53
60,000 lbs. ....	\$ 537.29
62,000 lbs. ....	\$ 575.50
64,000 lbs. ....	\$ 588.75
66,000 lbs. ....	\$ 655.14

68,000 lbs. ....	\$ 682.99
70,000 lbs. ....	\$ 735.14
72,000 lbs. ....	\$ 785.36
74,000 lbs. ....	\$ 853.15
76,000 lbs. ....	\$ 922.05
78,000 lbs. ....	\$ 1,006.10
80,000 lbs. ....	\$ 1,085.95

The proceeds from such fees shall be distributed in accordance with RCW 46.68.035.

Every motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, (~~46.85~~) 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section: (1) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective. (2) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

Sec. 4. Section 16, chapter 380, Laws of 1985 as amended by section 8, chapter 18, Laws of 1986 and RCW 46.16.085 are each amended to read as follows:

In lieu of all other licensing fees, an annual license fee of thirty-five dollars shall be collected in addition to the excise tax prescribed in chapter 82.44 RCW for: (1) Each trailer and semitrailer not subject to the license fee under RCW 46.16.065 or the capacity fees under RCW 46.16.080; (2) every pole trailer; (3) every converter gear or auxiliary axle not licensed as a combination under the provisions of RCW 46.16.083. The proceeds from this fee shall be distributed in accordance with RCW 46.68.035. This section does not pertain to travel trailers or personal use trailers that are not used for commercial purposes or owned by commercial enterprises.

Sec. 5. Section 57, chapter 83, Laws of 1967 ex. sess. as last amended by section 11, chapter 18, Laws of 1986 and RCW 46.16.111 are each amended to read as follows:

The (~~maximum~~) gross weight in the case of any motor truck, tractor, or truck tractor shall be the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter

gear, or pole trailer to be towed thereby, to which shall be added the weight of the maximum load to be carried thereon or towed thereby as set by the licensee in the application if it does not exceed the weight limitations prescribed by chapter 46.44 RCW. If the sum of the scale weight and maximum load of the trailer is not greater than four thousand pounds, that sum shall not be computed as part of the ~~((maximum))~~ gross weight of any motor truck, tractor, or truck tractor. Where the trailer is a utility trailer, travel trailer, horse trailer, or boat trailer, for the personal use of the owner of the truck, tractor, or truck tractor, and not for sale or commercial purposes, the gross weight of such trailer and its load shall not be computed as part of the ~~((maximum))~~ gross weight of any motor truck, tractor, or truck tractor. The weight of any camper is exempt from the determination of gross weight in the computation of any licensing fees required under RCW 46.16.070.

The ~~((maximum))~~ gross weight in the case of any bus, auto stage, or for hire vehicle, except taxicabs, with a seating capacity over six, shall be the scale weight of each bus, auto stage, and for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in RCW 46.16.070, it shall be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

Sec. 6. Section 46.16.160, chapter 12, Laws of 1961 as last amended by section 1, chapter 318, Laws of 1981 and RCW 46.16.160 are each amended to read as follows:

(1) The owner of a vehicle which under reciprocal relations with another jurisdiction would be required to obtain a license registration in this state or an unlicensed vehicle which would be required to obtain a license registration for operation on public highways of this state may, as an alternative to such license registration, secure and operate such vehicle under authority of a trip permit issued by this state in lieu of a Washington certificate of ~~((ownership;))~~ license registration, and licensed gross weight ~~((or load-license))~~ if applicable. Trip permits may also be issued for movement of mobile homes pursuant to RCW 46.44.170. For the purpose of this section, a vehicle is considered unlicensed if the licensed gross weight ~~((or load license))~~ currently in effect for the vehicle or combination of vehicles is not adequate for the load being carried. Vehicles registered under RCW 46.16.135 shall not be operated under authority of trip permits in lieu of further registration within the same registration year.

(2) Each trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three consecutive days commencing with the day of first use. No more than three such permits may be used for any one vehicle in any period of thirty consecutive days. Every permit shall identify, as the department may require,

the vehicle for which it is issued and shall be completed in its entirety(;) and signed(~~(, and dated)~~) by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(3) Vehicles operating under authority of trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of such permit for four years.

(5) Blank trip permits may be obtained from field offices of the department of transportation, Washington state patrol, department of licensing, or other agents appointed by the department. For each permit issued, there shall be collected a filing fee as provided by RCW 46.01.140, an administrative fee of eight dollars, and an excise tax of one dollar. If the filing fee amount of one dollar prescribed by RCW 46.01.140 is increased or decreased after January 1, 1981, the administrative fee shall be adjusted to compensate for such change to insure that the total amount collected for the filing fee, administrative fee, and excise tax remain at ten dollars. These fees and taxes are in lieu of all other vehicle license fees and taxes. No exchange, credits, or refunds may be given for trip permits after they have been purchased.

(6) The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(7) A violation of or a failure to comply with any provision of this section is a gross misdemeanor.

(8) The department of licensing may adopt rules as it deems necessary to administer this section.

(9) All administrative fees and excise taxes collected under the provisions of this chapter shall be forwarded by the department with proper identifying detailed report to the state treasurer who shall deposit the administrative fees to the credit of the motor vehicle fund and the excise taxes to the credit of the general fund. Filing fees will be forwarded and reported to the state treasurer by the department as prescribed in RCW 46.01.140.

Sec. 7. Section 46.16.280, chapter 12, Laws of 1961 as last amended by section 17, chapter 18, Laws of 1986 and RCW 46.16.280 are each amended to read as follows:

In case of loss, destruction, sale, or transfer of any motor vehicle with a registered gross weight in excess of twelve thousand pounds and subject to the license fees under RCW 46.16.070, the registered owner thereof may, under the following conditions, obtain credit for the unused portion of the

licensing fee paid for the vehicle or may transfer such credit to the new owner if desired:

(1) The licensing fee paid for the motor vehicle will be reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first month of the current registration year in which the motor vehicle was registered and the month the registrant surrenders the vehicle's registration certificate for the registration year to the department or an authorized agent of the department.

(2) If any such credit is less than fifteen dollars, no credit may be given.

(3) The credit may only be applied against the licensing fee liability due under RCW 46.16.070 for the replacement motor vehicle or if such credit was transferred to the new owner, it shall remain with the vehicle. The credit may only be used during the registration year from which it was obtained.

(4) In no event is such credit subject to refund.

Whenever any vehicle has been so altered as to change its license classification in such a manner that the vehicle license number plates are rendered improper, the current license plates shall be surrendered to the department. New license plates shall be issued upon application accompanied by a one dollar fee in addition to any other or different charge by reason of licensing under a new classification. Such application shall be on forms prescribed by the department and forwarded with the proper fee to the department or the office of a duly authorized agent of the department.

Sec. 8. Section 1, chapter 106, Laws of 1963 and RCW 46.85.010 are each amended to read as follows:

It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of ((motor)) vehicle reciprocal or proportional registration agreements, arrangements and declarations with other states, provinces, territories, and countries with respect to vehicles registered in this and such other states, provinces, territories, and countries thus contributing to the economic and social development and growth of this state.

Sec. 9. Section 2, chapter 106, Laws of 1963 as last amended by section 2, chapter 173, Laws of 1985 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, except recreational vehicles, vehicles displaying restricted plates, and government-owned or leased vehicles, that is operated in more than one jurisdiction and is used or maintained for the transportation of persons for hire, compensation, or profit, or is designed, 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)) (2) "Owner" means a person, business firm, or corporation 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)) (3) "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 one or more commercial vehicles.~~

~~(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 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. 10. Section 3, chapter 106, Laws of 1963 as last amended by section 19, chapter 227, Laws of 1982 and RCW 46.85.030 are each amended to read as follows:

The department of licensing shall have the authority to execute agreements, arrangements, or declarations to carry out the provisions of chapter 46.87 RCW and this chapter.

~~((The department may enter into a multistate proportional registration agreement which prescribes a different definition of any terms defined in chapter 46.85 RCW. The agreement definition shall control unless appropriate exception is taken thereto.~~

~~If the department enters into a multistate proportional registration agreement which prescribes a different procedure for vehicle identification, the agreement procedures shall control.))~~

If the department enters into a multistate proportional registration agreement which requires this state to perform acts in a quasi agency relationship, the department may collect and forward applicable registration fees and applications to other jurisdictions on behalf of the applicant or on behalf of another jurisdiction and may take such other action as will facilitate the administration of such agreement.

If the department enters into a multistate proportional registration agreement which prescribes procedures applicable to vehicles not specifically described in chapter ~~((46.85))~~ 46.87 RCW, such as but not limited to "owner-operator" or "rental" vehicles, it shall promulgate rules taking exception to or accomplishing the procedures prescribed in such agreement.

~~((If the department enters into a multistate proportional registration agreement which prohibits the collection of minimum fees or taxes provided~~



for in this chapter or elsewhere for the ownership or operation of motor vehicles, the prohibitions contained in the agreement shall control:))

It is the purpose and intent of this subsection to facilitate the membership in the International Registration Plan and at the same time allow the department to continue to participate in such agreements and compacts as may be necessary and desirable in addition to the International Registration Plan.

Sec. 11. Section 5, chapter 106, Laws of 1963 and RCW 46.85.050 are each amended to read as follows:

An agreement or arrangement entered into, or a declaration issued under the authority of chapter 46.87 RCW or this chapter may contain provisions authorizing the registration or licensing in another jurisdiction of vehicles located in or operated from a base in such other jurisdiction which vehicles otherwise would be required to be registered or licensed in this state; and in such event the exemptions, benefits, and privileges extended by such agreement, arrangement, or declaration shall apply to such vehicles, when properly licensed or registered in such base jurisdiction.

Sec. 12. Section 9, chapter 106, Laws of 1963 and RCW 46.85.090 are each amended to read as follows:

Agreements, arrangements or declarations made under the authority of this chapter may include provisions authorizing the department to suspend or cancel the exemptions, benefits, or privileges granted thereunder to ((a person)) an owner who violates any of the conditions or terms of such agreements, arrangements, or declarations or who violates the laws of this state relating to motor vehicles or rules and regulations lawfully promulgated thereunder.

Sec. 13. Section 10, chapter 106, Laws of 1963 as last amended by section 22, chapter 227, Laws of 1982 and RCW 46.85.100 are each amended to read as follows:

All agreements, arrangements, or declarations or amendments thereto shall be in writing and shall be filed with the department. Upon becoming effective, they shall supersede the provisions of RCW 46.16.030, chapter 46.87 RCW, or this chapter to the extent that they are inconsistent therewith. The department shall provide copies for public distribution upon request.

Sec. 14. Section 13, chapter 106, Laws of 1963 as last amended by section 20, chapter 18, Laws of 1986 and RCW 46.85.130 are each amended to read as follows:

(1) The department, upon acceptance and approval of a prorate application, shall register the vehicles so described and identified and may issue a license plate or plates, or a distinctive sticker, or other suitable identification device, for each vehicle described in the application upon payment of the appropriate fees and taxes for such application. A registration cab card

shall be issued for each proportionally registered vehicle. Such registration card shall, in addition to the information required by RCW 46.12.050, bear upon its face the number of the license plate issued to such proportionally registered vehicle and shall be carried in such vehicles at all times or, in the case of a combination, it may be carried in the vehicle supplying the motive power. The department shall collect a fee of two dollars for each replacement backing plate, cab card, validation tab, or other device issued for proportionally registered vehicles.

(2) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle shall be operated in interstate or intrastate commerce in this state unless the owner thereof has been granted interstate operating authority by the interstate commerce commission in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless said vehicle is being operated in conformity with such authority.

(3) The department may issue temporary authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee shall be collected for each permit issued. The permit fee shall be deposited in the motor vehicle fund, and the filing fee shall be distributed pursuant to RCW 46.01.140. The department shall have the authority to adopt rules for use and issuance of the permits.

(4) The department may refuse to issue any license or permit authorized by subsections (1) or (3) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter 46.16, 46.85, 46.87, 82.36, 82.37, 82.38, or 82.44 RCW.

(5) The department may revoke the license or permit authorized by subsections (1) or (3) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (4) of this section.

(6) Before such refusal or revocation under subsections (4) or (5) of this section, the department shall grant the applicant a hearing and shall grant him at least ten days written notice of the time and place thereof.

Sec. 15. Section 1, chapter 380, Laws of 1985 as amended by section 22, chapter 18, Laws of 1986 and RCW 46.87.010 are each amended to read as follows:

This chapter applies to proportional registration and reciprocity granted under the provisions of the International Registration Plan (IRP) and ~~((with)) the Uniform Vehicle Registration, Proration, and Reciprocity Agreement (Western Compact)~~. This chapter shall become effective and be implemented beginning with the ~~((first)) 1988~~ registration year ~~((following the year in which)); however, if Washington ~~((becomes a member)) is not then registering vehicles under the provisions of the IRP, the effective date and implementation date for the IRP shall both be delayed until such time as Washington begins registering vehicles under the provisions of the IRP.~~~~

(1) Provisions and terms of the IRP and the Western Compact, as applicable, shall prevail unless given a different meaning in chapter 46.04 RCW, this chapter, or in rules adopted under the authority of this chapter.

(2) The director may adopt and enforce rules deemed necessary to implement and administer this chapter.

(3) Beginning with the first registration year in which the state of Washington begins registering fleets under provisions of the IRP, ~~((registrants))~~ owners having a fleet of ~~((apportioned))~~ apportionable vehicles operating in two or more IRP member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of the IRP and this chapter in lieu of full~~((, proportionat,))~~ or temporary registration as provided for in chapters 46.16~~((, 46.85,))~~ or 46.88 RCW.

(4) Owners having a fleet of commercial vehicles operating and registered in at least one Western Compact member jurisdiction other than Washington may elect to proportionally register the vehicles of the fleet under provisions of the Western Compact and this chapter in lieu of full or temporary registration as provided for in chapter 46.16 or 46.88 RCW.

(5) If a due date or an expiration date established under authority of this chapter falls on a Saturday, Sunday, or a state legal holiday, such period is automatically extended through the end of the next business day.

Sec. 16. Section 2, chapter 380, Laws of 1985 and RCW 46.87.020 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), the Uniform Vehicle Registration, Proration, and Reciprocity Agreement (Western Compact), chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the ~~((International Registration Plan))~~ IRP and the Western Compact, as applicable, shall prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, buses, converter gears (auxiliary axles), trailers, semitrailers, and pole trailers, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle by the registering jurisdiction under the Western Compact. Under the IRP, it is a certificate of registration issued by the base jurisdiction for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Commercial vehicle" is a term used by the Western Compact and means any vehicle, except recreational vehicles, vehicles displaying restricted plates, and government owned or leased vehicles, that is operated and registered in more than one jurisdiction and is used or maintained for the transportation of persons for hire, compensation, or profit, or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a motor vehicle having a declared gross weight in excess of twenty-six thousand pounds; or

(b) Is a motor vehicle having three or more axles with a declared gross weight in excess of twelve thousand pounds; or

(c) Is a motor vehicle, trailer, pole trailer, or semitrailer used in combination when the declared gross weight of the combination exceeds twenty-six thousand pounds combined gross weight; or

(d) Is a converter gear (auxiliary axle).

Although a two-axle motor vehicle, trailer, pole trailer, semitrailer, or any combination of such vehicles with a declared gross weight or declared combined gross weight exceeding twelve thousand pounds but not more than twenty-six thousand is not considered to be a commercial vehicle, at the option of the owner, such vehicles may be considered as "commercial vehicles" for the purpose of proportional registration.

Commercial vehicles include trucks, tractors, truck tractors, road tractors, buses, converter gear (auxiliary axles), trailers, pole trailers, and semitrailers, each as separate and licensable vehicles.

(4) "Credentials" means cab cards, apportioned plates (for Washington based fleets), and validation tabs issued for proportionally registered vehicles.

(5) "Declared combined gross ((vehicle)) weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on ((that)) the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

((~~3~~)) (6) "Declared gross ((vehicle)) weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on ((that)) the vehicle as set by the registrant in the application

pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the ~~((maximum load may))~~ declared gross weight shall be determined by multiplying the average load factor of ~~((seventy-five))~~ one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

~~((4))~~ (7) "Department" means the department of licensing.

~~((5))~~ (8) "Fleet" means one or more commercial vehicles in the Western Compact and one or more apportionable vehicles in the IRP.

(9) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(10) "IRP" means the International Registration Plan.

(11) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign county, and a state or province of a foreign country.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale 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 if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months immediately prior to July 1st of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought.

(14) "Properly registered," as applied to the place of registration under the provisions of the Western Compact, means:

(a) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which the 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 that place of business, and the vehicle has been assigned to that place of business; or

(b) 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 that jurisdiction.

In case of doubt or dispute as to the proper place of registration of a commercial vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(15) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(16) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(17) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction. The "registration year" for Washington is the period from January 1st through December 31st of each calendar year.

(18) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles.

(19) "Western Compact" means the Uniform Vehicle Registration, Proration, and Reciprocity Agreement.

**NEW SECTION.** Sec. 17. All vehicles being added to an existing Washington-based fleet or those vehicles that make up a new Washington-based fleet shall be titled in the name of the fleet owner at time of registration, or evidence of filing application for title for such vehicles in the name of the owner shall accompany the application for proportional registration.

Sec. 18. Section 3, chapter 380, Laws of 1985 as amended by section 23, chapter 18, Laws of 1986 and RCW 46.87.030 are each amended to read as follows:

(1) When application to register an ~~((apportioned))~~ apportionable or commercial vehicle is made after March 31st of a registration year, the ~~((apportionable))~~ Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. The filing of any application with the department incurs liability for the fees and taxes applicable to the vehicles contained in the application. If ~~((the))~~ a vehicle is being added to a currently registered fleet, the ~~((mileage))~~ prorate percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

~~(2) ((A motor vehicle permanently withdrawn from service that was previously registered as part of a proportionally registered fleet may be deleted from the fleet by the registrant by submitting a supplemental application to the department. Upon receipt of the application and surrender of the~~

~~original cab card and license plates of the vehicle, the unused portion of the fees paid for each full month of the registration year remaining shall be applied against liability of the registrant for license fees due for motor vehicles added to the fleet during the remainder of the same registration year. If any such credit is less than fifteen dollars, no credit will be given. In no event is the amount subject to refund:))~~ If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet registrant, the unused portion of the licensing fee paid under RCW 46.16.070 with respect to the vehicle reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the licensing fee liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or for additional licensing fees due under RCW 46.16.070 or to be due upon audit under section 44 of this act. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the licensing fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund.

Sec. 19. Section 4, chapter 380, Laws of 1985 and RCW 46.87.040 are each amended to read as follows:

Additional gross weight may be purchased for ~~((apportionable))~~ proportionally registered motor vehicles to the limits authorized under chapter 46.44 RCW. Reregistration at the higher gross weight (maximum gross weights under this chapter are forty thousand pounds for a solo three-axle truck or eighty thousand pounds for a combination) for the balance of the registration year, including the full registration month in which the vehicle is initially licensed at the higher gross weight. The apportionable or proportional fee initially paid to the state of Washington, reduced for the number of full registration months the license was in effect, will be deducted from the total fee to be paid to this state for licensing at the higher gross weight for the balance of the registration year. No credit or refund will be given for a reduction of gross weight.

Sec. 20. Section 5, chapter 380, Laws of 1985 and RCW 46.87.050 are each amended to read as follows:

Each day the department shall forward to the state treasurer the fees collected under this chapter, and within ten days of the end of each registration quarter, a detailed report identifying the amount to be deposited to each account for which fees are required for the licensing of ~~((apportionable))~~ proportionally registered vehicles. Such fees shall be deposited pursuant to RCW 46.68.035, 82.44.110, and 82.44.170.

Sec. 21. Section 6, chapter 380, Laws of 1985 and RCW 46.87.060 are each amended to read as follows:

The apportionment of fees to IRP member jurisdictions shall be in accordance with the provisions of the IRP agreement based on the apportionable fee multiplied by the ~~((mitage))~~ prorate percentage for each jurisdiction in which the fleet will ~~((operate))~~ be registered or is currently registered.

Sec. 22. Section 7, chapter 380, Laws of 1985 and RCW 46.87.070 are each amended to read as follows:

Any trailer, semitrailer, converter gear (auxiliary axles), or pole trailer being pulled by a motor vehicle that is ~~((apportioned))~~ proportionally registered under the terms of this chapter shall display a valid vehicle license plate issued by the base jurisdiction and be registered in this state.

Sec. 23. Section 8, chapter 380, Laws of 1985 and RCW 46.87.080 are each amended to read as follows:

(1) Upon making satisfactory application and payment of applicable fees and taxes for proportional registration under ~~((the IRP))~~ this chapter, the department shall issue a cab card and validation tab for each vehicle, and to vehicles of Washington-based fleets, two distinctive apportionable license plates for each motor vehicle and one such plate for each trailer, semitrailer, pole trailer, or converter gear listed on the application. License plates shall be displayed on vehicles as required by RCW 46.16.240. The number and plate shall be of a design, size, and color determined by the department. The plates shall be treated with reflectorized material and clearly marked with the words "WASHINGTON" and "APPOR-TIONED," both words to appear in full and without abbreviation.

(2) The cab card serves as the certificate of registration for a proportionally registered vehicle. The face of the cab card shall contain the name and address of the registrant as contained in the records of the department, the license plate number assigned to the vehicle by the base jurisdiction, the vehicle identification number, and such other description of the vehicle and data as the department may require. The cab card shall be signed by the registrant, or a designated person if the registrant is a business firm, and shall at all times be carried in or on the vehicle to which it was issued. In the case of nonpowered vehicles, the cab card may be carried in or on the



vehicle supplying the motive power instead of in or on the nonpowered vehicle.

(3) The ((vehicle)) apportioned license plates are not transferrable from vehicle to vehicle and shall be used only on the vehicle to which they are assigned by the department for as long as they are legible or until such time as the department requires them to be removed and returned to the department.

(4) A distinctive validation tab ((or emblem)) of a design, size, and color determined by the department shall be affixed to the apportioned license plate(s) as prescribed by the department to indicate the year for which the vehicle is registered. Foreign based vehicles proportionally registered in this state under the provisions of the Western Compact shall display the validation tab on a backing plate or as otherwise prescribed by the department.

(5) Renewals shall be effected by the issuance and display of such tab ((or emblem)) after making satisfactory application and payment of applicable fees and taxes.

(6) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation. However, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle may be operated in interstate or intrastate commerce in this state unless the owner has been granted interstate operating authority by the interstate commerce commission in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless the vehicle is being operated in conformity with that authority.

(7) The department may issue temporary authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee shall be collected for each permit issued. The permit fee shall be deposited in the motor vehicle fund, and the filing fee shall be deposited in the highway safety fund. The department may adopt rules for use and issuance of the permits.

(8) The department may refuse to issue any license or permit authorized by subsection (1) or (7) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW that has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a license or permit issued by

the department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter 46.16, 46.85, 46.87, 82.36, 82.37, 82.38, or 82.44 RCW.

(9) The department may revoke the license or permit authorized by subsection (1) or (7) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (8) of this section.

(10) Before such refusal or revocation under subsection (8) or (9) of this section, the department shall grant the applicant a hearing and at least ten days written notice of the time and place of the hearing.

Sec. 24. Section 9, chapter 380, Laws of 1985 as amended by section 24, chapter 18, Laws of 1986 and RCW 46.87.090 are each amended to read as follows:

(1) To replace ((a)) an apportioned vehicle license plate(s), cab card, or validation tab(s) due to ((the)) loss, defacement, or destruction ((of the plate(s) issued for an apportioned vehicle)), the ((owner)) registrant shall apply ((for new apportioned vehicle license plates)) to the department on ((a)) forms furnished ((by the department)) for that purpose. The application, together with ((the cab card of the vehicle)) proper payment and other documentation as indicated, shall be filed with the department((-)) as follows:

(a) Apportioned plate(s) – a fee of ten dollars shall be charged for vehicles required to display two apportioned ((vehicle license)) plates or five dollars for vehicles required to display one apportioned ((vehicle license)) plate. The cab card of the vehicle for which a plate is requested shall accompany the application. The department shall issue a new apportioned ((vehicle license)) plate(s) with validation tab(s) and a new cab card upon acceptance of the completed application form, old cab card, and the required replacement fee.

(b) Cab card – a fee of two dollars shall be charged for each card. If this is a duplicate cab card, it will be noted thereon.

(c) Validation tab(s) – a fee of two dollars shall be charged for each vehicle.

(2) If available, backing plates may be purchased from the department for a fee of two dollars each. These plates are used on vehicles registered under provisions of the Western Compact to display validation tabs issued by the prorate jurisdictions as evidence of proportional registration for each vehicle so registered.

(3) All fees collected under this section shall be deposited to the motor vehicle fund.

NEW SECTION. Sec. 25. (1) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were

conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in each of the jurisdictions in which operation is contemplated. The registrant shall determine the in-jurisdiction and total miles to be used in computing the fees and taxes due for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to its correctness.

(2) When the nonmotor vehicles of a fleet are operated in jurisdictions in addition to those in which the motor vehicles of the fleet are operated, or when the nonmotor vehicles of a fleet are operated with motor vehicles that are not part of the fleet, the registrant shall place such nonmotor vehicles in a separate fleet.

(3) When operations of a Washington-based fleet is materially changed through merger, acquisition, or extended authority, the registrant shall notify the department, which shall then require the filing of an amended application setting forth the proposed operation by use of estimated mileage for all jurisdictions. The department may adjust the estimated mileage by audit or otherwise to an actual travel basis to insure proper fee payment. The actual travel basis may be used for determination of fee payments until such time as a normal mileage year is available under the new operation. Under the provisions of the Western Compact, this subsection applies to any fleet proportionally registered in Washington irrespective of the fleet's base jurisdiction.

**NEW SECTION.** Sec. 26. In addition to all other fees prescribed for the proportional registration of vehicles under this chapter, the department shall collect a vehicle transaction fee each time a vehicle is added to a Washington based fleet, and each time the proportional registration of a Washington based vehicle is renewed. The transaction fee is also applicable to all foreign based vehicles for which this state calculates and assesses fees/taxes for the state of Washington. The exact amount of the vehicle transaction fee shall be fixed by rule but shall not exceed ten dollars. This fee shall be deposited in the motor vehicle fund.

**NEW SECTION.** Sec. 27. (1) Any owner engaged in interstate operations of one or more fleets of apportionable or commercial vehicles may, in lieu of registration of the vehicles under chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet. If the fleet contains both power units and nonpower units, the power units shall be listed first on the application, followed by the nonpower units. However, if the nonpower units are occasionally pulled by power units which are not part of this fleet, the nonpower units shall be placed in a separate fleet.

(b) If registering under the provisions of the IRP, the registrant shall also indicate member jurisdictions in which registration is desired and furnish such other information as those member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543%). This factor is known as the prorated percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated. Applicable fees and taxes for vehicles of Washington based fleets are those prescribed under RCW 46.16.070, 46.16.085, 82.38.075, and 82.44.020, as applicable.

(c) Multiply the total, proratable fees or taxes for each vehicle by the prorated percentage applicable to the desired jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in subsection (2)(c) of this section for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated. Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of section 26 of this act.

(e) Add the total fees and taxes determined in subsection (2)(d) of this section for each vehicle listed on the application. Assuming the fees and taxes calculated were for Washington, this would be the amount due and payable for the application under the provisions of the Western Compact. Under the provisions of the IRP, the amount due and payable for the application would be the sum of the fees and taxes referred to in subsection (2)(d) of this section, calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter.

**NEW SECTION.** Sec. 28. Whenever a person has been required to pay a fee or tax pursuant to this chapter that amounts to an overpayment of five dollars or more, the person is entitled to a refund of the entire amount

of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Nothing in this subsection precludes anyone from applying for a refund of such overpayment if the overpayment is less than five dollars. Conversely, if the department or its agents has failed to charge and collect the full amount of fees or taxes pursuant to this chapter, which underpayment is in the amount of five dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the fees and taxes due.

**NEW SECTION.** Sec. 29. (1) Washington-based fleets may pay Washington proportional registration licensing fees on a quarterly basis at the option of the registrant, if the following criteria are met and maintained:

(a) The fleet has a Washington prorated percentage of sixty percent or more;

(b) The fleet contains a minimum of three motor vehicles;

(c) All motor vehicles in the fleet are licensed in Washington for at least sixty-eight thousand pounds combined gross weight.

(2) Quarterly licensing is based on calendar quarters and expires at midnight on the last day of each quarter: March 31st, June 30th, September 30th, and December 31st. It shall be renewed each quarter for each motor vehicle in the fleet that has not been permanently removed from the fleet.

(3) Quarterly licensing renewal fees shall be paid before the beginning of the quarter for which the fees are due. No letters of authority may be issued in the case of late renewals.

(4) Failure to comply with the requirements of this section is cause for suspension or cancellation of the registrant's quarterly licensing privileges. Upon cancellation of these privileges, licensing fees for the remainder of the registration year become immediately due and payable for all motor vehicles in the fleet.

(5) In addition to the quarterly licensing fee due for each motor vehicle in the fleet each quarter, the department shall collect a fee of two dollars. This fee shall be deposited in the motor vehicle fund.

**NEW SECTION.** Sec. 30. If the department determines that a Washington-based carrier has proportionally registered a fleet in this state under provisions of the Western Compact and this chapter and has not fully or proportionally registered the fleet in another member jurisdiction(s) after indicating their intent to do so in their application to this state, the mileage traveled in such jurisdiction(s) shall be added to the Washington in-jurisdiction miles. The department shall then recalculate the carrier's Washington prorated percentage and shall assess and bill the registrant for the additional fees and taxes due the state of Washington.

**NEW SECTION.** Sec. 31. The privileges and benefits of proportional registration of fleet vehicles extended by this chapter, or by any contract, agreement, arrangement, or declaration made under the authority of chapter 46.85 RCW or this chapter are subject to the conditions that:

(1) Each vehicle of the fleet proportionally registered under the authority of this chapter is also fully or proportionally registered in at least one other jurisdiction during the period for which it is proportionally registered in this state; and

(2) A fleet consists of the same vehicles in each jurisdiction in which the fleet is proportionally registered.

**NEW SECTION.** Sec. 32. The department may suspend or cancel the exemptions, benefits, or privileges granted under chapter 46.85 RCW or this chapter to any person or business firm who violates any of the conditions or terms of the IRP, Western Compact, or declarations, or who violates the laws of this state relating to the operation or registration of vehicles or rules lawfully adopted thereunder.

**NEW SECTION.** Sec. 33. 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 suspended or paid. The department may adopt rules as deemed necessary to administer this section.

**NEW SECTION.** Sec. 34. The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if the department finds that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

**NEW SECTION.** Sec. 35. The gross weight in the case of a motor truck, tractor, or truck tractor is the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed by it, to which shall be added the weight of the maximum load to be carried on it or towed by it as set forth by the licensee in the application providing it does not exceed the weight limitations prescribed by chapter 46.44 RCW.

The gross weight in the case of a bus, auto stage, or for hire vehicle, except a taxicab, with a seating capacity over six, is the scale weight of the bus, auto stage, or for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

A motor vehicle or combination of vehicles found to be loaded beyond the licensed gross weight of the motor vehicle registered under this chapter shall be cited and handled under RCW 46.16.140 and 46.16.145.

**NEW SECTION.** Sec. 36. Whenever an act or omission is declared to be unlawful under chapter 46.12, 46.16, or 46.44 RCW or this chapter, and if the operator of the vehicle is not the owner or lessee of the vehicle but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and the owner or lessee are both subject to this chapter, with the primary responsibility to be that of the owner or lessee.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner or the lessee of the vehicle, that person is fully authorized to accept the citation or notice of infraction and execute the promise to appear on behalf of the owner or lessee.

**NEW SECTION.** Sec. 37. Under the provisions of the IRP, the department may act in a quasi-agency relationship with other jurisdictions. The department may collect and forward applicable registration fees and taxes and applications to other jurisdictions on behalf of the applicant or another jurisdiction and may take other action that facilitates the administration of the plan.

**NEW SECTION.** Sec. 38. This chapter constitutes complete authority for the registration of fleet vehicles upon a proportional registration basis without reference to or application of any other statutes of this state except as expressly provided in this chapter.

**NEW SECTION.** Sec. 39. Any person who alters or forges or causes to be altered or forged any cab card, letter of authority, or other temporary authority issued by the department under this chapter or holds or uses a cab card, letter of authority, or other temporary authority, knowing the document to have been altered or forged, is guilty of a felony.

**NEW SECTION.** Sec. 40. Every motor vehicle registered under this chapter shall have the maximum gross weight or maximum combined gross weight for which the vehicle is licensed in this state, painted or stenciled in letters or numbers of contrasting color not less than two inches in height in a conspicuous place on the right and left sides of the vehicle. It is unlawful for the owner or operator of any motor vehicle to display a maximum gross weight or maximum combined gross weight other than that shown on the current cab card of the vehicle.

**NEW SECTION.** Sec. 41. Nothing contained in this chapter relating to proportional registration of fleet vehicles requires any vehicle to be proportionally registered if it is otherwise registered for operation on the highways of this state.

**NEW SECTION.** Sec. 42. If the director or the director's designee determines at any time that an applicant for proportional registration of a vehicle or a fleet of vehicles is not entitled to a cab card for a vehicle or fleet of vehicles, the director may refuse to issue the cab card(s) or to license the vehicle or fleet of vehicles and may for like reason, after notice, and in the

exercise of discretion, cancel the cab card(s) and license plate(s) already issued. The notice shall be served personally or sent by certified mail (registered mail for Canadian addresses), return receipt requested. If sent by mail, service is deemed to have been accomplished on the date the notice was deposited in the United States mail, postage prepaid, addressed to the owner of the vehicle in question at the owner's address as it appears in the proportional registration records of the department. It is then unlawful for any person to remove, drive, or operate the vehicle(s) until a proper certificate(s) of registration or cab card(s) has been issued. Any person removing, driving, or operating the vehicle(s) after the refusal of the director or the director's designee to issue a cab card(s), certificate(s) of registration, license plate(s), or the revocation thereof is guilty of a gross misdemeanor. At the discretion of the director or the director's designee, a vehicle that has been moved, driven, or operated in violation of this section may be impounded by the Washington state patrol, county sheriff, or city police in a manner directed for such cases by the chief of the Washington state patrol until proper registration and license plate have been issued.

**NEW SECTION.** Sec. 43. The suspension, revocation, cancellation, or refusal by the director, or the director's designee, of a license plate(s), certificate(s) of registration, or cab card(s) provided for in this chapter is conclusive unless the person whose license plate(s), certificate(s) of registration, or cab card(s) is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county, or at the person's option if a resident of Washington, to the superior court of his or her county of residence, for the purpose of having the suspension, revocation, cancellation, or refusal of the license plate(s), certificate(s) of registration, or cab card(s) set aside. Notice of appeal shall be filed within ten calendar days after service of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the appeal, the court shall issue an order to the director to show cause why the license(s) should not be granted or reinstated. The director shall respond to the order within ten days after the date of service of the order upon the director. Service shall be in the manner prescribed for service of summons and complaint in other civil actions. Upon the hearing on the order to show cause, the court shall hear evidence concerning matters related to the suspension, revocation, cancellation, or refusal of the license plate(s), certificate(s) of registration, or cab card(s) and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

**NEW SECTION.** Sec. 44. 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 proportional 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 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 that 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 the 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 of Washington fees and taxes 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 Washington 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 this chapter, the department may deny the owner the right of any further benefits provided by this chapter until any final audit or assessment made 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 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 section 27 of this act, 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 the overpayment to the state treasurer who shall issue a warrant for the overpayment to the vehicle operator. Overpayments shall bear interest at the rate of eight percent per annum from the date on which the overpayment is incurred until the date of payment.

**NEW SECTION.** Sec. 45. The department may initiate and conduct audits and investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules adopted under it.

For the purpose of any audit, investigation, or proceeding under this chapter the director or any designee of the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, paper, correspondence, memoranda, agreements, or other documents or records that the department deems relevant or material to the inquiry.

In case of contumacy or refusal to obey a subpoena issued to any person, any court of competent jurisdiction upon application by the department, may issue an order requiring that person to appear before the director or the officer designated by the director to produce testimony or other evidence touching the matter under audit, investigation, or in question. Failure to obey an order of the court may be punishable by contempt.

**NEW SECTION.** Sec. 46. An owner of proportionally registered vehicles against whom an assessment is made under section 27 or 44 of this act may petition for reassessment thereof within thirty days after service of notice of the assessment upon the owner of the proportionally registered vehicles. If the petition is not filed within the thirty-day period, the amount of the assessment becomes final at the expiration of that time period.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if the petitioner has so requested in the petition, shall grant the petitioner an oral hearing and give the petitioner ten days notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the petitioner of notice of the decision.

Every assessment made under this chapter becomes due and payable at the time it is served on the owner. If the assessment is not paid in full when it becomes final, the department shall add a penalty of ten percent of the amount of the assessment.

Any notice of assessment, reassessment, oral hearing, or decision required by this section shall be served personally or by mail. If served by mail, service is deemed to have been accomplished on the date the notice was deposited in the United States mail, postage prepaid, addressed to the owner of the proportionally registered vehicles at the owner's address as it appears in the proportional registration records of the department.

No injunction or writ of mandate or other legal or equitable process may be issued in any suit, action, or proceeding in any court against any officer of the state to prevent or enjoin the collection under this chapter of any fee or tax or any amount of fee or tax required to be collected, except as specifically provided for in chapter 34.04 RCW.

**NEW SECTION.** Sec. 47. If an owner of proportionally registered vehicles liable for the remittance of fees and taxes imposed by this chapter for which an assessment has become final fails to pay the fees and taxes, the amount thereof, including any interest, penalty, or addition to the fees and taxes together with any additional costs that may accrue, constitutes a lien in favor of the state upon all franchises, property, and rights to property, whether the property is employed by the person for personal or business use or is in the hands of a trustee, receiver, or assignee for the benefit of creditors, from the date the fees and taxes were due and payable until the amount of the lien is paid or the property is sold to pay the lien. The lien has priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that the lien is not valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached before the time the department has filed and recorded notice of the lien as provided in this chapter.

In order to avail itself of the lien created by this section, the department shall file with any county auditor a statement of claim and lien specifying the amount of delinquent fees and taxes, penalties, and interest claimed by the department. From the time of filing for record, the amount required to be paid constitutes a lien upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person in the county. Any lien as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state is of no effect, however, until the lien or a copy of it has been filed with the county auditor in the county where the property is located. When a lien is filed in compliance with this section and with the secretary of state, the filing has the same effect as if the lien had been duly filed for record in the office of each county auditor of this state.

**NEW SECTION.** Sec. 48. If an owner of proportionally registered vehicles for which an assessment has become final is delinquent in the payment of an obligation imposed under this chapter, the department may give notice of the amount of the delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to the vehicle owner or owing any debts to the owner, at the time of the receipt by them of the notice. Thereafter, a person so notified shall neither transfer nor make other disposition of those credits, personal property, or debts until the department consents to a transfer or other disposition. A person so notified shall, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall forthwith deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court upon application of the department and after the time to answer the notice has expired, to render judgment by default against the person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

**NEW SECTION.** Sec. 49. Whenever the owner of proportionally registered vehicles is delinquent in the payment of an obligation imposed under this chapter, and the delinquency continues after notice and demand for payment by the department, the department may proceed to collect the amount due from the owner in the following manner: The department shall seize any property subject to the lien of the fees, taxes, penalties, and interest and sell it at public auction to pay the obligation and any and all costs that may have been incurred because of the seizure and sale. Notice of the intended sale and its time and place shall be given to the delinquent owner and to all persons appearing of record to have an interest in the property. The notice shall be given in writing at least ten days before the date set for the sale by registered or certified mail addressed to the owner as appearing in the proportional registration records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to that person at their last known residence or place of business. In addition, the notice shall be published at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper in the county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the property to be sold, a statement of the amount due under this chapter, the name of the owner of the proportionally registered vehicles, and the further statement that unless the amount due is paid on or before the time fixed in the notice the property will be sold in accordance with law.

The department shall then proceed to sell the property in accordance with law and the notice, and shall deliver to the purchaser a bill of sale or deed that vests title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state under this chapter from the delinquent owner, the excess shall be returned to the delinquent owner and his receipt obtained for it. The department may withhold payment of the excess to the delinquent owner if a person having an interest in or lien upon the property has filed with the department their notice of the lien or interest before the sale, pending determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the delinquent owner is not available, the department shall deposit the excess with the state treasurer as trustee for the delinquent owner.

**NEW SECTION.** Sec. 50. Whenever any assessment has become final in accordance with this chapter, the department may file with the clerk of

any county within this state a warrant in the amount of fees, taxes, penalties, interest, and a filing fee of five dollars. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the 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 the delinquent owner of proportionally registered vehicles mentioned in the warrant, the amount of the fees, taxes, penalties, interest, and filing fee, and the date when the warrant was filed. The aggregate amount of the warrant as docketed constitutes a lien upon the title to, and interest in, all real and personal property of the named person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of the clerk. A warrant so docketed is sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment wholly or partially unsatisfied. The clerk of the court is entitled to a filing fee of five dollars, which shall be added to the amount of the warrant.

**NEW SECTION.** Sec. 51. Whenever an owner of proportionally registered vehicles is delinquent in the payment of an obligation under this chapter the department may transmit notices of the delinquency to the attorney general who shall at once proceed to collect by appropriate legal action the amount due the state from the delinquent owner.

In a suit brought to enforce the rights of the state under this chapter, a certificate by the department showing the delinquency is prima facie evidence of the amount of the obligation, of the delinquency thereof, and of compliance by the department with all provisions of this chapter relating to the obligation.

**NEW SECTION.** Sec. 52. The remedies of the state in this chapter are cumulative, and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy under this chapter to the exclusion of any other remedy provided for in this chapter.

**NEW SECTION.** Sec. 53. (1) The director, the state of Washington, and its political subdivisions are immune from civil liability arising from the issuance of a vehicle license to a nonroadworthy vehicle.

(2) No suit or action may be commenced or prosecuted against the director 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 director under this chapter.

**NEW SECTION.** Sec. 54. This chapter may be known and cited as "Proportional Registration."

Sec. 55. Section 3, chapter 186, Laws of 1986 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 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.160 relating to vehicle trip permits;

(8) RCW 46.20.021 relating to driving without a valid driver's license;

(9) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(10) RCW 46.20.342 relating to driving with a suspended or revoked license;

(11) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(12) RCW 46.20.416 relating to driving while in a suspended or revoked status;

(13) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(14) Chapter 46.29 RCW relating to financial responsibility;

(15) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(16) RCW 46.48.175 relating to the transportation of dangerous articles;

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

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

(19) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(20) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

(21) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;

(22) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(23) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

(24) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(25) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(26) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(27) RCW 46.61.500 relating to reckless driving;

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

(29) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(30) RCW 46.61.522 relating to vehicular assault;

(31) RCW 46.61.525 relating to negligent driving;

(32) RCW 46.61.530 relating to racing of vehicles on highways;

(33) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(34) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(35) RCW 46.64.020 relating to nonappearance after a written promise;

(36) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(37) Chapter 46.65 RCW relating to habitual traffic offenders;

(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;

(39) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(40) Chapter 46.80 RCW relating to motor vehicle wreckers;

(41) Chapter 46.82 RCW relating to driver's training schools;

(42) Section 39 of this act relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(43) Section 42 of this act relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 56. Section 22, chapter 380, Laws of 1985 and RCW 82.44.170 are each amended to read as follows:

For each IRP jurisdiction that cannot report to the director the sums of dollars that are collected for the motor vehicle excise tax pursuant to

chapter 82.44 RCW separately from other vehicle licensing fees pursuant to RCW 46.16.070 and 46.16.085, the director shall (~~compute such amount of equivalent fee or motor vehicle excise tax by determining, from~~) distribute thirty-six percent of the total fees collected as reported on the IRP vehicle registration recap information forwarded to the director by such jurisdiction(~~(, the proportionate amount that such tax represents of the total sum of fees and taxes collected by such jurisdiction. Each percentage so computed shall then be applied to future sums of collected fees and taxes forwarded by such jurisdiction, the result of which shall be distributed)~~) pursuant to RCW 82.44.110, until such time as such jurisdiction begins reporting excise tax amounts separately from other vehicle licensing fees. The remainder of the fees collected shall be distributed in accordance with RCW 46.68.035.

NEW SECTION. Sec. 57. Sections 17 and 25 through 54 shall be added to chapter 46.87 RCW.

NEW SECTION. Sec. 58. The following acts or parts of acts are each repealed:

(1) Section 12, chapter 106, Laws of 1963, section 1, chapter 51, Laws of 1971, section 1, chapter 115, Laws of 1973, section 3, chapter 222, Laws of 1981, section 4, chapter 173, Laws of 1985, section 19, chapter 18, Laws of 1986 and RCW 46.85.120;

(2) Section 2, chapter 79, Laws of 1985 and RCW 46.85.125;

(3) Section 13, chapter 106, Laws of 1963, section 4, chapter 222, Laws of 1981, section 20, chapter 18, Laws of 1986, section 14 of this act and RCW 46.85.130;

(4) Section 14, chapter 106, Laws of 1963, section 2, chapter 134, Laws of 1979, section 6, chapter 222, Laws of 1981 and RCW 46.85.140;

(5) Section 6, chapter 51, Laws of 1971, section 3, chapter 134, Laws of 1979 and RCW 46.85.145;

(6) Section 15, chapter 106, Laws of 1963 and RCW 46.85.150;

(7) Section 16, chapter 106, Laws of 1963, section 2, chapter 51, Laws of 1971, section 21, chapter 18, Laws of 1986 and RCW 46.85.160;

(8) Section 17, chapter 106, Laws of 1963, section 3, chapter 51, Laws of 1971 and RCW 46.85.170;

(9) Section 18, chapter 106, Laws of 1963 and RCW 46.85.180;

(10) Section 19, chapter 106, Laws of 1963, section 33, chapter 281, Laws of 1969 ex. sess., section 4, chapter 51, Laws of 1971, section 4, chapter 149, Laws of 1979 ex. sess., section 1, chapter 221, Laws of 1981, section 5, chapter 173, Laws of 1985 and RCW 46.85.190;

(11) Section 20, chapter 106, Laws of 1963 and RCW 46.85.200;

(12) Section 21, chapter 106, Laws of 1963 and RCW 46.85.210;

(13) Section 22, chapter 106, Laws of 1963, section 7, chapter 222, Laws of 1981 and RCW 46.85.220;



(14) Section 27, chapter 106, Laws of 1963, section 23, chapter 227, Laws of 1982, section 6, chapter 173, Laws of 1985 and RCW 46.85.270;

(15) Section 28, chapter 106, Laws of 1963, section 8, chapter 222, Laws of 1981, section 7, chapter 173, Laws of 1985 and RCW 46.85.280;

(16) Section 29, chapter 106, Laws of 1963, section 116, chapter 32, Laws of 1967, section 9, chapter 222, Laws of 1981, section 8, chapter 173, Laws of 1985 and RCW 46.85.290;

(17) Section 2, chapter 221, Laws of 1981 and RCW 46.85.300;

(18) Section 3, chapter 221, Laws of 1981 and RCW 46.85.310;

(19) Section 4, chapter 221, Laws of 1981 and RCW 46.85.320;

(20) Section 5, chapter 221, Laws of 1981 and RCW 46.85.330;

(21) Section 6, chapter 221, Laws of 1981 and RCW 46.85.340;

(22) Section 7, chapter 221, Laws of 1981 and RCW 46.85.350;

(23) Section 8, chapter 221, Laws of 1981 and RCW 46.85.360;

(24) Section 9, chapter 221, Laws of 1981 and RCW 46.85.370;

(25) Section 10, chapter 221, Laws of 1981 and RCW 46.85.380; and

(26) Section 11, chapter 221, Laws of 1981 and RCW 46.85.390.

**NEW SECTION.** Sec. 59. Section 1 of this act shall take effect on January 1, 1990. Sections 9, 10, and 15 through 58 of this act shall take effect on January 1, 1988.

Passed the Senate April 18, 1987.

Passed the House April 9, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

---

## CHAPTER 245

[Substitute House Bill No. 198]

### RETAIL SALES TAX FUNDS HELD IN TRUST—TAX LIABILITY

AN ACT Relating to the collection of retail sales taxes held in trust; adding a new section to chapter 82.32 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 82.32 RCW to read as follows:

(1) Upon termination, dissolution, or abandonment of a corporate business, any officer or other person having control or supervision of retail sales tax funds collected and held in trust under RCW 82.08.050, or who is charged with the responsibility for the filing of returns or the payment of retail sales tax funds collected and held in trust under RCW 82.08.050, shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person wilfully fails to pay or to cause to be paid any taxes due from the corporation pursuant to chapter 82.08 RCW. For the purposes of this section, any retail sales taxes that have been

paid but not collected shall be deductible from the retail sales taxes collected but not paid.

For purposes of this subsection "wilfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(2) The officer or other person shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3) Persons liable under subsection (1) of this section are exempt from liability in situations where nonpayment of the retail sales tax funds held in trust is due to reasons beyond their control as determined by the department by rule.

(4) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(5) This section applies only in situations where the department has determined that there is no reasonable means of collecting the retail sales tax funds held in trust directly from the corporation.

(6) This section does not relieve the corporation of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

(7) Collection authority and procedures prescribed in this chapter apply to collections under this section.

**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 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 1, 1987.

Filed in Office of Secretary of State May 1, 1987.

## CHAPTER 246

[Senate Bill No. 5444]

### FEDERAL RESERVE SYSTEM CHALLENGED—REFERENDUM BILL 41

AN ACT Relating to the federal reserve system; creating new sections; and providing for submission of this act to a vote of the people.

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

**NEW SECTION.** Sec. 1. (1) A sound money system is absolutely vital to a free people. Symptoms of an unsound money system abound: Budget deficits, recurring recession cycles, farm foreclosures, business bankruptcies, bank, savings and loan, and insurance company failures, trade deficits, and

dramatic fluctuations in interest rates, inflation levels, and unemployment statistics. These represent a clear and present danger to the people and to the government of the state of Washington and the United States of America.

(2) The Federal Reserve Act of 1913, and other acts of Congress, purport to delegate the nation's monetary authority to the Federal Reserve System, with no oversight or control by any elected body or official. The Federal Reserve Board is assumed to have the power to create money and thus exercise absolute control over the economic activity of this nation, whereas the United States Constitution nowhere authorizes Congress to delegate such power.

(3) The Federal Reserve Act of 1913, and other acts of Congress, purport to delegate authority, without oversight or control, under which large, private United States multinational banks have made unrestricted loans all over the world which, now in danger of default, threaten the United States of America with a collapse of its whole banking structure.

NEW SECTION. Sec. 2. It is hereby the declared intent of the state of Washington, and the counsel appointed by the legislature is hereby directed, to cause to be filed in the original jurisdiction of the supreme court of the United States: (1) An action challenging the constitutionality of the delegation to the federal reserve system of the power to create money, and thus the power to exercise absolute control over the economic activity of this nation, and (2) an action challenging the delegation of authority without oversight, under which large, private multinational banks have made unrestricted foreign loans which, if they default, threaten the United States of America with a collapse of its whole banking structure.

NEW SECTION. Sec. 3. This act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof.

Passed the Senate March 2, 1987.

Passed the House April 14, 1987.

Filed in Office of Secretary of State April 24, 1987.

---

## CHAPTER 247

[House Bill No. 663]

### IGNITION INTERLOCK BREATH ALCOHOL DEVICES

AN ACT Relating to breath alcohol testing; amending RCW 46.63.020; adding new sections to chapter 46.20 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 46.20 RCW to read as follows:

The legislature finds and declares:

(1) There is a need to reduce the incidence of drivers on the highways and roads of this state who, because of their use, consumption, or possession of alcohol, pose a danger to the health and safety of other drivers;

(2) One method of dealing with the problem of drinking drivers is to discourage the use of motor vehicles by persons who possess or have consumed alcoholic beverages;

(3) The installation of an ignition interlock breath alcohol device will provide a means of deterring the use of motor vehicles by persons who have consumed alcoholic beverages;

(4) Ignition interlock devices are designed to supplement other methods of punishment that prevent drivers from using a motor vehicle after using, possessing, or consuming alcohol;

(5) It is economically and technically feasible to have an ignition interlock device installed in a motor vehicle in such a manner that the vehicle will not start if the operator has recently consumed alcohol.

**NEW SECTION.** Sec. 2. A new section is added to chapter 46.20 RCW to read as follows:

The court may order any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle to drive only a motor vehicle equipped with a functioning ignition interlock device, and the restriction shall be for a period of not less than six months.

The court shall establish a specific calibration setting at which the ignition interlock device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction.

For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under chapter 10.05 RCW.

**NEW SECTION.** Sec. 3. A new section is added to chapter 46.20 RCW to read as follows:

For the purposes of sections 2, 4, and 5 of this act, "ignition interlock device" means breath alcohol analyzed ignition equipment, certified by the state commission on equipment, designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. The commission shall by rule provide standards for the certification, installation, repair, and removal of the devices.

**NEW SECTION.** Sec. 4. A new section is added to chapter 46.20 RCW to read as follows:

The department shall attach or imprint a notation on the driver's license of any person restricted under section 2 of this act stating that the

person may operate only a motor vehicle equipped with an ignition interlock device.

**NEW SECTION.** Sec. 5. A new section is added to chapter 46.20 RCW to read as follows:

A person who knowingly assists another person who is restricted to the use of an ignition interlock device to start and operate that vehicle in violation of a court order is guilty of a gross misdemeanor.

The provisions of this section do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle and the person subject to the court order does not operate the vehicle.

Sec. 6. Section 3, chapter 186, Laws of 1986 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 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.160 relating to vehicle trip permits;

(8) RCW 46.16.381(8) relating to unauthorized acquisition of a special decal, license plate, or card for disabled persons' parking;

(9) RCW 46.20.021 relating to driving without a valid driver's license;

~~((9))~~ (10) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

~~((10))~~ (11) RCW 46.20.342 relating to driving with a suspended or revoked license;

~~((11))~~ (12) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

- ~~((12))~~ (13) RCW 46.20.416 relating to driving while in a suspended or revoked status;
- ~~((13))~~ (14) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- ~~((14))~~ (15) Section 5 of this act relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (16) Chapter 46.29 RCW relating to financial responsibility;
- ~~((15))~~ (17) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- ~~((16))~~ (18) RCW 46.48.175 relating to the transportation of dangerous articles;
- ~~((17))~~ (19) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- ~~((18))~~ (20) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- ~~((19))~~ (21) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- ~~((20))~~ (22) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- ~~((21))~~ (23) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;
- ~~((22))~~ (24) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- ~~((23))~~ (25) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- ~~((24))~~ (26) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- ~~((25))~~ (27) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- ~~((26))~~ (28) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- ~~((27))~~ (29) RCW 46.61.500 relating to reckless driving;
- ~~((28))~~ (30) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- ~~((29))~~ (31) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- ~~((30))~~ (32) RCW 46.61.522 relating to vehicular assault;
- ~~((31))~~ (33) RCW 46.61.525 relating to negligent driving;
- ~~((32))~~ (34) RCW 46.61.530 relating to racing of vehicles on highways;
- ~~((33))~~ (35) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- ~~((34))~~ (36) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((35))~~ (37) RCW 46.64.020 relating to nonappearance after a written promise;

~~((36))~~ (38) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((37))~~ (39) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((38))~~ (40) 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;

~~((39))~~ (41) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((40))~~ (42) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((41))~~ (43) Chapter 46.82 RCW relating to driver's training schools.

Passed the House April 15, 1987.

Passed the Senate April 6, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 248

[Engrossed Senate Bill No. 5217]

### WELLNESS PROGRAM FOR STATE EMPLOYEES

AN ACT Relating to wellness programs for state employees; amending RCW 41.06.280; adding new sections to chapter 41.04 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) Improved health among employees will result in a more productive workforce, better morale, reduced stress, lower injury rates and absenteeism, and improved recruitment and retention rates;

(2) A substantial amount of illness and injury in the work force is preventable because it results from lifestyle decisions;

(3) Illness and injury among state employees can be reduced if employees engage in healthier lifestyles.

The state, as an employer, desires to foster a working environment that promotes the health and well-being of its employees. Therefore, it is the purpose of this act to establish a state employee wellness program. "Wellness program" means those policies, procedures, and activities that promote the health and well-being of state employees and that contribute to a healthful work environment.

NEW SECTION. Sec. 2. A new section is added to chapter 41.04 RCW to read as follows:

(1) The director of the department of personnel, in consultation with applicable state agencies and employee organizations, may develop and administer a voluntary state employee wellness program.

(2) The director may:

(a) Develop and implement state employee wellness policies, procedures, and activities;

(b) Disseminate wellness educational materials to state agencies and employees;

(c) Encourage the establishment of wellness activities in state agencies;

(d) Provide technical assistance and training to agencies conducting wellness activities for their employees;

(e) Develop standards by which agencies sponsoring specific wellness activities may impose a fee to participating employees to help defray the cost of those activities;

(f) Monitor and evaluate the effectiveness of this program, including the collection, analysis, and publication of relevant statistical information; and

(g) Perform other duties and responsibilities as necessary to carry out the purpose of this section.

(3) No wellness program or activity that involves or requires organized or systematic physical exercise may be implemented or conducted during normal working hours.

**NEW SECTION.** Sec. 3. A new section is added to chapter 41.04 RCW to read as follows:

Individual employees' participation in the wellness program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence and shall not in any way jeopardize any employee's job security, promotional opportunities, or other employment rights.

Sec. 4. Section 28, chapter 1, Laws of 1961 as last amended by section 45, chapter 7, Laws of 1984 and RCW 41.06.280 are each amended to read as follows:

There is hereby created a fund within the state treasury, designated as the "Department of Personnel Service Fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one percent of the approved allotments of salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher learning, shall be charged to the operations appropriations of each agency and credited to the department of personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to



time which, together with income derived from services rendered under RCW 41.06.080, will provide the department with funds to meet its anticipated expenditures during the allotment period.

The director of personnel shall fix the terms and charges for services rendered by the department of personnel pursuant to RCW 41.06.080, which amounts shall be credited to the department of personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a quarterly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a quarterly basis to the state treasurer and deposited by him in the department of personnel service fund.

Moneys from the department of personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board.

Passed the Senate April 22, 1987.

Passed the House April 15, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 249

[Substitute Senate Bill No. 5191]

### MEXICAN-AMERICAN AFFAIRS COMMISSION REDESIGNATED AS THE COMMISSION ON HISPANIC AFFAIRS

AN ACT Relating to the redesignation of the Washington state commission on Mexican-American affairs; and amending RCW 43.115.010, 43.115.020, 43.115.030, 43.115.040, 43.115.050, 43.115.060, and 43.03.028; adding new sections to chapter 43.131 RCW; and repealing RCW 43.115.010, 43.115.020, 43.115.030, 43.115.040, 43.115.050, 43.115.060, and 43.115.900.

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

Sec. 1. Section 1, chapter 34, Laws of 1971 ex. sess. and RCW 43.115.010 are each amended to read as follows:

The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature finds that (~~Mexican-Americans and other Spanish speaking Americans~~) Hispanics have unique and special problems. It is the purpose of this chapter to improve the well-being of (~~Mexican-Americans and other Spanish speaking Americans~~) Hispanics by insuring their participation in the fields of government, business, and education. The legislature further finds that it is necessary to aid (~~Mexican-Americans and other Spanish speaking Americans~~) Hispanics in obtaining governmental services in order to promote the health, safety and welfare of all the residents of this state. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter.

Sec. 2. Section 2, chapter 34, Laws of 1971 ex. sess. and RCW 43-.115.020 are each amended to read as follows:

There is created a Washington state commission on ~~((Mexican-American))~~ Hispanic affairs.

Sec. 3. Section 3, chapter 34, Laws of 1971 ex. sess. as last amended by section 15, chapter 338, Laws of 1981 and RCW 43.115.030 are each amended to read as follows:

(1) The commission shall consist of eleven members of Hispanic origin appointed by the governor. The membership shall include:

(a) Two members from workers in the agricultural field;

(b) ~~((Two))~~ Three members from the general populace of ~~((the Spanish-speaking population))~~ Hispanics, but not of Mexican-American origin;

(c) One member from the field of education;

(d) One member ~~((from professional services))~~ who is a professional from the business community, government employment, or public service;  
~~((and))~~

(e) One member from among elected trade union officials; and

(f) ~~((Four))~~ Three members from the Mexican-American community in the state.

(2) ~~((The members shall hold office commencing July 1, 1971 for four years and until their successors are chosen and qualified. Four of the initial appointees shall be appointed for two-year terms and three shall be appointed for four-year terms))~~ Members shall serve for four-year terms and until their successors are chosen and qualified. Vacancies shall be filled in the same manner as the original appointments.

(3) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(4) Six members of the commission shall constitute a quorum for the purpose of conducting business.

Sec. 4. Section 4, chapter 34, Laws of 1971 ex. sess. and RCW 43-.115.040 are each amended to read as follows:

The commission shall:

(1) Elect one of its members to serve as chairman;

(2) Appoint a full time ~~((executive secretary))~~ director;

(3) Appoint a staff who shall be state employees pursuant to Title 41 RCW; and

(4) Adopt rules and regulations pursuant to chapter 34.04 RCW.

Sec. 5. Section 5, chapter 34, Laws of 1971 ex. sess. and RCW 43-.115.050 are each amended to read as follows:

(1) The commission shall advise state departments and agencies regarding appropriate action to be taken to help assure that state programs

are providing the assistance needed by (~~Mexican-Americans and other Spanish-speaking Americans~~) Hispanics.

(2) The commission shall further advise such departments and agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of (~~Mexican-Americans and other Spanish-speaking Americans~~) Hispanics.

(3) Each state department and agency shall appoint one staff member to an interagency advisory council on (~~Mexican-American~~) Hispanic affairs. The advisory council shall give technical assistance to the commission in order that the commission may carry out the purposes of this chapter.

Sec. 6. Section 6, chapter 34, Laws of 1971 ex. sess. and RCW 43.115.060 are each amended to read as follows:

In carrying out its duties the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity for (~~Mexican-Americans~~) Hispanics in government, education and employment.

Sec. 7. Section 20, chapter 87, Laws of 1980 as last amended by section 9, chapter 155, Laws of 1986 and RCW 43.03.028 are each amended to read as follows:

(1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the State Personnel Board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the capitol historical association and museum; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the commission for vocational education; the advisory council on vocational education; the public disclosure commission; the hospital commission; the state conservation commission; the commission on

((~~Mexican-American~~) Hispanic affairs; the commission on Asian-American affairs; the state board for volunteer firemen; the urban arterial board; the data processing authority; the public employees relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 8. A new section is added to chapter 43.131 RCW to read as follows:

The Washington state commission on Hispanic affairs and its powers and duties shall be terminated on June 30, 1996, 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:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) Section 1, chapter 34, Laws of 1971 ex. sess., section 1 of this act and RCW 43.115.010;

(2) Section 2, chapter 34, Laws of 1971 ex. sess., section 2 of this act and RCW 43.115.020;

(3) Section 3, chapter 34, Laws of 1971 ex. sess., section 130, chapter 34, Laws of 1975-'76 2nd ex. sess., section 15, chapter 338, Laws of 1981, section 3 of this act and RCW 43.115.030;

(4) Section 4, chapter 34, Laws of 1971 ex. sess., section 4 of this act and RCW 43.115.040;

(5) Section 5, chapter 34, Laws of 1971 ex. sess., section 5 of this act and RCW 43.115.050;

(6) Section 6, chapter 34, Laws of 1971 ex. sess., section 6 of this act and RCW 43.115.060; and

(7) Section 7, chapter 34, Laws of 1971 ex. sess. and RCW 43.115-.900.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 250

[Substitute House Bill No. 289]

PUBLIC DANCES AND OTHER RECREATIONAL OR ENTERTAINMENT  
ACTIVITIES—REGULATION REVISED

AN ACT Relating to the regulation of dances and other recreational or entertainment activities; amending RCW 26.28.080; adding a new section to chapter 67.12 RCW; and repealing RCW 67.12.010, 67.12.020, 67.12.030, 67.12.040, 67.12.050, 67.12.060, 67.12.070, 67.12.075, 67.12.080, 67.12.090, and 67.12.100.

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

NEW SECTION. Sec. 1. A new section is added to chapter 67.12 RCW to read as follows:

Counties are authorized to adopt ordinances to license and regulate public dances and other public recreational or entertainment activities in the unincorporated areas of the county whether or not held inside or outside of a building and whether or not admission charges are imposed.

License fees may be adequate to finance the costs of issuing the license and enforcing the regulations, including related law enforcement activities.

Sec. 2. Sections 1, 3, and 4, chapter 126, Laws of 1895 as last amended by section 37, chapter 292, Laws of 1971 ex. sess. and RCW 26.28.080 are each amended to read as follows:

Every person who:

(1) Shall admit to or allow to remain in any concert saloon, or in any place owned, kept, or managed by him or her where intoxicating liquors are sold, given away or disposed of—except a restaurant or dining room, any person under the age of eighteen years; or,

(2) Shall admit to, or allow to remain in any (~~dance-house;~~) public pool or billiard hall, or in any place of entertainment injurious to health or morals, owned, kept or managed by him or her, any person under the age of eighteen years; or,

(3) Shall suffer or permit any such person to play any game of skill or chance, in any such place, or in any place adjacent thereto, or to be or remain therein, or admit or allow to remain in any reputed house of prostitution or assignation, or in any place where opium or any preparation thereof, is smoked, or where any narcotic drug is used, any persons under the age of eighteen years; or,

(4) Shall sell or give, or permit to be sold or given to any person under the age of twenty-one years any intoxicating liquor, or to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form; or

(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol;

Shall be guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

**NEW SECTION.** Sec. 3. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 111, Laws of 1923 and RCW 67.12.010;
- (2) Section 2, chapter 111, Laws of 1923 and RCW 67.12.020;
- (3) Section 3, chapter 111, Laws of 1923, section 8, chapter 91, Laws of 1985 and RCW 67.12.030;
- (4) Section 4, chapter 111, Laws of 1923 and RCW 67.12.040;
- (5) Section 5, chapter 111, Laws of 1923, section 9, chapter 91, Laws of 1985 and RCW 67.12.050;
- (6) Section 6, chapter 111, Laws of 1923 and RCW 67.12.060;
- (7) Section 7, chapter 111, Laws of 1923 and RCW 67.12.070;
- (8) Section 1, chapter 103, Laws of 1937 and RCW 67.12.075;
- (9) Section 2, chapter 103, Laws of 1937 and RCW 67.12.080;
- (10) Section 3, chapter 103, Laws of 1937 and RCW 67.12.090; and
- (11) Section 4, chapter 103, Laws of 1937 and RCW 67.12.100.

Passed the House February 18, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 251

[House Bill No. 816]

### CIVIL SERVICE FOR DEPUTY SHERIFFS AND OTHER SHERIFF EMPLOYEES REVISED

AN ACT Relating to county sheriff civil service systems; amending RCW 41.14.010; and adding a new section to chapter 41.14 RCW.

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

Sec. 1. Section 1, chapter 1, Laws of 1959 as amended by section 3, chapter 429, Laws of 1985 and RCW 41.14.010 are each amended to read as follows:

The general purpose of this chapter is to establish a merit system of employment for county deputy sheriffs and other employees of the office of county sheriff, thereby raising the standards and efficiency of such offices and law enforcement in general. ~~((The provisions of this chapter have no application to any class AA county which provides for civil service in the police department or sheriff's office by local charter or ordinance where such local charter or ordinance substantially accomplishes the purpose of this chapter. PROVIDED, That if any such county at any time repeals the~~

~~charter provisions or ordinances providing for civil service for the police department or sheriff's office, this chapter must thereafter apply to such county:))~~

**NEW SECTION.** Sec. 2. A new section is added to chapter 41.14 RCW to read as follows:

Any class AA county may assign the powers and duties of the commission to such county agencies or departments as may be designated by charter or ordinance: **PROVIDED**, That the powers and duties of the commission under RCW 41.14.120 shall not be assigned to any other body but shall continue to be vested in the commission, which shall exist to perform such powers and duties, together with such other adjudicative functions as may be designated by charter or ordinance.

Passed the House March 13, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 252

[Senate Bill No. 5774]

### DENTAL PROSTHESIS IDENTIFICATION

AN ACT Relating to permanent identification remarks on removable dental prosthesis; and adding new sections 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:

Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed under this chapter, or fabricated pursuant to the dentist's work order or under the dentist's direction or supervision, shall be marked with the name of the patient for whom the prosthesis is intended. The markings shall be done during fabrication and shall be permanent, legible, and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist or dental laboratory, this identification is not practical, identification shall be provided as follows:

(1) The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or

(2) The identification marks may be omitted in their entirety if none of the forms of identification specified in subsection (1) of this section is practicable or clinically safe.

**NEW SECTION.** Sec. 2. A new section is added to chapter 18.32 RCW to read as follows:

Any removable prosthesis in existence before the effective date of this section that was not marked in accordance with section 1 of this act at the time of its fabrication, shall be so marked at the time of any subsequent rebasing.

**NEW SECTION.** Sec. 3. A new section is added to chapter 18.32 RCW to read as follows:

The department of social and health services shall provide technical assistance for marking methods and materials and other matters necessary to effectuate the provisions of sections 1 and 2 of this act.

**NEW SECTION.** Sec. 4. A new section is added to chapter 18.32 RCW to read as follows:

Failure of any dentist to comply with sections 1 and 2 of this act is a violation for which the dentist may be subject to proceedings if the dentist is charged with the violation within two years of initial insertion of the dental prosthetic device.

**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.

Passed the Senate March 17, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

---

CHAPTER 253

[Engrossed Senate Bill No. 5863]

MOBILE HOME PARKS—LANDLORDS SHALL NOT EXCLUDE OR EXPEL BASED ON AGE OF THE MOBILE HOME

AN ACT Relating to mobile homes; and amending RCW 59.20.070.

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

Sec. 1. Section 7, chapter 279, Laws of 1977 ex. sess. as last amended by section 2, chapter 58, Laws of 1984 and RCW 59.20.070 are each amended to read as follows:

A landlord shall not:

(1) Deny any tenant the right to sell such tenant's mobile home within a park or require the removal of the mobile home from the park because of the sale thereof. Requirements for the transfer of the rental agreement are in RCW 59.20.073;

(2) Restrict the tenant's freedom of choice in purchasing goods or services but may reserve the right to approve or disapprove any exterior structural improvements on a mobile home space: PROVIDED, That door-to-



door solicitation in the mobile home park may be restricted in the rental agreement;

(3) Prohibit meetings by tenants of the mobile home park to discuss mobile home living and affairs, conducted at reasonable times and in an orderly manner on the premises, nor penalize any tenant for participation in such activities;

(4) Evict a tenant, terminate a rental agreement, decline to renew a rental agreement, increase rental or other tenant obligations, decrease services, or modify park rules in retaliation for any of the following actions on the part of a tenant taken in good faith:

(a) Filing a complaint with any state, county, or municipal governmental authority relating to any alleged violation by the landlord of an applicable statute, regulation, or ordinance;

(b) Requesting the landlord to comply with the provision of this chapter or other applicable statute, regulation, or ordinance of the state, county, or municipality;

(c) Filing suit against the landlord for any reason;

(d) Participation or membership in any homeowners association or group;

(5) Charge to any tenant a utility fee in excess of actual utility costs or intentionally cause termination or interruption of any tenant's utility services, including water, heat, electricity, or gas, except when an interruption of a reasonable duration is required to make necessary repairs; ((or))

(6) Remove or exclude a tenant from the premises unless this chapter is complied with or the exclusion or removal is under an appropriate court order; or

(7) Prevent the entry or require the removal of a mobile home for the sole reason that the mobile home has reached a certain age. Nothing in this subsection shall limit a landlords' right to exclude or expel a mobile home for any other reason provided such action conforms to chapter 59.20 RCW or any other statutory provision.

Passed the Senate April 21, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

---

## CHAPTER 254

[Substitute House Bill No. 130]

### AIRPORT OPERATORS—POWER TO REGULATE AIRPORT USE—DESIGNATION OF TREASURER

AN ACT Relating to airport operators; amending RCW 14.08.010 and 14.08.200; and adding new sections to chapter 14.08 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 14.08 RCW to read as follows:

(1) "Airport charges" means charges of an airport operator for tie-downs, landing fees, the occupation of a hangar by an aircraft, and all other charges owing or to become owing under a contract between an aircraft owner and an airport operator or under an officially adopted regulation and/or tariff including, but not limited to, the cost of sale and related expenses.

(2) "Aircraft" means every species of aircraft or other mechanical device capable of being used for the purpose of aerial flight.

(3) "Airport operator" means any municipality as defined in RCW 14.08.010(2) or state agency which owns and/or operates an airport.

(4) "Owner" means (a) every natural person, firm, partnership, corporation, association, trust, estate, or organization, or agent thereof with actual or apparent authority, who expressly or impliedly contracts for use of airport property for landing, parking, or hangaring aircraft, and (b) includes the registered owner or owners and lienholders of record with the federal aviation administration.

**NEW SECTION.** Sec. 2. A new section is added to chapter 14.08 RCW to read as follows:

An airport operator may adopt all regulations necessary for rental and use of airport facilities and for the expeditious collection of airport charges. The regulations may also establish procedures for the enforcement of these regulations by the airport operator. The regulations shall include the following:

(1) Procedures authorizing airport personnel to take reasonable measures including, but not limited to, the use of chains, ropes, and locks to secure aircraft within the airport facility so that the aircraft are in the possession and control of the airport operator and cannot be removed from the airport. These procedures may be used if an owner hangaring or parking an aircraft at the airport fails to pay the airport charges owed and the account is at least sixty days delinquent. At the time of securing the aircraft, an authorized airport employee shall attach to the aircraft a readily visible notice and shall send a copy of the notice to the owner at his or her last known address by registered mail, return receipt requested, and a copy of the notice by first class mail. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached;

(b) A reasonable description of the aircraft;

(c) The identity of the authorized employee;

(d) The amount of airport charges owing;

(e) A statement that if the account is not paid in full within one hundred eighty days from the time the notice was attached the aircraft may be sold at public auction to satisfy the airport charges;

(f) The time and place of sale;

(g) A statement of the owner's right to commence legal proceedings to contest the charges owing and to have the aircraft released upon posting of an adequate cash bond or other security; and

(h) The address and telephone number where additional information may be obtained concerning the release of the aircraft.

(2) Procedures authorizing airport personnel at their discretion to place aircraft in an area within the airport operator's control for storage with private persons under the airport operator's control as bailees of the airport facility. Reasonable cost of any such procedure shall be paid by the aircraft's owner.

(3) If an aircraft is moved under conditions authorized under this section the owner who is obligated for hangaring or parking or other airport charges may regain possession of the aircraft by:

(a) Making arrangements satisfactory with the airport operator for the immediate removal of the aircraft from the airport's hangar, or making arrangements for authorized parking; and

(b) By making payment to the operator of all airport 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 aircraft owner of the amount owing, or pending resolution of charges in a civil action in a court of competent jurisdiction, the trust shall terminate and the airport 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 airport operator. The balance shall be refunded immediately to the owner at the owner's last known address by registered mail, return receipt requested. The airport operator shall send to the owner by first class mail a notice that the balance of funds was forwarded to him or her by registered mail, return receipt requested.

(4) If an aircraft parked or hangared at an airport is abandoned, the airport operator may authorize the public sale of the aircraft by authorized personnel to the highest and best bidder for cash as follows:

(a) If an aircraft has been secured by the airport 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 aircraft, the aircraft shall be conclusively presumed to have been abandoned by the owner;

(b) Before the aircraft is sold, the owner of the aircraft shall be given at least twenty days' notice of sale by registered mail, return receipt requested and the notice of sale shall be published at least once, more than

ten but less than twenty days before the sale, in a newspaper of general circulation in the county in which the airport is located. The notice shall include the name of the aircraft, if any, its aircraft identification number, the last known owner and address, the time and place of sale, the amount of airport charges that will be owing at the time of sale, a reasonable description of the aircraft to be sold and that the airport operator may bid all or part of its airport 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 payment of airport charges owed. The balance, if any, shall be deposited with the department of revenue to be held in trust for the owner or owners and lienholders for a period of one year. If more than one owner appears on the aircraft title, and/or if any liens appear on the title, the department must, if a claim is made, interplead the balance into a court of competent jurisdiction for distribution. The department may release the balance to the legal owner provided that the claim is made within one year of sale and only one legal owner and no lienholders appear on the title. If no valid claim is made within one year of the date of sale, the excess funds from the sale shall be deposited in the aircraft search and rescue, safety, and education account created in RCW 47.68.236. If the sale is for a sum less than the applicable airport charges, the airport operator is entitled to assert a claim against the aircraft owner or owners for the deficiency.

(5) The regulations authorized under this section shall be enforceable only if:

(a) The airport operator has had its tariff and/or regulations, including any and all regulations authorizing the impoundment of an aircraft that is the subject of delinquent airport charges, conspicuously posted at the airport manager's office.

(b) All impounding remedies available to the airport operator are included in any written contract for airport charges between an airport operator and an aircraft owner; and

(6) All rules and regulations authorized under this section are adopted either pursuant to chapter 34.04 RCW, or by resolution of the appropriate legislative authority, as applicable.

Sec. 3. Section 1, chapter 182, Laws of 1945 and RCW 14.08.010 are each amended to read as follows:

(1) For the purpose of this chapter, unless herein specifically otherwise provided, the definitions of words, terms and phrases appearing in the state aeronautic department act of this state are hereby adopted.

(2) As used in this chapter, unless the context otherwise requires: "Municipality" means any county, city, town, airport district, or port district of this state; "airport purposes" means and includes airport, restricted landing area and other air navigation facility purposes.

Sec. 4. Section 11, chapter 182, Laws of 1945 as last amended by section 7, chapter 7, Laws of 1984 and RCW 14.08.200 are each amended to read as follows:

(1) All powers, rights, and authority granted to any municipality in this chapter may be exercised and enjoyed by two or more municipalities, or by this state and one or more municipalities therein, acting jointly, either within or outside the territorial limits of either or any of the municipalities and within or outside this state, or by this state or any municipality therein acting jointly with any other state or municipality therein, either within or outside this state if the laws of the other state permit such joint action.

(2) For the purposes of this section only, unless another intention clearly appears or the context requires otherwise, this state is included in the term "municipality," and all the powers conferred upon municipalities in this chapter, if not otherwise conferred by law, are conferred upon this state when acting jointly with any municipality or municipalities. Where reference is made to the "governing body" of a municipality, that term means, as to the state, its secretary of transportation.

(3) Any two or more municipalities may enter into agreements with each other, duly authorized by ordinances or resolution, as may be appropriate, for joint action under this section. Concurrent action by the governing bodies of the municipalities involved constitutes joint action.

(4) Each such agreement shall specify its terms; the proportionate interest which each municipality shall have in the property, facilities, and privileges involved, and the proportion of preliminary costs, cost of acquisition, establishment, construction, enlargement, improvement, and equipment, and of expenses of maintenance, operation, and regulation to be borne by each, and make such other provisions as may be necessary to carry out the provisions of this section. It shall provide for amendments thereof and for conditions and methods of termination; for the disposition of all or any part of the property, facilities, and privileges jointly owned if the property, facilities, and privileges, or any part thereof, cease to be used for the purposes provided in this section or if the agreement is terminated, and for the distribution of the proceeds received upon any such disposition, and of any funds or other property jointly owned and undisposed of, and the assumption or payment of any indebtedness arising from the joint venture which remains unpaid, upon any such disposition or upon a termination of the agreement.

(5) Municipalities acting jointly as authorized in this section shall create a board from the inhabitants of the municipalities for the purpose of acquiring property for, establishing, constructing, enlarging, improving, maintaining, equipping, operating, and regulating the airports and other air navigation facilities and airport protection privileges to be jointly acquired, controlled, and operated. The board shall consist of members to be appointed by the governing body of each municipality involved, the number to be

appointed by each to be provided for by the agreement for the joint venture. Each member shall serve for such time and upon such terms as to compensation, if any, as may be provided for in the agreement.

(6) Each such board shall organize, select officers for terms to be fixed by the agreement, and adopt and from time to time amend rules of procedure.

(7) Such board may exercise, on behalf of the municipalities acting jointly by which it is appointed, all the powers of each of the municipalities granted by this chapter, except as provided in this section. Real property, airports, restricted landing areas, air protection privileges, or personal property costing in excess of a sum to be fixed by the joint agreement, may be acquired, and condemnation proceedings may be instituted, only by approval of the governing bodies of each of the municipalities involved. Upon the approval of the governing body, or if no approval is necessary then upon the board's own determination, such property may be acquired by private negotiation under such terms and conditions as seem just and proper to the board. The total amount of expenditures to be made by the board for any purpose in any calendar year shall be determined by the municipalities involved by the approval by each on or before the preceding December 1st, of a budget for the ensuing calendar year, which budget may be amended or supplemented by joint resolution of the municipalities involved during the calendar year for which the original budget was approved. Rules and regulations provided for by RCW 14.08.120(2) become effective only upon approval of each of the appointing governing bodies. No real property and no airport, other navigation facility, or air protection privilege, owned jointly, may be disposed of by the board by sale except by authority of all the appointing governing bodies, but the board may lease space, land area, or improvements and grant concessions on airports for aeronautical purposes, or other purposes which will not interfere with the aeronautical purposes of such airport, air navigation facility, or air protection privilege by private negotiation under such terms and conditions as seem just and proper to the board, subject to the provisions of RCW 14.08.120(4). Subject to the provisions of the agreement for the joint venture, and when it appears to the board to be in the best interests of the municipalities involved, the board may sell any personal property by private negotiations under such terms and conditions as seem just and proper to the board.

(8) Each municipality, acting jointly with another pursuant to the provisions of this section, is authorized and empowered to enact, concurrently with the other municipalities involved, such ordinances as are provided for by RCW 14.08.120(2), and to fix by such ordinances penalties for the violation thereof. When so adopted, the ordinances have the same force and effect within the municipalities and on any property jointly controlled by them or adjacent thereto, whether within or outside the territorial limits of either or any of them, as ordinances of each municipality involved, and may

be enforced in any one of the municipalities in the same manner as are its individual ordinances. The consent of the state secretary of transportation to any such ordinance, where the state is a party to the joint venture, is equivalent to the enactment of the ordinance by a municipality. The publication provided for in RCW 14.08.120(2) shall be made in each municipality involved in the manner provided by law or charter for publication of its individual ordinances.

(9) Condemnation proceedings shall be instituted, in the names of the municipalities jointly, and the property acquired shall be held by the municipalities as tenants in common. The provisions of RCW 14.08.030(2) apply to such proceedings.

(10) For the purpose of providing funds for necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which each of the municipalities involved shall deposit its proportionate share as provided by the joint agreement. Such funds shall be provided for by bond issues, tax levies, and appropriations made by each municipality in the same manner as though it were acting separately under the authority of this chapter. The revenues obtained from the ownership, control, and operation of the airports and other air navigation facilities jointly controlled shall be paid into the fund, to be expended as provided in this chapter. Revenues in excess of cost of maintenance and operating expenses of the joint properties shall be divided or allowed to accumulate for future anticipated expenditures as may be provided in the original agreement, or amendments thereto, for the joint venture. The action of municipalities involved in heretofore permitting such revenues to so accumulate is declared to be legal and valid.

(11) The governing body may by joint directive designate some person having experience in financial or fiscal matters as treasurer of the joint operating agency. Such a treasurer shall possess all the powers, responsibilities, and duties that the county treasurer and auditor possess for a joint operating agency related to creating and maintaining funds, issuing warrants, and investing surplus funds. The governing body may, and if the treasurer is not the county treasurer it shall, require a bond, with a surety company authorized to do business in the state of Washington, in an amount and under the terms and conditions which the governing body finds will protect the joint operating agency. The premium on such bond shall be paid by the joint operating agency. All disbursements from the joint fund shall be made by order of the board in accordance with such rules and regulations and for such purposes as the appointing governing bodies, acting jointly, shall prescribe. If no such joint directive is made by the governing appointing bodies to designate a treasurer, then the provisions of RCW 43-.09.285 apply to such joint fund.

(12) Specific performance of the provisions of any joint agreement entered into as provided for in this section may be enforced as against any party thereto by the other party or parties thereto.

Passed the House April 15, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 255

[House Bill No. 1185]

### JUNIOR TAXING DISTRICTS—STATUS OF DISTRICTS AND LEVIES REVISED

AN ACT Relating to reduction or elimination of tax levies to comply with levy limitations; and amending RCW 84.52.010.

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

Sec. 1. Section 84.52.010, chapter 15, Laws of 1961 as last amended by section 101, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.52.010 are each amended to read as follows:

Except as is permitted under RCW 84.55.050, all taxes shall be levied or voted in specific amounts(~~(, and)~~).

The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively(~~(: PROVIDED, That)~~).

When (~~(any such)~~) a county assessor (~~(shall)~~) finds that the aggregate rate of tax levy on any property (~~(will exceed)~~), that is subject to the limitations set forth in RCW 84.52.043 (~~(and RCW)~~) or 84.52.050, as now or hereafter amended, (~~(he)~~) exceeds the limitations provided in either of these sections, the assessor shall recompute and establish a consolidated levy in the following manner:

(1) (~~(He shall include for extension on the tax rolls)~~) The full certified rates of tax levy (~~(certified to him)~~) for state, county, county road district(~~(s)~~), and city (~~(and school district)~~) or town purposes shall be extended on the tax rolls in amounts not exceeding the limitations established by law: PROVIDED, That in the event of a levy made pursuant to RCW 84.34.230, the rates of levy for county(~~(;)~~) and county road district(~~(, and school district)~~) purposes shall be reduced in such uniform percentages as



will result in a consolidated levy by such taxing districts which will be no greater on any property than a consolidated levy by such taxing districts would be if the levy had not been made pursuant to RCW 84.34.230(;-); and

(2) ~~((He shall include for extension on the tax rolls))~~ The certified rates ((percent of the tax levies certified to him)) of tax levy subject to these limitations by all ((other)) junior taxing districts imposing taxes on such property((, other than port districts and public utility districts, reduced by him in such uniform percentages as will)) shall be reduced or eliminated as follows to bring the consolidated ((tax)) levy of taxes on such property within the provisions of ((such)) these limitations:

(a) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, and 67.38.130 shall be reduced on a pro rata basis or eliminated;

(b) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts shall be reduced on a pro rata basis or eliminated;

(c) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, public hospital districts, metropolitan park districts, and library districts, shall be reduced on a pro rata basis or eliminated;

(d) Fourth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 shall be reduced on a pro rata basis or eliminated; and

(e) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.130, and the certified property tax levy rates of public hospital districts, metropolitan park districts, and library districts, shall be reduced on a pro rata basis or eliminated.

Passed the House March 19, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

---

## CHAPTER 256

[Substitute Senate Bill No. 5392]

### UNEMPLOYMENT COMPENSATION—BENEFIT YEAR QUALIFICATIONS REVISED

AN ACT Relating to qualification for unemployment compensation; and amending RCW 50.04.030.

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

Sec. 1. Section 4, chapter 35, Laws of 1945 as last amended by section 1, chapter 33, Laws of 1977 ex. sess. and RCW 50.04.030 are each amended to read as follows:

"Benefit year" with respect to each individual, means the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual files an application for an initial determination and thereafter the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual next files an application for an initial determination after the expiration of the individual's last preceding benefit year: PROVIDED, HOWEVER, That the foregoing limitation shall not be deemed to preclude the establishment of a new benefit year under the laws of another state pursuant to any agreement providing for the interstate combining of employment and wages and the interstate payment of benefits nor shall this limitation be deemed to preclude the commissioner from backdating an initial application at the request of the claimant either for the convenience of the department of employment security or for any other reason deemed by the commissioner to be good cause.

An individual's benefit year shall be extended to be fifty-three weeks when at the expiration of fifty-two weeks the establishment of a new benefit year would result in the use of a quarter of wages in the new base year that had been included in the individual's prior base year.

No benefit year will be established unless it is determined that the individual earned wages in "employment" in not less than six hundred eighty hours of the individual's base year: PROVIDED, HOWEVER, That a benefit year cannot be established if the base year wages include wages earned prior to the establishment of a prior benefit year unless the individual earned wages in "employment" ~~((during the last two quarters of the new base year))~~ since the beginning of the previous benefit year's waiting period under RCW 50.20.010(4) of not less than six times the weekly benefit amount computed for the individual's new benefit year.

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his or her wages at regular intervals.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 257

[Engrossed House Bill No. 1123]

RAILROAD GRADE CROSSING PROTECTIVE FUND—CERTAIN MONEYS  
TRANSFERRED TO THE MOTOR VEHICLE FUND

AN ACT Relating to railroad grade crossings; and amending RCW 81.53.281.

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

Sec. 1. Section 3, chapter 134, Laws of 1969 as last amended by section 509, chapter 405, Laws of 1985 and RCW 81.53.281 are each amended to read as follows:

There is hereby created in the state treasury a "grade crossing protective fund," to which shall be transferred all moneys appropriated for the purpose of carrying out the provisions of RCW 81.53.261, 81.53.271, 81.53.281, 81.53.291, and 81.53.295. At the time the commission makes each allocation of cost to said grade crossing protective fund, it shall certify that such cost shall be payable out of said fund. When federal-aid highway funds are not involved, the railroad shall, upon completion of the installation of any such signal or other protective device and related work, present its claim for reimbursement for the cost of installation and related work from said fund of the amount allocated thereto by the commission. The annual cost of maintenance shall be presented and paid in a like manner. When federal-aid highway funds are involved, the department of transportation shall, upon entry of an order by the commission requiring the installation or upgrading of a grade crossing protective device, submit to the commission an estimate for the cost of the proposed installation and related work. Upon receipt of the estimate the commission shall pay to the department of transportation the percentage of the estimate specified in RCW 81.53.295, as now or hereafter amended, to be used as the grade crossing protective fund portion of the cost of the installation and related work. The commission is hereby authorized to recover administrative costs from said fund in an amount not to exceed three percent of the direct appropriation provided for any biennium, and in the event administrative costs exceed three percent of the appropriation, the excess shall be chargeable to regulatory fees paid by railroads pursuant to RCW 81.24.010.

Within ninety days of the end of each fiscal year, the commission shall report to the legislative transportation committee, and the senate and house committees on transportation, the status of the grade crossing protective fund, including revenue sources, fund balances, and expenditures.

The office of financial management ((may)) shall direct the state treasurer to transfer to the ((general)) motor vehicle fund an amount not to exceed ((~~\$1,200,000~~)) \$1,331,000 from the grade crossing protective fund for the ((~~1983-85~~)) 1987-89 fiscal biennium.

Passed the House March 19, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

---

## CHAPTER 258

[Substitute House Bill No. 56]

### SURFACE MINING

AN ACT Relating to surface mining; amending RCW 78.44.030 and 78.44.110; and adding a new section to chapter 78.44 RCW.

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

Sec. 1. Section 4, chapter 64, Laws of 1970 ex. sess. as amended by section 1, chapter 215, Laws of 1984 and RCW 78.44.030 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Surface mining" shall mean all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits thereby exposed, including open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and including the production of surface mining refuse. Surface mining shall not include on-site processing of minerals such as concrete batching or rock crushing operations. For the purpose of this chapter surface mining shall mean those operations described in this paragraph ((from)) which ((~~more than ten thousand tons of minerals are produced or more than two acres of land is newly disturbed within a period of twelve consecutive calendar months~~)) collectively result in more than three acres of land being disturbed or that result in pit walls more than thirty feet high and steeper than one horizontal to one vertical. Surface mining shall not include disturbances of greater than three acres of land during any time period if the cumulative area that has not been rehabilitated according to the reclamation requirements outlined in this chapter is less than three acres. Surface mining shall not include excavation or removal of sand, gravel, clay, rock, top soil, or other materials in remote areas by an owner or holder of a possessory interest in land for the primary purpose of construction or maintenance of access roads to or on such landowner's property. Surface mining shall not include excavation or grading conducted for farming, on-site road construction or other on-site construction, but shall include adjacent or off-site borrow pits except those on landowner's property for use on access roads on

such property. Prospecting and exploration activities shall be included within the definition of surface mining when they are of such nature and extent as to exceed the qualifying sizes listed above or when collectively they disturb more than one acre per eight acres of land area.

(2) "Unit of surface mined area" shall mean the area of land and water covered by each operating permit that is actually newly disturbed by surface mining during each twelve-month period of time, beginning at the date of issuance of the permit, and shall comprise the area from which overburden and/or minerals have been removed, the area covered by spoil banks, and all additional areas used in surface mining operations which by virtue of such use are thereafter susceptible to excessive erosion.

(3) "Abandonment of surface mining" shall mean a cessation of surface mining, not set forth in an operator's plan of operation or by any other sufficient written notice, extending for more than six consecutive months or when, by reason of examination of the premises or by any other means, it becomes the opinion of the department of natural resources that the operation has in fact been abandoned by the operator: PROVIDED, That the operator does not, within thirty days of receipt of written notification from the department of his intent to declare the operation abandoned, submit evidence to the department's satisfaction that the operation is in fact not abandoned.

(4) "Minerals" shall mean coal, clay, stone, sand, gravel, metallic ore, and any other similar solid material or substance to be excavated from natural deposits on or in the earth for commercial, industrial, or construction uses.

(5) "Overburden" shall mean the earth, rock, and other materials that lie above a natural deposit of mineral.

(6) "Surface mining refuse" shall mean all waste soil, rock, mineral, liquid, vegetation, and other material directly resulting from or displaced by the mining, cleaning, or preparation of minerals during the surface mining operations on the operating permit area, and shall include all waste materials deposited on or in the permit area from other sources.

(7) "Spoil bank" shall mean a deposit of excavated overburden or mining refuse.

(8) "Operator" shall mean any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including every public or governmental agency engaged in surface mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.

(9) "Department" means the department of natural resources.

(10) "Reclamation" shall mean the reasonable protection of all surface resources subject to disruption from surface mining and rehabilitation of the surface resources affected by surface mining including the area under stockpiled materials. Although both the need for and the practicability of

reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to reestablish on a continuing basis the vegetative cover, soil stability, water conditions, and safety conditions appropriate to the intended subsequent use of the area.

(11) "Reclamation plan" shall mean the operator's written proposal, as required and approved by the department, for reclamation of the affected resources which shall include, but not be limited to:

(a) A statement of the proposed subsequent use of the land after reclamation ((and satisfactory evidence that all owners of)) which is signed by all individuals with a possessory interest in the land ((concur with this proposed use)), or a copy of the conveyance that expressly grants or reserves the right to extract the mineral by surface mining methods, or if the conveyance does not expressly grant the right to extract the mineral by surface mining methods, then documentation that under applicable state law, the operator has the legal authority to extract the mineral by those methods: PROVIDED, That the applicant must provide notice reasonably calculated to advise all individuals with a possessory interest of the intent to remove minerals and the proposed subsequent use. If any individual with a possessory interest does not respond to the notice within sixty days, that person's signature shall not be required;

(b) Evidence that this subsequent use would not be illegal under local zoning regulations;

(c) Proposed practices to protect adjacent surface resources;

(d) Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;

(e) Manner and type of revegetation or other surface treatment of disturbed areas;

(f) Method of prevention or elimination of conditions that will create a public nuisance, endanger public safety, damage property, or be hazardous to vegetative, animal, fish, or human life in or adjacent to the area;

(g) Method of control of contaminants and disposal of surface mining refuse;

(h) Method of diverting surface waters around the disturbed areas;

(i) Method of restoration of stream channels and stream banks to a condition minimizing erosion and siltation and other pollution;

(j) Such maps and other supporting documents as reasonably required by the department; and

(k) A time schedule for reclamation that meets the requirements of RCW 78.44.090.

Sec. 2. Section 12, chapter 64, Laws of 1970 ex. sess. as amended by section 4, chapter 215, Laws of 1984 and RCW 78.44.110 are each amended to read as follows:

The permit fees required under this chapter shall be as follows:

(1) The basic fee for the permit shall be two hundred fifty dollars per permit year for each separate location, payable with submission of the application and annually thereafter with submission of the report required in RCW 78.44.130: PROVIDED, That a person who has held a valid surface mining permit and whose property has never been disturbed for surface mining may keep such permit in effect by paying an annual fee of fifty dollars. Before a person holding a fifty dollar permit begins surface mining during any permit year, that person shall pay the remainder of the two hundred fifty dollar fee.

(2) In addition, there shall be a five dollar per acre fee for all acreage exceeding ten acres which was newly disturbed by surface mining during the previous permit year, which acreage fee shall be paid at the time of submission of the report required in RCW 78.44.130.

(3) All fees collected shall be deposited in the general fund.

NEW SECTION. Sec. 3. A new section is added to chapter 78.44 RCW to read as follows:

The department shall by rule define the term "segment" as used in RCW 78.44.090 and 78.44.140 to establish the depth or extent of the operation covered.

Passed the House April 20, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

## CHAPTER 259

[Engrossed Second Substitute Senate Bill No. 5501]

### AQUATIC LAND DREDGED MATERIAL DISPOSAL SITE ACCOUNT— MANAGEMENT AND MONITORING OF SITES

AN ACT Relating to aquatic land dredged material disposal sites; adding new sections to chapter 79.90 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 legislature finds that the department of natural resources provides, manages, and monitors aquatic land disposal sites on state-owned aquatic lands for materials dredged from rivers, harbors, and shipping lanes. These disposal sites are approved through a cooperative planning process by the departments of natural resources and ecology, the United States corps of engineers, and the United States environmental protection agency in cooperation with the Puget Sound water quality authority. These disposal sites are essential to the commerce and well being of the citizens of the state of Washington. Management and environmental monitoring of these sites are necessary to protect environmental quality and to assure appropriate use of state-owned aquatic lands. The

creation of an aquatic land dredged material disposal site account is a reasonable means to enable and facilitate proper management and environmental monitoring of these disposal sites.

**NEW SECTION.** Sec. 2. The aquatic land dredged material disposal site account is hereby established in the state treasury. The account shall consist of funds appropriated to the account; funds transferred or paid to the account pursuant to settlements; court or administrative agency orders or judgments; gifts and grants to the account; and all funds received by the department of natural resources from users of aquatic land dredged material disposal sites. After appropriation, moneys in the fund may be spent only for the management and environmental monitoring of aquatic land dredged material disposal sites. The account is subject to the allotment procedure provided under chapter 43.88 RCW. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the account shall be credited to the account.

**NEW SECTION.** Sec. 3. The department of natural resources shall, from time to time, estimate the costs of site management and environmental monitoring at aquatic land dredged material disposal sites and may, by rule, establish fees for use of such sites in amounts no greater than necessary to cover the estimated costs. All such revenues shall be placed in the aquatic land dredged material disposal site account under section 2 of this act.

**NEW SECTION.** Sec. 4. Sections 1 through 3 of this act are each added to chapter 79.90 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 on July 1, 1987.

Passed the Senate April 18, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 5, 1987.

Filed in Office of Secretary of State May 5, 1987.

---

## CHAPTER 260

[House Bill No. 947]

### MOTOR VEHICLE EXCISE TAX—COLLECTION OF UNPAID TAXES FROM WASHINGTON RESIDENTS

AN ACT Relating to the collection of the motor vehicle excise tax from Washington residents; and amending RCW 82.44.020.

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

Sec. 1. Section 82.44.020, chapter 15, Laws of 1961 as last amended by section 19, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.44.020 are each amended to read as follows:



(1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under reciprocal agreements, the provisions of RCW 46.16.160 as now or hereafter amended, or dealer's licenses. The annual amount of such excise tax shall be two percent of the fair market value of such vehicle.

(2) From and after August 1, 1978, and until August 1, 2008, an additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the fair market value of such vehicle.

(3) The department of licensing and county auditors shall collect the additional tax imposed by subsection (2) of this section for any registration year for the months of that registration year in which such additional tax is effective, and in the same manner and at the same time as the tax imposed by subsection (1) of this section.

(4) In no case shall the total tax be less than two dollars except for proportionally registered vehicles.

(5) An additional tax is imposed equal to the taxes payable under subsections (1) and (2) of this section multiplied by the rate specified in RCW 82.02.030.

(6) Washington residents, as defined in RCW 46.16.028, who license motor vehicles in another state or foreign country and avoid Washington motor vehicle excise taxes are liable for such unpaid excise taxes. The department of revenue may assess and collect the unpaid excise taxes under chapter 82.32 RCW, including the penalties and interest provided therein.

Passed the House March 16, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

---

## CHAPTER 261

[House Bill No. 395]

### HIGHWAY IMPROVEMENT PROJECTS—TRANSPORTATION DEPARTMENT AUTHORIZED TO PARTICIPATE IN FINANCING WITH REAL ESTATE OWNERS

AN ACT Relating to financing of state highway improvements; and amending RCW 35.72.050.

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

Sec. 1. Section 1, chapter 252, Laws of 1986 and RCW 35.72.050 are each amended to read as follows:

(1) As an alternative to financing projects under this chapter solely by owners of real estate, a county, city, or town may join in the financing of improvement projects and may be reimbursed in the same manner as the owners of real estate who participate in the projects, if the county, city, or

town has specified the conditions of its participation in an ordinance. A county, city, or town may be reimbursed only for the costs of improvements that benefit that portion of the public who will use the developments within the assessment reimbursement area established pursuant to RCW 35.72.040(1). No county, city, or town costs for improvements that benefit the general public may be reimbursed.

(2) The department of transportation may, for state highways, participate with the owners of real estate in the financing of improvement projects, in the same manner as provided for counties, cities, and towns, in subsection (1) of this section. The department shall enter into agreements whereby the appropriate county, city, or town shall act as an agent of the department in administering this chapter.

Passed the House March 16, 1987.  
Passed the Senate April 16, 1987.  
Approved by the Governor May 6, 1987.  
Filed in Office of Secretary of State May 6, 1987.

---

CHAPTER 262

[Engrossed Substitute House Bill No. 283]

FOREIGN COMMERCIAL FISHING VESSELS—GEAR STOWAGE  
REQUIREMENTS

AN ACT Relating to foreign commercial fishing vessels; and adding a new section to chapter 75.12 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 75.12 RCW to read as follows:

In order to protect the welfare of the citizens of the state of Washington by protecting the natural resources of the state from illegal fishing in state waters, commercial fishing vessels which are not authorized by law to fish for salmon in Washington state waters cannot enter Washington state waters unless all salmon fishing gear is stowed below deck or placed in a position so that it is not readily available for fishing.

Passed the House March 20, 1987.  
Passed the Senate April 16, 1987.  
Approved by the Governor May 6, 1987.  
Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 263

[Engrossed House Bill No. 590]

IMMUNITY FROM CIVIL LIABILITY FOR COUNTY CORONERS OR COUNTY  
MEDICAL EXAMINERS

AN ACT Relating to immunity from civil liability for local government officials; and adding a new section to chapter 68.08 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 68.08 RCW to read as follows:

A county coroner or county medical examiner or persons acting in that capacity shall be immune from civil liability for determining the cause and manner of death. The accuracy of the determinations is subject to judicial review.

Passed the House April 15, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 264

[Engrossed Substitute Senate Bill No. 5650]

## PILOT QUALIFICATIONS—PILOTAGE COMMISSIONERS BOARD DUTIES

AN ACT Relating to pilot qualifications; and amending RCW 88.16.035, 88.16.090, and 88.16.105.

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

Sec. 1. Section 4, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.035 are each amended to read as follows:

The board of pilotage commissioners shall:

(1) Adopt rules, pursuant to chapter 34.04 RCW as now existing or hereafter amended, necessary for the enforcement and administration of this chapter (~~Rules in effect on September 21, 1977, with the exception of those rules pertaining to pilot qualifications shall remain in force and effect until amended, repealed, or replaced by the board, except that such rules as are inconsistent with the provisions of RCW 88.16.005, 88.16.010, 88.16.020, 88.16.035, 88.16.050, 88.16.070, 88.16.090, 88.16.103, 88.16.105, 88.16.150 and 88.16.155 are hereby repealed~~);

(2) License pilot applicants meeting the qualifications and passing the examination as provided for in RCW 88.16.090 as now or hereafter

amended and to establish additional training requirements, including a program of continuing education developed after consultation with pilot organizations, including those located within the state of Washington, as required to maintain a competent pilotage service;

(3) Maintain a register of pilots, records of pilot accidents and other history pertinent to pilotage, along with a roster of vessels, agents, owners, operators, and masters necessary for the maintenance of a roster of persons interested in and concerned with pilotage and maritime safety;

(4) ~~((Fo))~~ Annually fix the pilotage tariffs for pilotage services performed aboard vessels as required by this chapter: PROVIDED, That the board may fix extra compensation for extra services to vessels in distress, for awaiting vessels, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the board;

(5) ~~((Fo))~~ File annually with the governor(~~(, the secretary of the senate, and the chief clerk of the house of representatives))~~ and the chairs of the transportation committees of the senate and house of representatives a report which includes, but is not limited to, the following: The number, names, addresses, ages, pilot license number, and years of service as a Washington licensed pilot of any person licensed by the board as a Washington state pilot; the names, employment, and other information of the members of the board; the total number of pilotage assignments by pilotage district, including information concerning the various types and sizes of vessels and the total annual tonnage; the annual earnings of individual pilots before and after deduction for expenses of pilot organizations, including extra compensation as a separate category; the annual expenses of private pilot associations, including personnel employed and capital expenditures; the status of pilotage tariffs, extra compensation, and travel; the retirement contributions paid to pilots and the disposition thereof; the number of ~~((accidents;))~~ groundings, mishaps, or other incidents which are reported to or investigated by the board, and which are determined to be accidents, as defined by the board, including the vessel name, location of incident, pilot's name, and disposition of the case together with information received before the board acted from all persons concerned, including the United States coast guard; ((the disposition and listing of all complaints filed by any person against any pilot or by any pilot against any other person or organization;)) the names, qualifications, time scheduled for examinations, and the district of persons desiring to apply for Washington state pilotage licenses; summaries of dispatch records, quarterly reports from pilots, and the bylaws and operating rules of pilotage organizations; the names, sizes in deadweight tons, surcharges, if any, port of call, name of the pilot, and names and horsepower of tug boats for any and all oil tankers subject to the provisions of RCW ~~((88.16.170 through))~~ 88.16.190 together with the names of any and all vessels for which the United States coast guard requires special handling pursuant to their authority under the Ports

and Waterways Safety Act of 1972; the expenses of the board; and any and all other information which the board deems appropriate to include;

(6) Publish a manual which includes the pilotage act and other statutes of Washington state and the federal government which affect pilotage, including the rules of the board, together with such additional information as may be informative for pilots, agents, owners, operators, and masters. Such manual shall be distributed without cost to all pilots and governmental agencies upon request. All other copies shall be sold for a five dollar fee with proceeds to be credited to the pilotage account;

(7) Appoint advisory committees and employ marine experts as necessary to carry out its duties under this chapter;

(8) Provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter; and do such other things as are reasonable, necessary, and expedient to insure proper and safe pilotage upon the waters covered by this chapter and facilitate the efficient administration of this chapter.

Sec. 2. Section 8, chapter 18, Laws of 1935 as last amended by section 1, chapter 122, Laws of 1986 and RCW 88.16.090 are each amended to read as follows:

(1) ~~((No))~~ A person may pilot any vessel subject to the provisions of this chapter on waters covered by this chapter ~~((unless such a person is))~~ only if appointed and licensed to pilot such vessels on said waters under and pursuant to the provisions of this chapter.

(2) ~~((No))~~ A person is eligible to be appointed a pilot ~~((unless such a))~~ if the person is a citizen of the United States, over the age of twenty-five years and under the age of seventy years ~~((and))~~ , a resident of the state of Washington at the time of appointment~~((, nor unless))~~ and only if the pilot applicant holds as a minimum, a United States government license as a master of freight and towing vessels not more than one thousand gross tons (inspected vessel), such license to have been held by the applicant for a period of at least two years prior to taking the Washington state pilotage examination and a first class United States endorsement without restrictions on that license to pilot in the pilotage districts for which the pilot applicant desires to be licensed, ~~((nor unless))~~ and if the pilot applicant meets such other qualifications as may be required by the board.

(3) Pilots shall be licensed hereunder for a term of five years from and after the date of the issuance of their respective state licenses. Such licenses shall thereafter be renewed as of course, unless the board shall withhold same for good cause. Each pilot shall pay to the state treasurer an annual license fee established by the board of pilotage commissioners pursuant to chapter 34.04 RCW, but not to exceed one thousand five hundred dollars, to be placed in the state treasury to the credit of the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(4) Pilot applicants shall be required to pass a written and oral examination administered and graded by the board which shall test such applicants on this chapter, the rules of the board, local harbor ordinances, and such other matters as may be required to compliment the United States examinations and qualifications. The board shall conduct the examination on a regular date, as prescribed by rule, at least once every two years.

(5) (~~On and after September 21, 1977,;~~) The board shall have developed five examinations and grading sheets for the Puget Sound pilotage district, and two for each other pilotage district, for the testing and grading of pilot applicants. The examinations shall be administered to pilot applicants on a random basis and shall be updated as required to reflect changes in law, rules, policies, or procedures. The board may appoint a special independent examination committee or may contract with a firm knowledgeable and experienced in the development of professional tests for development of said examinations. Active licensed state pilots may be consulted for the general development of examinations but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination development committee it is authorized to pay the members of said committee the same compensation and travel expenses as received by members of the board. When grading examinations the board shall carefully follow the grading sheet prepared for that examination. The board shall develop a "sample examination" which would tend to indicate to an applicant the general types of questions on pilot examinations, but such sample questions shall not appear on any actual examinations. Any person who wilfully gives advance knowledge of information contained on a pilot examination is guilty of a gross misdemeanor.

(6) All pilots and applicants are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or candidate is fully able to carry out the duties of a pilot under this chapter.

(7) The board shall prescribe, pursuant to chapter 34.04 RCW, a number of familiarization trips, between a minimum number of twenty-five and a maximum of one hundred, which pilot applicants must make in the pilotage district for which they desire to be licensed. Familiarization trips any particular applicant must make are to be based upon the applicant's vessel handling experience.

(8) The board may prescribe vessel simulator training for a pilot applicant, or pilot subject to RCW 88.16.105, as it deems appropriate, taking into consideration the economic cost of such training, to enhance that person's ability to perform pilotage duties under this chapter.

(9) The board shall prescribe, pursuant to chapter 34.04 RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims, and records of familiarization trips of pilot candidates. Willful misrepresentation of such required information by a pilot candidate shall result in disqualification of the candidate.

Sec. 3. Section 10, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.105 are each amended to read as follows:

The board shall prescribe, pursuant to chapter 34.04 RCW, rules governing the size and type of vessels which a newly licensed pilot may be assigned to pilot on the waters of this state and whether the assignment involves docking or undocking a vessel. The rules shall also prescribe required familiarization trips before a newly licensed pilot may pilot a larger or different type of vessel. Such rules shall be ~~((only))~~ for the first ~~((two))~~ three year period in which pilots are actually employed.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 265

[Engrossed Substitute House Bill No. 1128]

### PART-TIME TEACHERS RETIREMENT BENEFITS CALCULATION

AN ACT Relating to the calculation of retirement benefits for part-time teachers; amending RCW 41.32.010; and adding a new section to chapter 41.32 RCW.

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

Sec. 1. Section 6, chapter 13, Laws of 1985 and RCW 41.32.010 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) (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, or community college district, in an instructional position, for which the member receives service credit of less than one year in ~~((both))~~ all 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, the member may elect to have 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))~~ defined as provided in section 2 of this 1987 act. 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))~~ as a classroom instructor (including office hours), a librarian, or a counselor. 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, 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.

**NEW SECTION.** Sec. 2. A new section is added to chapter 41.32 RCW to read as follows:

(1) Subject to the limitations contained in this section, for the purposes of RCW 41.32.010(11)(a)(ii), 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.

(2) In order to ensure that the benefit provided by this section is not used to unfairly inflate a member's retirement allowance, the department shall adopt rules having the force of law to govern the application of this section.

(3)(a) In adopting rules which apply to a member employed by a school district, the department may consult the district's salary schedule and

related workload provisions, if any, adopted pursuant to RCW 28A.67.066. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's schedule, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's schedule.

(b) In adopting rules which apply to a member employed by a community college district, the department may consult the district's salary schedule and workload provisions contained in an agreement negotiated pursuant to chapter 28B.52 RCW, or similar documents. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's agreement, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's agreement. The maximum full-time work week used in calculating the benefit for community college employees paid on an hourly rate shall in no case exceed fifteen credit hours, twenty classroom contact hours, or thirty-five assigned hours.

(4) If the legislature amends or revokes the benefit provided by this section, no affected employee who thereafter retires is entitled to receive the benefit as a matter of contractual right.

Passed the House March 13, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 266

[Engrossed Substitute Senate Bill No. 5464]

### COURTS OF LIMITED JURISDICTION—COLLECTION AGENCIES MAY BE USED TO COLLECT UNPAID FINES AND FORFEITURES—CREDIT CARD USE AUTHORIZED

AN ACT Relating to courts of limited jurisdiction; and adding a new section to chapter 3.02 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 3.02 RCW to read as follows:

(1) Courts of limited jurisdiction may use collection agencies under chapter 19.16 RCW for purposes of collecting unpaid penalties on infractions, criminal fines, costs, assessments, civil judgments, or forfeitures that have been imposed by the courts. Courts of limited jurisdiction may enter into agreements with one or more attorneys or collection agencies for collection of outstanding penalties, fines, costs, assessments, and forfeitures. These agreements may specify the scope of work, remuneration for services, and other charges deemed appropriate.

(2) Courts of limited jurisdiction may use credit cards for purposes of billing and collecting unpaid penalties, fines, costs, assessments, and forfeitures so imposed. Courts of limited jurisdiction may enter into agreements with one or more financial institutions for the purpose of the collection of penalties, fines, costs, assessments, and forfeitures. The agreements may specify conditions, remuneration for services, and other charges deemed appropriate.

(3) Servicing of delinquencies by collection agencies or by collecting attorneys in which the court retains control of its delinquencies shall not constitute assignment of debt.

(4) For purposes of this section, the term debt shall include penalties, fines, costs, assessments, or forfeitures imposed by the courts.

(5) The court may assess as court costs the moneys paid for remuneration for services or charges paid to collecting attorneys, to collection agencies, or, in the case of credit cards, to financial institutions.

Passed the Senate April 20, 1987.

Passed the House April 9, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 267

[Senate Bill No. 5732]

### DONATION OF RIGHTS OF WAY TO ACCOMMODATE TRANSPORTATION IMPROVEMENTS AUTHORIZED

AN ACT Relating to right of way donations; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 35.44 RCW; adding a new section to chapter 36.32 RCW; adding a new section to chapter 36.88 RCW; and creating a new chapter in Title 47 RCW.

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

**NEW SECTION.** Sec. 1. The legislature finds that in numerous areas throughout the state, rapid expansion of residential, commercial, industrial, and business activities is producing increased traffic levels. The legislature further finds that many property owners have exhibited a willingness to donate real property or property rights for transportation improvements to accommodate such increases in traffic. The legislature recognizes that the cost of right of way acquisition is often a significant, and even a prohibitive cost element in many transportation improvement projects.

The legislature seeks to encourage the voluntary donation of right of way to the state, counties, cities, and towns for transportation improvements recognizing that such donations can result in direct benefits to property owners, developers, and the community at large.

It is the intent of the legislature to further facilitate the department of transportation's authority under RCW 47.12.010, 47.24.030, and 47.52.050

to accept donations of right of way for state transportation purposes. The legislature further intends to facilitate the authority of a city, town, or county to accept donations of right of way for other transportation purposes.

The legislature therefore declares it to be in the best interest and welfare of the citizens of Washington for the state department of transportation, and for counties, cities, and towns to actively foster and encourage donations of right of way by willing donors in all areas where transportation improvements are to be made. In addition, and in lieu of monetary compensation for property needed for right of way purposes, the legislature seeks to provide incentives to potential donors such as are set forth in sections 3 and 4 of this act.

NEW SECTION. Sec. 2. The definitions set forth in this section apply throughout this chapter.

(1) "Right of way" means the area of land designated for transportation purposes.

(2) "Airspace" means the space above and below the gradeline of all highways, roads, and streets, and the area alongside the traveled way and within approved right of way lines.

NEW SECTION. Sec. 3. The governing body of a transportation benefit district may give credit for all or any portion of any real property donation against an assessment, charge, or other required financial contribution for transportation improvements within a transportation benefit district established under sections 2 or 3, chapter \_\_\_ (HB 396), Laws of 1987. The credit granted shall be available against any assessment, charge or other required financial contribution for any transportation purpose which utilizes the donated property.

NEW SECTION. Sec. 4. The department or the county, city, or town to which the right of way is donated shall, upon request, grant the donor an airspace lease or a permit for the purpose of erecting or maintaining, or both, one or more signs advertising a business of the donor that is conducted on premises adjacent to the donated parcel unless the sign or signs would be detrimental to the safety and operation of the highway, road, or street. This provision applies to all highways, roads, and streets other than limited access highways and streets, where it applies only until the donated parcel becomes part of a completed operating facility. Except as provided in this section, any such sign shall conform to the requirements of all other applicable federal, state, and local laws and ordinances. The lease agreement or permit shall take into consideration applicable county and city zoning ordinances and may provide for compensation for removal of the sign in accordance with applicable federal, state, and local laws and ordinances. The lease agreement or permit shall specify the conditions for signage.

NEW SECTION. Sec. 5. The department shall:

- (1) Give priority to the refinement and modification of right of way procedures and policies dealing with donation;
- (2) Reduce or simplify paperwork requirements resulting from right of way procurement;
- (3) Increase communication and education efforts as a means to solicit and encourage voluntary right of way donations;
- (4) Enhance communication and coordination with local governments through agreements of understanding that address state acceptance of right of way donations secured under zoning, use permits, subdivision, and associated police power authority of local government;
- (5) Report to the legislative transportation committee by January 31, 1988, on its efforts under this section.

**NEW SECTION.** Sec. 6. Nothing in this chapter may be construed to contravene the requirements of chapter 8.26 RCW.

**NEW SECTION.** Sec. 7. A new section is added to chapter 35.21 RCW output to read as follows:

Where the zoning and planning provisions of a city or town require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the city or town may credit donations of right of way in excess of that required for traffic improvement against such landscaping, parking, or other requirements.

**NEW SECTION.** Sec. 8. A new section is added to chapter 35A.21 RCW to read as follows:

Where the zoning and planning provisions of a city or town require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the city or town may credit donations of right of way in excess of that required for traffic improvement against such landscaping, parking, or other requirements.

**NEW SECTION.** Sec. 9. A new section is added to chapter 35.44 RCW to read as follows:

A city legislative authority may give credit for all or any portion of any property donation against an assessment, charge, or other required financial contribution for transportation improvements within a local improvement district. The credit granted is available against any assessment, charge, or other required financial contribution for any transportation purpose that uses the donated property.

**NEW SECTION.** Sec. 10. A new section is added to chapter 36.32 RCW to read as follows:

Where the zoning and planning provisions of a county require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the county may credit donations of right of way in excess of that required for traffic improvement against such landscaping, parking, or other requirements.



**NEW SECTION.** Sec. 11. A new section is added to chapter 36.88 RCW to read as follows:

The county legislative authority may give credit for all or any portion of any property donation against an assessment, charge, or other required financial contribution for transportation improvements within a county road improvement district. The credit granted is available against any assessment, charge, or other required financial contribution for any transportation purpose that uses the donated property.

**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.

**NEW SECTION.** Sec. 13. Sections 1 through 6 of this act shall constitute a new chapter in Title 47 RCW.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 268

[Senate Bill No. 5780]

### CAMPAIGN FUNDS—INVESTMENT CATEGORIES MODIFIED

AN ACT Relating to investment of campaign funds; and amending RCW 42.17.060.

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

Sec. 1. Section 6, chapter 1, Laws of 1973 as last amended by section 4, chapter 367, Laws of 1985 and RCW 42.17.060 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by the campaign treasurer or deputy treasurer in a campaign depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees which support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose: PROVIDED, That each such account shall bear the same name followed by an appropriate designation which accurately identifies its separate purpose: AND PROVIDED FURTHER, That transfers of funds which must be reported under RCW 42.17.090(1)(d), as now or hereafter amended, may not be made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a campaign depository in bonds, certificates, tax-exempt securities, or savings accounts or other similar ~~((savings))~~ instruments in financial institutions or mutual funds other than the campaign depository: PROVIDED, That the commission and the appropriate county elections officer is notified in writing of the initiation and the termination of the investment: PROVIDED FURTHER, That the principal of such investment when terminated together with all interest, dividends, and income derived from the investment are deposited in the campaign depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer prior to any further disposition or expenditure thereof.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's campaign treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), may not be deposited, used, or expended, but shall be returned to the donor, if his identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund.

(5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, campaign treasurer, or deputy campaign treasurer, is prepared and made a part of the campaign's or political committee's financial records.

Passed the Senate March 16, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

## CHAPTER 269

[Engrossed Senate Bill No. 5972]

### HEALTH CARE PEER REVIEW BODIES—CIVIL ACTIONS—EXCLUSIVE REMEDY PROVIDED

AN ACT Relating to limiting the actions which can be brought against participants in the health care peer review process; amending RCW 70.41.200 and 70.41.230; and adding a new chapter to Title 7 RCW.

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

NEW SECTION. Sec. 1. The legislature finds the assurance of quality and cost-effectiveness in the delivery of health care can be assisted through the review of health care by health care providers. It also recognizes that some peer review decisions may be based on factors other than competence or professional conduct. Although it finds that peer review decisions based

on matters unrelated to quality and utilization review need redress, it concludes that it is necessary to balance carefully the rights of the consuming public who benefit by peer review with the rights of those who are occasionally hurt by peer review decisions based on matters other than competence or professional conduct.

The legislature intends to foreclose federal antitrust actions to the extent *Parker v. Brown*, 317 U.S. 341 (1943), allows and to permit only those actions in sections 2 and 3 of this act.

**NEW SECTION.** Sec. 2. Pursuant to P.L. 99-660 Sec. 411(c)(2), Title IV of that act shall apply in Washington state as of the effective date of this section.

**NEW SECTION.** Sec. 3. (1) This section shall provide the exclusive remedy for any action taken by a professional peer review body of health care providers as defined in RCW 7.70.020, that is found to be based on matters not related to the competence or professional conduct of a health care provider.

(2) Actions shall be limited to appropriate injunctive relief, and damages shall be allowed only for lost earnings directly attributable to the action taken by the professional review body, incurred between the date of such action and the date the action is functionally reversed by the professional peer review body.

(3) Reasonable attorneys' fees and costs as approved by the court shall be awarded to the prevailing party, if any, as determined by the court.

(4) The statute of limitations for actions under this section shall be one year from the date of the action of the professional review body.

**NEW SECTION.** Sec. 4. Nothing in this chapter limits or repeals any other immunities conferred upon participants in the peer review process contained in any other state or federal law.

Sec. 5. Section 4, chapter 300, Laws of 1986 and RCW 70.41.200 are each amended to read as follows:

(1) Every hospital shall maintain a coordinated program for the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality assurance committee with the responsibility to review the services rendered in the hospital in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the medical malpractice prevention program and shall insure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures. At least one member of the committee shall be a member of the governing board of the hospital who is not otherwise affiliated with the hospital in an employment or contractual capacity;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with patient safety, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the medical malpractice prevention program or who, in substantial good faith, participates on the quality assurance committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(3) Information and documents, including complaints and incident reports, created, collected, and maintained about health care providers arising out of the matters that are ~~((subject to evaluation))~~ under review or have been evaluated by a review committee conducting quality assurance reviews are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or board shall be permitted or required to testify in any civil action as to the content of such proceedings. This subsection does not preclude: (a) In any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (b) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality assurance committees

regarding such health care provider; ((or)) (c) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any; or (d) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of social and health services to be made regarding the care and treatment received.

(4) The department of social and health services shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(5) The medical disciplinary board or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(6) Violation of this section shall not be considered negligence per se.

Sec. 6. Section 11, chapter 300, Laws of 1986 and RCW 70.41.230 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice;

(b) If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation;

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall

request from any hospital with or at which the physician had or has privileges, was associated, or was employed, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.72.265.

(3) The medical disciplinary board shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created, collected, and maintained about health care providers arising out of the matters that are ~~((subject to evaluation))~~ under review or have been evaluated by a review committee conducting quality assurance reviews are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or board shall be permitted or required to testify in any civil action as to the content of such proceedings. This subsection does not preclude: (a) In any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (b) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality assurance committees regarding such health care provider; ~~((or))~~ (c) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any; or (d) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of social and health services to be made regarding the care and treatment received.

(6) Hospitals shall be granted access to information held by the medical disciplinary board and the board of osteopathic medicine and surgery

pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se.

**NEW SECTION.** Sec. 7. Sections 1 through 4 of this act shall constitute a new chapter in Title 7 RCW.

Passed the Senate April 21, 1987.

Passed the House April 9, 1987.

Approved by the Governor May 6, 1987.

Filed in Office of Secretary of State May 6, 1987.

**CHAPTER 270**

[Substitute Senate Bill No. 5456]

**SUPPLEMENTAL TRANSPORTATION BUDGET**

AN ACT Relating to transportation; amending section 2, chapter 460, Laws of 1985 (uncodified); amending section 9, chapter 460, Laws of 1985 as amended by section 3, chapter 313, Laws of 1986 (uncodified); amending section 17, chapter 460, Laws of 1985 as amended by section 8, chapter 313, Laws of 1986 (uncodified); adding a new section to chapter 460, Laws of 1985; making appropriations; and declaring an emergency.

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

Sec. 1. Section 2, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

**FOR THE TRAFFIC SAFETY COMMISSION**

Highway Safety Fund Appropriation—State . . . . .	\$	305,000
Highway Safety Fund Appropriation—Federal . . . . .	\$	((4,744,000))
		<u>5,254,000</u>
Total Appropriation . . . . .	\$	((5,049,000))
		<u>5,559,000</u>

Sec. 2. Section 9, chapter 460, Laws of 1985 as amended by section 3, chapter 313, Laws of 1986 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

Motor Vehicle Fund Appropriation . . . . .	\$	((33,704,000))
		<u>34,032,000</u>
Game Fund Appropriation . . . . .	\$	354,000
Total Appropriation . . . . .	\$	((34,058,000))
		<u>34,386,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Computer terminal equipment purchased for the county auditor automation project shall be provided only to the auditors or licensing divisions of the 39 counties, the presently authorized 157 subagents, and the

department of licensing's vehicle licensing counter. (~~The department shall by December 15, 1986, present to the legislative transportation committee a detailed report on implementation of the county auditor automation project, including equipment purchased and installed, and revised six-year cost estimate.~~)

(2) \$328,000 of the motor vehicle fund appropriation is provided solely for the purchase of commemorative centennial license plates.

NEW SECTION. Sec. 3. A new section is added to chapter 460, Laws of 1985 to read as follows:

**FOR THE GOVERNOR**

Motor Vehicle Fund—State ..... \$ 3,500,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided for new projects for safety and capacity improvements to streets and highways in the vicinity of the U.S. Navy Homeport in Everett as a result of the arrival of the U.S.S. Nimitz in Puget Sound and the development or construction of the Everett Homeport. No funds may be spent until actual construction or site preparation is started except as may be necessary to meet the requirements of federal legislation authorizing the construction of the Everett Homeport.

(2) The governor shall allocate this appropriation to specific agencies based on increased agency operating expenditures and workload directly associated with the Everett Homeport. The governor may release to the specific agencies only the amount necessary to offset the directly incurred increased costs which have been documented by the agency.

(3) The governor shall report any appropriation adjustments and actions that the governor has taken related to the Everett Homeport and pursuant to this appropriation to the legislature on January 1, 1988, and January 1, 1989.

(4) Funds appropriated under this section which are unexpended on June 30, 1987, are hereby reappropriated for the biennium ending June 30, 1989.

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 25, 1987.

Passed the House April 20, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.



## CHAPTER 271

[Engrossed Substitute Senate Bill No. 5604]

NAVY HOMEPORT IN EVERETT—PORT GARDNER BAY BEDLANDS LEASE  
AUTHORIZED—LEASE CONDITIONS ESTABLISHED—TIDELAND EXCHANGE  
AUTHORIZED

AN ACT Relating to conveyance of state-owned aquatic lands and the relocation of harbor lines for the purpose of assisting the siting of a United States Navy base in Everett; amending RCW 79.95.010; adding a new section to chapter 79.92 RCW; adding a new section to chapter 79.94 RCW; adding new sections to chapter 79.95 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 79.95 RCW to read as follows:

The legislature recognizes the importance of economic development in the state of Washington, and finds that the location of a United States Navy base in Everett, Washington will enhance economic development. The legislature finds that the state should not assume liability or risks resulting from any action taken by the United States Navy, now or in the future associated with the dredge disposal program for that project known as confined aquatic disposal (CAD). The legislature also recognizes the importance of improving water quality and cleaning up pollution in Puget Sound. The legislature hereby declares these actions to be a public purpose necessary to protect the health, safety, and welfare of its citizens, and to promote economic growth and improve environmental quality in the state of Washington. The United States Navy proposes to commence the Everett home port project immediately.

Sec. 2. Section 130, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.95.010 are each amended to read as follows:

Except as provided in section 3 of this 1987 act, the department of natural resources may lease to the abutting tide or shore land owner or lessee, the beds of navigable waters lying below the line of extreme low tide in waters where the tide ebbs and flows, and below the line of navigability in lakes and rivers claimed by the state and defined in section 1, Article XVII, of the Constitution of the state.

In case the abutting tide or shore lands or the abutting uplands are not improved or occupied for residential or commercial purposes, the department may lease such beds to any person for a period not exceeding ten years for booming purposes.

Nothing in this chapter shall change or modify any of the provisions of the state Constitution or laws of the state which provide for the leasing of harbor areas and the reservation of lands lying in front thereof.

**NEW SECTION.** Sec. 3. A new section is added to chapter 79.95 RCW to read as follows:

(1) Upon application by the United States Navy, and upon verification of the legal description and compliance with the intent of this chapter, the commissioner of public lands is authorized to lease bedlands in Port Gardner Bay for a term of thirty years so the United States Navy can utilize a dredge spoil site solely for purposes related to construction of the United States Navy base at Everett.

(2) The lease shall reserve for the state uses of the property and associated waters which are not inconsistent with the use of the bed by the Navy as a disposal site. The lease shall include conditions under which the Navy:

(a) Will agree to hold the state of Washington harmless for any damage and liability relating to, or resulting from, the use of the property by the Navy; and

(b) Will agree to comply with all terms and conditions included in the applicable state of Washington section 401 water quality certification issued under the authority of the Federal Clean Water Act (33 U.S.C. Sec. 1251, et seq.), all terms and conditions of the Army Corps of Engineers section 404 permit (33 U.S.C. Sec. 1344), and all requirements of statutes, regulations, and permits relating to water quality and aquatic life in Puget Sound and Port Gardner Bay, including all reasonable and appropriate terms and conditions of any permits issued under the authority of the Washington state shoreline management act (chapter 90.58 RCW) and any applicable shoreline master program.

(3) The ability of the state of Washington to enforce the terms and conditions specified in subsection (2)(b) of this section shall include, but not be limited to: (a) The terms and conditions of the lease; (b) the section 401 water quality certification under the Clean Water Act, 33 U.S.C. Sec. 1251, et seq.; (c) the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9601, et seq.; (d) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, et seq.; or (e) any other applicable federal or state law.

**NEW SECTION.** Sec. 4. A new section is added to chapter 79.94 RCW to read as follows:

The department of natural resources is authorized to deed, by exchanges of property, to the United States Navy those tidelands necessary to facilitate the location of the United States Navy base in Everett. In carrying out this authority, the department of natural resources shall request that the governor execute the deed in the name of the state attested to by the secretary of state. The department of natural resources will follow the requirements outlined in RCW 79.08.015 in making the exchange. The department must exchange the state's tidelands for lands of equal value, and the land received in the exchange must be suitable for natural preserves, recreational

purposes, or have commercial value. The lands must not have been previously used as a waste disposal site. Choice of the site must be made with the advice and approval of the board of natural resources.

**NEW SECTION.** Sec. 5. A new section is added to chapter 79.92 RCW to read as follows:

The harbor line commission shall modify harbor lines in Port Gardner Bay as necessary to facilitate the conveyance through exchange authorized in section 4 of this act.

**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 11, 1987.

Passed the House April 20, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 272

[Engrossed Substitute House Bill No. 611]

### NAVY HOMEPORT IN EVERETT—HARBOR AREA TO REMAIN UNOBSTRUCTED—FUNDS APPROPRIATED TO OFFSET THE IMPACT OF THE HOMEPORT ON STATE RESPONSIBILITIES AND ACTIVITIES

AN ACT Relating to the fiscal impact of locating a Navy home port in Everett; creating a new section; making appropriations; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. Whereas the federal government in 1986 authorized the construction of a Navy home port in Everett, Washington, it is therefore the intent of this act to provide funds to state agencies to offset the additional costs imposed by the construction of the port.

**NEW SECTION.** Sec. 2. It is the intent of the legislature that, except for periods of national emergency, the harbor area outside the U.S. Navy base will remain unobstructed for navigation and commerce in accordance with the Port of Everett/U.S. Navy memorandum of understanding pertaining to the construction and dredging operations at the Everett home port facility.

**NEW SECTION.** Sec. 3. (1) There is hereby appropriated to the office of financial management for the biennium beginning July 1, 1987, and ending June 30, 1989:

(a) Ten million, four hundred seventy thousand dollars from the general fund—state;

(b) One million, one hundred sixty-nine thousand dollars from the general fund—federal;

(c) Three hundred ninety-two thousand dollars from the state electrical license fund;

(d) Five hundred thirty-three thousand dollars from the state accident fund; and

(e) Five hundred thirty-three thousand dollars from the state medical aid fund.

(2) The appropriations in this section are provided solely for the purposes of this act and are subject to the following conditions and limitations:

(a) The appropriations in this section are provided solely for the increased demands for public services as a result of the development or construction of the Everett home port. No funds may be spent, except as may be necessary for planning and monitoring to meet the requirements of federal legislation authorizing the construction of the Everett home port, until the following conditions are met: (i) Actual construction or site preparation is started, and (ii) the federal government releases to be obligated, or expended, the \$43.5 million appropriated in federal fiscal year 1987 in section 2208 of the national defense authorization act for construction of the home port, and (iii) all required local, state, and federal permits for site construction, preparation, and dredging are obtained.

(b) The governor shall allocate funds to the superintendent of public instruction, the department of social and health services, the department of community development, the department of fisheries, the department of ecology, and the department of labor and industries. The governor shall allocate these appropriations to specific agencies based on increased agency operating expenditures and workload directly associated with the Everett home port. The governor may release to the specific agencies only the amount necessary to offset the directly incurred increased costs which have been documented by the agency.

(c) Any appropriation adjustments and actions that the governor has taken related to the Everett home port and pursuant to this appropriation shall be reported to the legislature on January 1, 1988, and January 1, 1989.

**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 April 20, 1987.

Passed the Senate April 24, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 273

[Engrossed House Bill No. 701]

AIRCRAFTS—DOWNED AIRCRAFT TRANSMITTERS AND SURVIVAL KITS  
REQUIRED ON CERTAIN AIRCRAFT

AN ACT Relating to aircraft and airmen; amending RCW 14.16.080; and adding a new section to chapter 14.16 RCW.

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

Sec. 1. Section 2, chapter 205, Laws of 1969 ex. sess. and RCW 14.16.080 are each amended to read as follows:

Any aircraft used to carry persons or property for compensation (~~(after January 1, 1970)~~), or any aircraft that is rented or leased without a pilot, shall be equipped with a fully functional downed aircraft rescue transmitter and it shall be unlawful for any person to operate such aircraft without such a transmitter: PROVIDED, HOWEVER, Nothing in this section shall apply to (1) ~~((The rental or lease of an aircraft without a pilot; (2)))~~ Instructional flights by an air school, with the exception of solo flights by students; ~~((3))~~ (2) aircraft owned by and used exclusively in the service of the United States government; ~~((4))~~ (3) aircraft registered under the laws of a foreign country; ~~((5))~~ (4) aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft; and ~~((6))~~ (5) aircraft used by any air carrier or supplemental air carrier operating in accordance with the provisions of a certificate of public conveyance and necessity under the provisions of the Federal Aviation Act of 1958, Public Law 85-726, as amended.

NEW SECTION. Sec. 2. A new section is added to chapter 14.16 RCW to read as follows:

(1) Any aircraft used to carry persons or property for compensation, or any aircraft that is rented or leased without a pilot shall be equipped with a survival kit consisting of those items prescribed by the department of transportation, which shall include, at least the following: (a) A tube tent or similar sheltering device; (b) a horn, whistle, or similar audible device capable of emitting a signal one-quarter of a mile; (c) a mirror; (d) matches; (e) a candle and/or another fire-starting device; and (f) survival instruction.

(2) It shall be unlawful for any person to operate such aircraft without such a survival kit: PROVIDED, HOWEVER, That nothing in this section shall apply to: (a) Instructional flights by an air school, with the exception of solo flights by students; (b) aircraft owned by and exclusively in the service of the United States government; (c) aircraft registered under the laws of a foreign country; (d) aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft; and (e) aircraft used by any

air carrier or supplemental air carrier operating in accordance with the provisions of a certificate of public conveyance and necessity under the provisions of the federal aviation act of 1958, Public Law 85-726, as amended.

Passed the House April 21, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 274

[Substitute House Bill No. 1098]

### KEYSTONE SPIT AND OLYMPIC PENINSULA LAND EXCHANGE— CONVEYANCE PROVISIONS ESTABLISHED

AN ACT Relating to exchanges of tidelands on the Olympic peninsula; and creating a new section.

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

**NEW SECTION.** Sec. 1. (1) The state parks and recreation commission shall enter into an agreement with the federal government to exchange state-owned tidelands included in the seashore conservation area described in RCW 43.51.650 that are adjacent to or within the Olympic National Park, exclusive of any tidelands within the boundaries of any Indian reservation, for the parcel of land known as the Keystone Spit which is located south of Admiralty Inlet and including a portion of Crockett Lake on Whidbey Island, if the federal government should acquire the parcel known as Keystone Spit.

If the state parks and recreation commission and the federal government enter into an agreement to exchange Keystone Spit for state-owned tidelands included in the seashore conservation area, the department of natural resources shall transfer to the state parks and recreation commission quitclaim deed title to the tidelands to be exchanged.

(2)(a) The provision relating to equal value exchange of RCW 43.51-.210 is waived for purposes of this section.

(b) The voting requirements under RCW 43.51.210 for land exchanges are waived for purposes of this section.

(3) Any conveyance document between the state and the federal government relating to the land exchange in subsection (1) of this section shall contain the provisions set forth in RCW 43.51.675 and P.L. 99-635 and shall state that the tidelands shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and rules of the state of Washington and shall further state that the national park service agrees to consult with the state parks and recreation commission regarding the adoption of any rules or changes in management policies and agrees to endeavor to accommodate the state's interests.

(4) This section shall expire July 31, 1988.

Passed the House April 21, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

---

## CHAPTER 275

[Senate Bill No. 5564]

### HOUSING AUTHORITIES—DEACTIVATION OF LOCAL HOUSING AUTHORITIES

AN ACT Relating to local housing authorities; and adding new sections to chapter 35.82 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 35.82 RCW to read as follows:

A housing authority created under this chapter and activated by a resolution by the governing body of a city, town, or county may be deactivated by a resolution by the city, town, or county. The findings listed in RCW 35.82.030 to activate the housing authority shall be considered prior to deactivating the housing authority. For the sole purposes of winding up the affairs of a deactivated housing authority, the governing body of the city, town, or county may exercise any power granted to a housing authority under this chapter.

**NEW SECTION.** Sec. 2. A new section is added to chapter 35.82 RCW to read as follows:

The assets of an authority in the process of deactivation shall be applied and distributed as follows:

(1) All liabilities and obligations of the authority shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

(2) Assets held by the authority upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the deactivation shall be returned, transferred, or conveyed in accordance with such requirements;

(3) Assets received and held by the authority subject to limitations permitting their use only for activities purposes contained in RCW 35.82-.070, but not held upon a condition requiring return, transfer, or conveyance by reason of the deactivation, shall be transferred or conveyed to the governing body of the city, town, or county and used to engage in activities contained in RCW 35.82.070;

(4) Other assets, if any, shall be returned to the governing body of the city, town, or county for uses allowed under state law.

Passed the Senate April 10, 1987.

Passed the House April 7, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

CHAPTER 276

[House Bill No. 856]

BED AND BREAKFAST INDUSTRY STUDY

AN ACT Relating to the bed and breakfast industry; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The commerce and labor committee of the senate and the trade and economic development committee of the house of representatives shall jointly study the bed and breakfast industry.

(2) The study shall review the bed and breakfast industry, its economic impact on the state of Washington, and its impact on the environment of the state of Washington.

(3) The committees shall report their findings to the legislature before June 1, 1988.

NEW SECTION. Sec. 2. This act shall expire December 1, 1988.

Passed the House April 22, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

CHAPTER 277

[Engrossed Senate Bill No. 6012]

INDECENT EXPOSURE

AN ACT Relating to indecent exposure; and amending RCW 9A.88.010.

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

Sec. 1. Section 9A.88.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.88.010 are each amended to read as follows:

(1) A person is guilty of (~~(public indecency)~~) indecent exposure if he intentionally makes any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.



(2) (~~(Public indecency)~~) Indecent exposure is a misdemeanor unless such person exposes himself to a person under the age of fourteen years in which case (~~(indecency)~~) indecent exposure is a gross misdemeanor.

Sec. 2. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 3, chapter 267, Laws of 1985 and by section 9, chapter 303, Laws of 1985 and RCW 10.31.100 are each reenacted [and] 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 (~~((5))~~) (6) 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 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) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.02.095 shall have the authority to arrest the person.

(6) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(7) 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.

~~((7))~~ (8) 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 Senate April 26, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

---

## CHAPTER 278

[Substitute Senate Bill No. 5232]

### UNEMPLOYMENT COMPENSATION—BASE YEAR AND BENEFIT YEAR COMPUTATION MODIFIED

AN ACT Relating to unemployment compensation; and amending RCW 50.04.020, 50.04.030, and 50.06.030.

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

Sec. 1. Section 3, chapter 35, Laws of 1945 as amended by section 1, chapter 2, Laws of 1970 ex. sess. and RCW 50.04.020 are each amended to read as follows:

"Base year" with respect to each individual, shall mean either the first four of the last five completed calendar quarters or the last four completed calendar quarters immediately preceding the first day of the individual's benefit year.

For the purposes of establishing a benefit year, the department shall initially use the first four of the last five completed calendar quarters as the base year. If a benefit year is not established using the first four of the last five calendar quarters as the base year, the department shall use the last four completed calendar quarters as the base year.

Computations using the last four completed calendar quarters shall be based on available wage items processed as of the close of business on the day preceding the date of application. Wage items not processed at the time of application shall become available to the claim as they are added to department systems. The department shall not be required to make employer contacts or take other actions that would not be applicable to claims based on the first four of the last five completed calendar quarters.

Sec. 2. Section 4, chapter 35, Laws of 1945 as last amended by section 1, chapter 33, Laws of 1977 ex. sess. and RCW 50.04.030 are each amended to read as follows:

"Benefit year" with respect to each individual, means the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual files an application for an initial determination and thereafter the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual next files an application for an initial determination after the expiration of the individual's last preceding benefit year: PROVIDED, HOWEVER, That the foregoing limitation shall not be deemed to preclude the establishment of a new benefit year under the laws of another state pursuant to any agreement providing for the interstate combining of employment and wages and the interstate payment of benefits nor shall this limitation be deemed to preclude the commissioner from backdating an initial application at the request of the claimant either for the convenience of the department of employment security or for any other reason deemed by the commissioner to be good cause.

An individual's benefit year shall be extended to be fifty-three weeks when at the expiration of fifty-two weeks the establishment of a new benefit year would result in the use of a quarter of wages in the new base year that had been included in the individual's prior base year.

No benefit year will be established unless it is determined that the individual earned wages in "employment" in not less than six hundred eighty

hours of the individual's base year: PROVIDED, HOWEVER, That a benefit year cannot be established if the base year wages include wages earned prior to the establishment of a prior benefit year unless the individual earned wages in "employment" during the last two quarters of the new base year of not less than six times the weekly benefit amount computed for the individual's new benefit year.

If an individual's prior benefit year was based on the last four completed calendar quarters, a new benefit year shall not be established until the new base year does not include any hours used in the establishment of the prior benefit year.

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his or her wages at regular intervals.

Sec. 3. Section 9, chapter 228, Laws of 1975 1st ex. sess. as amended by section 3, chapter 65, Laws of 1984 and RCW 50.06.030 are each amended to read as follows:

An application for initial determination made pursuant to this chapter, to be considered timely, must be filed in writing with the employment security department within twenty-six weeks following the week in which the period of temporary total disability commenced. Notice from the department of labor and industries shall satisfy this requirement. The records of the agency supervising the award of compensation shall be conclusive evidence of the fact of temporary disability and the beginning date of such disability. The employment security department shall process and issue an initial determination of entitlement or nonentitlement as the case may be.

For the purpose of this chapter, a special base year is established for an individual consisting of either the first four of the last five completed calendar quarters or the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual's temporary total disability commenced, and a special individual benefit year is established consisting of the entire period of disability and a fifty-two consecutive week period commencing with the first day of the calendar week immediately following the week or part thereof with respect to which the individual received his final temporary total disability compensation under the applicable industrial insurance or crime victims compensation laws except that no special benefit year shall have a duration in excess of three hundred twelve calendar weeks: PROVIDED HOWEVER, That such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the disability and filing requirements of this chapter and who has an unexpired

benefit year established which would overlap the special benefit year provided by this chapter, notwithstanding the provisions in RCW 50.04.030 relating to the establishment of a subsequent benefit year and RCW 50.40.010 relating to waiver of rights, may elect to establish a special benefit year under this chapter: PROVIDED FURTHER, that the unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish such special benefit year.

For the purposes of establishing a benefit year, the department shall initially use the first four of the last five completed calendar quarters as the base year. If a benefit year is not established using the first four of the last five calendar quarters as the base year, the department shall use the last four completed calendar quarters as the base year.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

---

## CHAPTER 279

[Substitute Senate Bill No. 5977]

### STATE EDUCATIONAL TELECOMMUNICATIONS NETWORK—MODEL PLAN FOR IMPLEMENTING THE NETWORK TO BE DEVELOPED

AN ACT Relating to a state educational telecommunications network; creating a new section; providing an expiration date; and making an appropriation.

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

NEW SECTION. Sec. 1. (1) The superintendent of public instruction and the higher education coordinating board shall jointly develop and recommend to the legislature by June 30, 1989, a model plan for implementing a state educational telecommunications network which: (a) Addresses the needs of the common school and higher education elements of the state education system, and (b) provides for coordination and linkages between existing and proposed common school and higher education telecommunications programs, projects, and activities.

(2) In developing the plan, the superintendent of public instruction and the higher education coordinating board shall review existing telecommunications activities, including but not limited to: Activities under development by educational service districts, including the regional computer demonstration centers; the state clearinghouse for education information; the Washington State University microwave system; proposed or existing satellite projects at any of the regional universities; and other related activities.

NEW SECTION. Sec. 2. The sum of forty-nine thousand five hundred dollars, or so much thereof as may be necessary, is appropriated from the

general fund for the biennium ending June 30, 1989, to the superintendent of public instruction to carry out the purposes of this act.

NEW SECTION. Sec. 3. This act shall expire July 1, 1989.

Passed the Senate March 17, 1987.

Passed the House April 24, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 280

[Substitute Senate Bill No. 5142]

### HARASSMENT—UNLAWFUL HARASSMENT DEFINED—PROTECTION ORDERS PROVIDED FOR

AN ACT Relating to protection from harassment; reenacting and amending RCW 10.31-.100; adding a new chapter to Title 10 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that serious, personal harassment through repeated invasions of a person's privacy by acts and words showing a pattern of harassment designed to coerce, intimidate, or humiliate the victim is increasing. The legislature further finds that the prevention of such harassment is an important governmental objective. This chapter is intended to provide victims with a speedy and inexpensive method of obtaining civil antiharassment protection orders preventing all further unwanted contact between the victim and the perpetrator.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Unlawful harassment" means a knowing and wilful course of conduct directed at a specific person which seriously alarms, annoys, or harasses such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner.

(2) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

NEW SECTION. Sec. 3. In determining whether the course of conduct serves any legitimate or lawful purpose, the court should consider whether:

(1) Any current contact between the parties was initiated by the respondent only or was initiated by both parties;

(2) The respondent has been given clear notice that all further contact with the petitioner is unwanted;

- (3) The respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner;
- (4) The respondent is acting pursuant to any statutory authority, including but not limited to acts which are reasonably necessary to:
  - (a) Protect property or liberty interests;
  - (b) Enforce the law; or
  - (c) Meet specific statutory duties or requirements;
- (5) The respondent's course of conduct has the purpose or effect of unreasonably interfering with the petitioner's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner;
- (6) Contact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order.

**NEW SECTION.** Sec. 4. There shall exist an action known as a petition for an order for protection in cases of unlawful harassment.

(1) A petition for relief shall allege the existence of harassment 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.

(3) All court clerks' 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) No filing fee may be charged for 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. 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.

**NEW SECTION.** Sec. 5. The administrator for the courts shall develop and prepare, in consultation with interested persons, model forms and instructional brochures required under section 4(3) of this act.

**NEW SECTION.** Sec. 6. 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.

**NEW SECTION.** Sec. 7. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Personal service shall be made upon the respondent not less than five court days before the hearing. If timely service cannot be made, the court may set a new hearing date.

**NEW SECTION.** Sec. 8. (1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment. An order issued under this chapter shall be effective for not more than one year. At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a new petition under this chapter.

(4) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

(a) Restraining the respondent from making any attempts to contact the petitioner;

(b) Restraining the respondent from making any attempts to keep the petitioner under surveillance; and

(c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace.

(5) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders against the same respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

**NEW SECTION.** Sec. 9. Nothing in this chapter shall preclude either party from representation by private counsel or from appearing on his or her own behalf.



**NEW SECTION.** Sec. 10. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (5) 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 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.

(4) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(5) 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.

(6) 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.

**NEW SECTION.** Sec. 11. A copy of an antiharassment protection order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

**NEW SECTION.** Sec. 12. Any wilful disobedience by the respondent of any temporary antiharassment protection order or civil antiharassment protection order issued under this chapter shall subject the respondent to criminal penalties under this chapter. Any respondent who wilfully disobeys the terms of any order issued under this chapter may also, in the court's discretion, be found in contempt of court and subject to penalties under chapter 7.20 RCW.

**NEW SECTION.** Sec. 13. Protection orders authorized under this chapter shall not be issued for any action specifically covered by chapter 10.99 or 26.50 RCW.

**NEW SECTION.** Sec. 14. Nothing in this chapter shall preclude a petitioner's right to utilize other existing civil remedies.

**NEW SECTION.** Sec. 15. The superior courts shall have jurisdiction and cognizance of any civil actions and proceedings brought under this

chapter. The municipal and district courts shall have jurisdiction and cognizance of any criminal actions brought under sections 12 and 17 of this act.

**NEW SECTION.** Sec. 16. For the purposes of this chapter an action may be brought in:

- (1) Any county in which the alleged acts of unlawful harassment occurred;
- (2) Any county where any respondent resides at the time the petition is filed; or
- (3) Any county where a respondent may be served if it is the same county where a respondent resides.

**NEW SECTION.** Sec. 17. Any respondent who wilfully disobeys any civil antiharassment protection order issued pursuant to this chapter shall be guilty of a gross misdemeanor.

**NEW SECTION.** Sec. 18. Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order under this chapter. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified order or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system.

**NEW SECTION.** Sec. 19. Nothing in this chapter shall be construed to infringe upon any constitutionally protected rights including, but not limited to, freedom of speech and freedom of assembly.

Sec. 20. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 3, chapter 267, Laws of 1985 and by section 9, chapter 303, Laws of 1985 and RCW 10.31.100 are each reenacted and 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 (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 is eighteen years or older and within the preceding four hours has assaulted that person's spouse, former spouse, or 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) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.02.095 shall have the authority to arrest the person.

(6) A police officer may 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 an order has been issued of which the person has knowledge under chapter 10.— RCW (sections 1 through 19 of this 1987 act) and the person has violated the terms of that order.

(7) 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.

~~((7))~~ (8) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) or (6) if the police officer acts in good faith and without malice.

NEW SECTION. Sec. 21. Sections 1 through 19 of this act shall constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 22. 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 20, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 281

[Senate Bill No. 5172]

### VICTIMS AND WITNESSES OF CRIMES—CONTINUATION OF ASSISTANCE PROGRAMS—VEHICULAR HOMICIDE PROOF REQUIREMENTS MODIFIED—BENEFITS MODIFIED

AN ACT Relating to victims or witnesses of crimes; amending RCW 7.68.035, 9.94A-.140, 9.94A.142, 13.40.190, 7.68.020, and 7.68.070; creating a new section; adding a new section to chapter 7.68 RCW; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 10, chapter 302, Laws of 1977 ex. sess. as last amended by section 13, chapter 443, Laws of 1985 and RCW 7.68.035 are each amended to read as follows:

(1) Whenever any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty

assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be seventy dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and forty-five dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.65.090, 46.61.502, 46.61.504, 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

(3) Whenever any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. (~~Until June 30, 1987;~~) Each county shall deposit not less than one and seventy-five one-hundredths percent of the money it retains under RCW 10.82.070 and chapter 3.62 RCW and all money it receives under subsection (8) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. (~~After that date, each county shall continue to provide for such comprehensive programs;~~) A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Penalty assessments under this section shall also be imposed in juvenile offense dispositions under Title 13 RCW. Upon motion of a party and a showing of good cause, the court may modify the penalty assessment in the disposition of juvenile offenses under Title 13 RCW.

(8) ~~((Until June 30, 1987,))~~ Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.46.120, 3.50.100, and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section. ~~((After that date, every city and town shall transmit to the county a percentage of such money, up to one and seventy-five one-hundredths percent, which matches the percentage of court revenue the county provides under subsection (4) of this section:))~~

NEW SECTION. Sec. 2. A new section is added to chapter 7.68 RCW to read as follows:

If a defendant has paid restitution pursuant to court order under RCW 9.92.060, 9.95.210, or 9A.20.030 and the victim entitled to restitution cannot be found or has died, the clerk of the court shall deposit with the county treasurer the amount of restitution unable to be paid to the victim. The county treasurer shall monthly transmit the money to the state treasurer for deposit as provided in RCW 43.08.250. Moneys deposited under this section shall be used to compensate victims of crimes through the crime victims compensation fund.

Sec. 3. Section 14, chapter 137, Laws of 1981 as amended by section 5, chapter 192, Laws of 1982 and RCW 9.94A.140 are each amended to read as follows:

(1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days and may set the terms and conditions under which the defendant shall make restitution. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years subsequent to the imposition of sentence. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property. In addition, restitution may be ordered to pay for an injury, 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 are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim or defendant.

Sec. 4. Section 10, chapter 443, Laws of 1985 and RCW 9.94A.142 are each amended to read as follows:

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days and shall set the terms and conditions under which the defendant shall make restitution. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years subsequent to the imposition of sentence. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, 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 are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant.

(5) This section shall apply to offenses committed after July 1, 1985.



Sec. 5. Section 73, chapter 291, Laws of 1977 ex. sess. as last amended by section 2, chapter 257, Laws of 1985 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. Restitution may include the costs of counseling reasonably related to the offense. 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.

Sec. 6. Section 2, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 11, chapter 443, Laws of 1985 and RCW 7.68.020 are each amended to read as follows:

The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state, except as follows:

(a) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless:

(i) The injury or death was intentionally inflicted;

(ii) The operation thereof was part of the commission of another non-vehicular criminal act as defined in this section; or

(iii) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a ((conviction)) preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained: PROVIDED, That in cases where a probable criminal defendant has died in perpetration of vehicular assault or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits;

(b) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in subsection (2)(a)(iii) of this section;

(c) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

(d) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child," "accredited school," "dependent," "beneficiary," "average monthly wage," "director," "injury," "invalid," "permanent partial disability," and "permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

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

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

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

**NEW SECTION.** Sec. 7. The 1987 amendments to RCW 7.68.020 by section 5 of this act apply only to vehicular assault under RCW 46.61.522

or vehicular homicide under RCW 46.61.520 that occurs after the effective date of this section.

Sec. 8. Section 7, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 15, chapter 443, Laws of 1985 and RCW 7.68.070 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or his family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, and the rights, duties, responsibilities, limitations, and procedures applicable to a workman as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a workman and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: **PROVIDED**, That benefits for burial expenses shall not exceed the maximum cost used by the department of social and health services for the funeral and burial of a deceased indigent person under chapter 74.08 RCW in any claim: **PROVIDED FURTHER**, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived him

or where such spouse has legal custody of all of his children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workmen contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 as now or hereafter amended are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for

such counseling shall be determined by the department in accordance with RCW 51.04.030. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than fifteen thousand dollars ((may)) shall be granted as a result of ((any)) a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed twenty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for ~~((any one injury or death for loss of earnings, those benefits payable pursuant to subsection (7) of this section, or for loss of future earnings, those benefits payable pursuant to subsection (5) of this section, or for loss of support, those benefits payable pursuant to subsection (4))~~ total temporary disability under subsection (7) of this section, shall be limited to ten thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

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 June 30, 1987.

Passed the Senate April 26, 1987.

Passed the House April 26, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

---

## CHAPTER 282

[House Bill No. 1137]

### LOW-INCOME HOUSING OWNED OR OPERATED BY PUBLIC CORPORATIONS—EXEMPTION GRANTED FOR EXCISE TAXES IN-LIEU OF PROPERTY TAXES

AN ACT Relating to the taxation of public corporations, commissions, and authorities; and amending RCW 35.21.755.

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

Sec. 1. Section 7, chapter 37, Laws of 1974 ex. sess. as last amended by section 5, chapter 332, Laws of 1985 and RCW 35.21.755 are each amended to read as follows:

(1) 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 (a) 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 or (b) any property owned or operated by a public corporation that is used primarily for low-income housing, 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 35.21.730 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.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of community development.

Passed the House April 21, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 283

[Substitute House Bill No. 274]

REVENUE RECOVERY PROCEDURES REVISED FOR THE DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES

AN ACT Relating to revenue recovery for social and health services; amending RCW 43.20A.020, 43.20A.435, 48.21.240, 48.44.340, 48.46.290, 74.04.306, 74.09.210, 74.09.220, 74.46.180, and 74.09.180; adding new sections to chapter 43.20A RCW; adding a new section to chapter 74.09 RCW; and creating a new section.

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

Sec. 1. Section 2, chapter 18, Laws of 1970 ex. sess. as amended by section 61, chapter 141, Laws of 1979 and RCW 43.20A.020 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "Deputy secretary" means the deputy secretary of the department of social and health services.

(4) "Overpayment" means any department payment or department benefit to a recipient or to a vendor in excess of that to which the recipient or vendor is entitled by law, rule, or contract, including amounts in dispute pending resolution.

(5) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.

Sec. 2. Section 17, chapter 41, Laws of 1983 1st ex. sess. and RCW 43.20A.435 are each amended to read as follows:

~~(1) ("Vendor", for the purposes of this section, means any public or private agency providing services under contract to or for clientele of the department.~~

~~(2)) Except as provided in subsection ((5)) (4) of this section, vendors ((of services to the department of social and health services)) shall pay interest on overpayments ((or erroneous payments made by the department on billings from the vendor)) at the rate of one percent per month((-but of at least one dollar per month)) or portion thereof. Where partial repayment of an overpayment is made, interest accrues on the remaining balance. Interest will not accrue when the overpayment occurred due to department error.~~

~~((3) The department may recover interest accrued under this section by setoff or recoupment against subsequent contract payments due to the vendor.~~

(4)) (2) If the overpayment is discovered by the vendor prior to discovery and notice by the department, the interest shall begin accruing



~~((thirty))~~ ninety days after ~~((notice to))~~ the vendor ~~((of overpayment or erroneous payment or the date of the final decision on any administrative or judicial remedy sought by the vendor, whichever is the later date))~~ notifies the department of such overpayment.

(3) If the overpayment is discovered by the department prior to discovery and notice by the vendor, the interest shall begin accruing as follows, whichever occurs first:

(a) Thirty days after the date of notice by the department to the vendor; or

(b) Ninety days after the date of overpayment to the vendor.

~~((5))~~ (4) This section does not apply to:

(a) Intergency or intergovernmental transactions;

(b) Contracts for public works, goods and services procured for the exclusive use of the department, equipment, or travel; and

~~((Claims subject to a good faith dispute. A good faith dispute exists when:~~

~~(i) The exact amount of the overpayment has not been established by agreement of the parties or by operation of law; or~~

~~(ii) All administrative or judicial remedies available have not been exhausted;~~

~~(d) Nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW;~~

~~((e))~~ Contracts entered into before September 1, 1979, for contracts with medical assistance funding, and August 23, 1983, for all other contracts.

Sec. 3. Section 1, chapter 35, Laws of 1983 as amended by section 2, chapter 184, Laws of 1986 and RCW 48.21.240 are each amended to read as follows:

(1) Each group insurer providing disability insurance coverage in this state for hospital or medical care under contracts which are issued, delivered, or renewed in this state on or after July 1, 1986, shall offer optional supplemental coverage for mental health treatment for the insured and the insured's covered dependents.

(2) Benefits shall be provided under the optional supplemental coverage for mental health treatment whether treatment is rendered by: (a) A physician licensed under chapter 18.71 or 18.57 RCW; (b) a psychologist licensed under chapter 18.83 RCW; ~~((or))~~ (c) a community mental health agency licensed by the department of social and health services pursuant to chapter 71.24 RCW; or (d) a state hospital as defined in RCW 72.23.010. The treatment shall be covered at the usual and customary rates for such treatment. The insurer, health care service contractor, or health maintenance organization providing optional coverage under the provisions of this

section for mental health services may establish separate usual and customary rates for services rendered by physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health centers licensed under chapter 71.24 RCW and state hospitals as defined in RCW 72.23.010. However, the treatment may be subject to contract provisions with respect to reasonable deductible amounts or copayments. In order to qualify for coverage under this section, a licensed community mental health agency shall have in effect a plan for quality assurance and peer review, and the treatment shall be supervised by a physician licensed under chapter 18.71 or 18.57 RCW or by a psychologist licensed under chapter 18.83 RCW.

(3) The group disability insurance contract may provide that all the coverage for mental health treatment is waived for all covered members if the contract holder so states in advance in writing to the insurer.

(4) This section shall not apply to a group disability insurance contract that has been entered into in accordance with a collective bargaining agreement between management and labor representatives prior to March 1, 1987.

Sec. 4. Section 2, chapter 35, Laws of 1983 as amended by section 3, chapter 184, Laws of 1986 and RCW 48.44.340 are each amended to read as follows:

(1) Each health care service contractor providing hospital or medical services or benefits in this state under group contracts for health care services under this chapter which are issued, delivered, or renewed in this state on or after July 1, 1986, shall offer optional supplemental coverage for mental health treatment for the insured and the insured's covered dependents.

(2) Benefits shall be provided under the optional supplemental coverage for mental health treatment whether treatment is rendered by: (a) A physician licensed under chapter 18.71 or 18.57 RCW; (b) a psychologist licensed under chapter 18.83 RCW; ~~((or))~~ (c) a community mental health agency licensed by the department of social and health services pursuant to chapter 71.24 RCW; or (d) a state hospital as defined in RCW 72.23.010. The treatment shall be covered at the usual and customary rates for such treatment. The insurer, health care service contractor, or health maintenance organization providing optional coverage under the provisions of this section for mental health services may establish separate usual and customary rates for services rendered by physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health centers licensed under chapter 71.24 RCW and state hospitals as defined in RCW 72.23.010. However, the treatment may be subject to contract provisions with respect to reasonable deductible amounts or copayments. In order to qualify for coverage under this section, a licensed community mental health agency shall have in effect a plan for

quality assurance and peer review, and the treatment shall be supervised by a physician licensed under chapter 18.71 or 18.57 RCW or by a psychologist licensed under chapter 18.83 RCW.

(3) The group contract for health care services may provide that all the coverage for mental health treatment is waived for all covered members if the contract holder so states in advance in writing to the health care service contractor.

(4) This section shall not apply to a group health care service contract that has been entered into in accordance with a collective bargaining agreement between management and labor representatives prior to March 1, 1987.

Sec. 5. Section 3, chapter 35, Laws of 1983 as amended by section 4, chapter 184, Laws of 1986 and RCW 48.46.290 are each amended to read as follows:

(1) Each health maintenance organization providing services or benefits for hospital or medical care coverage in this state under group health maintenance agreements which are issued, delivered, or renewed in this state on or after July 1, 1986, shall offer optional supplemental coverage for mental health treatment to the enrolled participant and the enrolled participant's covered dependents.

(2) Benefits shall be provided under the optional supplemental coverage for mental health treatment whether treatment is rendered by the health maintenance organization or the health maintenance organization refers the enrolled participant or the enrolled participant's covered dependents for treatment to: (a) A physician licensed under chapter 18.71 or 18.57 RCW; (b) a psychologist licensed under chapter 18.83 RCW; ((or)) (c) a community mental health agency licensed by the department of social and health services pursuant to chapter 71.24 RCW; or (d) a state hospital as defined in RCW 72.23.010. The treatment shall be covered at the usual and customary rates for such treatment. The insurer, health care service contractor, or health maintenance organization providing optional coverage under the provisions of this section for mental health services may establish separate usual and customary rates for services rendered by physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health centers licensed under chapter 71.24 RCW and state hospitals as defined in RCW 72.23.010. However, the treatment may be subject to contract provisions with respect to reasonable deductible amounts or copayments. In order to qualify for coverage under this section, a licensed community mental health agency shall have in effect a plan for quality assurance and peer review, and the treatment shall be supervised by a physician licensed under chapter 18.71 or 18.57 RCW or by a psychologist licensed under chapter 18.83 RCW.

(3) The group health maintenance agreement may provide that all the coverage for mental health treatment is waived for all covered members if

the contract holder so states in advance in writing to the health maintenance organization.

(4) This section shall not apply to a group health maintenance agreement that has been entered into in accordance with a collective bargaining agreement between management and labor representatives prior to March 1, 1987.

Sec. 6. Section 2, chapter 91, Laws of 1965 ex. sess. as amended by section 308, chapter 141, Laws of 1979 and RCW 74.04.306 are each amended to read as follows:

~~((The secretary shall commence action for the))~~ There will be no collection of overpayments and debts due the state ((within)) after the expiration of six years ((after the)) from the date of notice of such overpayment ((is given or within six years after the person ceases to be a recipient of public assistance, whichever is later. No proceedings for the collection of such overpayments or debts shall be begun after the expiration of such period)) unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the state at the expiration of ten years from the date of the notice of the underlying overpayment unless a court-ordered remedy would be in effect for a longer period.

The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of overpayments or debts due the state. The department shall adopt rules establishing the considerations to be made in the granting or denial of partial or total write-off and offers of compromise of disputed claims for overpayments and debts due the state.

Sec. 7. Section 2, chapter 152, Laws of 1979 ex. sess. and RCW 74.09.210 are each amended to read as follows:

(1) No person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an individual public assistance recipient of health care, shall, on behalf of himself or others, obtain or attempt to obtain benefits or payments under this chapter in a greater amount than that to which entitled by means of:

- (a) A wilful false statement;
- (b) By wilful misrepresentation, or by concealment of any material facts; or
- (c) By other fraudulent scheme or device, including, but not limited to:
  - (i) Billing for services, drugs, supplies, or equipment that were unfurnished, of lower quality, or a substitution or misrepresentation of items billed; or
  - (ii) Repeated billing for purportedly covered items, which were not in fact so covered.

(2) Any person or entity knowingly violating any of the provisions of subsection (1) of this section shall be liable for repayment of any excess benefits or payments received, plus interest (~~(on the amount of the excess benefits or payments)~~) at the rate (~~(of one percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the state)~~) and in the manner provided in RCW 43.20A.435. Such person or other entity shall further, in addition to any other penalties provided by law, be subject to civil penalties. The secretary (~~(of social and health services)~~) may assess civil penalties in an amount not to exceed three times the amount of such excess benefits or payments: **PROVIDED,** That these civil penalties shall not apply to any acts or omissions occurring prior to (~~(the effective date of this act)~~) September 1, 1979.

(3) All orders of the department assessing civil penalties shall become final twenty days after the same have been served unless a hearing is requested.

(4) A criminal action need not be brought against a person for that person to be civilly liable under this section.

(5) In all proceedings under this section, service, hearings, and judicial review of such determinations shall be in accordance with chapter 34.04 RCW.

(6) Civil penalties shall be deposited in the general fund upon their receipt.

Sec. 8. Section 3, chapter 152, Laws of 1979 ex. sess. and RCW 74.09.220 are each amended to read as follows:

Any person, firm, corporation, partnership, association, agency, institution or other legal entity, but not including an individual public assistance recipient of health care, that, without intent to violate this chapter, obtains benefits or payments under this code to which such person or entity is not entitled, or in a greater amount than that to which entitled, shall be liable for (1) any excess benefits or payments received, and (2) interest (~~(on the amount of the excess benefits or payments)~~) calculated at the rate (~~(of one percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the state.~~ **PROVIDED,** That no person, firm, corporation, partnership, association, agency, institution, or other legal entity shall be liable for payment of interest when excess benefits or payments were obtained as a result of errors made by the department of social and health services)) and in the manner provided in RCW 43.20A.435. Whenever a penalty (~~(or interest)~~) is due under RCW 74.09.210 (~~(or 74.09.220)~~) or interest is due under RCW 43.20A.435, such penalty or interest shall not be reimbursable by the state as an allowable cost under any of the provisions of this chapter.

Sec. 9. Section 18, chapter 177, Laws of 1980 as last amended by section 1, chapter 361, Laws of 1985 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, except that no savings may be retained if reported costs in the property cost center and the administration and operations cost center exceed audited allowable costs by ten cents or more per patient day. The secretary, by rule and regulation, shall establish the basis for the specific percentages of savings to the contractors. Such rules and regulations may provide for differences in the percentages allowed for each cost center to individual facilities based on performance measures related to administrative efficiency.

(5) All allowances provided by RCW 74.46.530 shall be retained by the contractor. 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))~~ any interest ~~((, as determined by the secretary))~~ accrued under RCW 43.20A.435, 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))~~ assessed at the rate and in the manner provided in RCW 43.20A.435, from any payments due; or (ii) ~~((assess))~~ recover the amount due, plus any interest ~~((, as determined by the secretary, on the amount~~

due)) assessed under RCW 43.20A.435, from security posted with the department or by any other lawful means.

(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.

NEW SECTION. Sec. 10. (1) The department may, at the secretary's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

(a) Any lien shall be effective from the date of filing for record with the county auditor of the county in which the property is located and the lien claim shall have preference over the claims of all unsecured creditors.

(b) The department shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The department may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor.

NEW SECTION. Sec. 11. Liens created under section 10 of this act shall bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the department to enforce such lien must be timely commenced before the ten-year period expires or the lien shall be released. A civil action to enforce such lien shall not be timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules.

NEW SECTION. Sec. 12. The remedies under sections 10 and 11 of this act are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the department to maintain a civil

action or to pursue any other remedies available to it under the laws of this state to recover such debt.

**NEW SECTION.** Sec. 13. A new section is added to chapter 74.09 RCW to read as follows:

(1) The department is authorized to recover the cost of medical care provided to a recipient who was sixty-five years or older, upon the recipient's death except:

(a) Where there is a surviving spouse; or

(b) Where there is a surviving child under 21 years of age or blind or disabled as defined in the state plan under Title XIX of the social security act; or

(c) To the extent of the first fifty thousand dollars of the estate value at the time of death, where there are surviving children other than as defined above, and not to exceed thirty-five percent of the remainder.

(2) The department may assert and enforce a claim against the estate of the deceased recipient for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The remedies in subsection (2) of this section are nonexclusive and upon the death of the recipient, the department shall have a lien for the debt in subsection (1) of this section. The lien attaches to the real property of which the deceased recipient was seized immediately before death. Upon subsequent filing of the notice thereof with the county auditor of the county in which the real property is located, the lien shall be deemed to relate back and be effective against such property as of the date of the recipient's death. Recovery under the lien shall be upon the sale or transfer of the subject property.

Sec. 14. Section 74.09.180, chapter 26, Laws of 1959 as last amended by section 14, chapter 171, Laws of 1979 ex. sess. and RCW 74.09.180 are each amended to read as follows:

The provisions of this chapter shall not apply to recipients whose personal injuries are occasioned by negligence or wrong of another: PROVIDED, HOWEVER, That the secretary of the department of social and health services may, in his discretion, furnish assistance, under the provisions of this chapter, for the results of injuries to or illness of a recipient, and the department of social and health services shall thereby be subrogated to the recipient's (~~right of recovery therefor~~) rights against the recovery had from any tort feisor and/or his or her insurer and shall have a lien thereupon to the extent of the value of the assistance furnished by the department of social and health services: PROVIDED FURTHER, That to the end of securing reimbursement of any assistance furnished to such a recipient, the department of social and health services may, as a nonexclusive legal remedy, assert and enforce a lien upon any claim, right of action, settlement proceeds, and/or money, including any claim for benefits arising from an insurance program, to which such recipient is entitled (a) against



any tortfeasor and/or insurer of such tortfeasor, or (b) any contract of insurance, purchased by the recipient or any other person, providing coverage to such recipient for said injuries, any illness, dental costs, costs incident to birth, or any other coverage for purposes of or costs for which the department provides assistance or meets all or part of the cost of care to a vendor, to the extent of the assistance furnished by said department to the recipient. If a recovery shall be made and the subrogation or lien is satisfied either in full or in part as a result of an independent action initiated by or on behalf of a recipient to recover the personal injuries against any tortfeasor or insurer, then and in that event the amount repaid to the state of Washington as a result of said action, whether concluded by entry of a judgment or compromise and settlement, shall bear its proportionate share of attorney's fees and costs incurred by the injured recipient or his widow, children, or dependents, as the case may be, to the extent that such attorney's fees and costs are approved by the court in which the action is initiated, and upon notice to the department which shall have the right to be heard on the matter.

NEW SECTION. Sec. 15. A new section is added to chapter 43.20A RCW to read as follows:

Any action to enforce a vendor overpayment debt shall be commenced within six years from the date of the department's notice to the vendor.

NEW SECTION. Sec. 16. Sections 10, 11, and 12 of this act are added to chapter 43.20A RCW, but shall be added instead to chapter 43.20B RCW if that chapter is directed to be created in legislation enacted by the 1987 legislature. Sections amended in this act shall be recodified in accordance with any legislation enacted by the 1987 legislature directing such recodification.

NEW SECTION. Sec. 17. 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. 18. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is in existence on the effective date of this act.

Passed the House April 23, 1987.

Passed the Senate April 17, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 284

[Substitute Senate Bill No. 5393]

UNEMPLOYMENT—OLDER UNEMPLOYED AND LONG-TERM UNEMPLOYED  
 ARE MADE A PRIORITY FOR CERTAIN EMPLOYMENT SECURITY  
 DEPARTMENT SERVICES—ANNUAL REPORT ON RE-EMPLOYMENT OF THE  
 UNEMPLOYED

AN ACT Relating to unemployment; amending RCW 50.62.010, 50.62.020, and 50.62-.030; adding a new section to chapter 50.12 RCW; adding a new section to chapter 50.62 RCW; and creating a new section.

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

Sec. 1. Section 1, chapter 5, Laws of 1985 ex. sess. and RCW 50.62-.010 are each amended to read as follows:

The legislature finds and declares that:

(1) The number of persons unemployed in the state is significantly above the national average.

(2) Persons who are unemployed represent a skilled resource to the economy and the quality of life for all persons in the state.

(3) There are jobs available in the state that can be filled by unemployed persons.

(4) A public labor exchange can appreciably expedite the employment of unemployed job seekers and filling employer vacancies thereby contributing to the overall health of the state and national economies.

(5) The Washington state job service of the employment security department has provided a proven service of assisting persons to find employment for the past fifty years.

(6) Expediting the reemployment of unemployment insurance claimants will reduce payment of claims drawn from the state unemployment insurance trust fund.

(7) Increased emphasis on assisting in the reemployment of claimants and monitoring claimants' work search efforts will positively impact employer tax rates resulting from the recently enacted experience rating legislation, chapter 205, Laws of 1984.

(8) Special employment service efforts are necessary to adequately serve agricultural employers who have unique needs in the type of workers, recruitment efforts, and the urgency of obtaining sufficient workers.

(9) Study and research of issues related to employment and unemployment provides economic information vital to the decision-making process.

(10) Older workers and the long-term unemployed experience greater difficulty finding new employment at wages comparable to their prelayoff earnings relative to all unemployment insurance claimants who return to work.

(11) After a layoff, older unemployed workers and the long-term unemployed workers fail to find unemployment insurance-covered employment

at a much higher rate than other groups of unemployment insurance claimants.

The legislature finds it necessary and in the public interest to establish a program of job service to assist persons drawing unemployment insurance claims to find employment, to provide employment assistance to the agricultural industry, and to conduct research into issues related to employment and unemployment.

Sec. 2. Section 2, chapter 5, Laws of 1985 ex. sess. and RCW 50.62-.020 are each amended to read as follows:

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

(1) "Job service" means the employment assistance program of the employment security department;

(2) "Employment assistance" means services to unemployed persons focused on and measured by the obtaining of employment;

(3) "Labor exchange" means those activities which match labor supply and labor demand, including recruitment, screening, and referral of qualified workers to employers;

(4) "Special account of the administrative contingency fund" means that fund under RCW 50.24.014 established within the administrative contingency fund of the employment security department which provides revenue for the purposes of this chapter.

(5) "Continuous wage and benefit history" means an information and research system utilizing a longitudinal data base containing information on both employment and unemployment.

(6) "Long-term unemployed" means demographic groups of unemployment insurance claimants identified by the employment security department pursuant to section 4(1)(e) of this 1987 act which have the highest percentages of persons who have drawn at least fifteen weeks of unemployment insurance benefits or have the highest percentage of persons who have exhausted their unemployment insurance benefits.

(7) "Older unemployed workers" means unemployment insurance claimants who are at least fifty years of age.

Sec. 3. Section 3, chapter 5, Laws of 1985 ex. sess. and RCW 50.62-.030 are each amended to read as follows:

Job service resources shall be used to assist with the reemployment of unemployed workers using the most efficient and effective means of service delivery. The job service program of the employment security department may undertake any program or activity for which funds are available and which furthers the goals of this chapter. These programs and activities ~~((may))~~ shall include, but are not limited to:

(1) Giving older unemployed workers and the long-term unemployed the highest priority for all services made available under this section. The employment security department shall make the services provided under this

chapter available to the older unemployed workers and the long-term unemployed as soon as they register under the employment assistance program;

(2) Supplementing basic employment services, with special job search and claimant placement assistance designed to assist unemployment insurance claimants to obtain employment;

~~((2))~~ (3) Providing employment services, such as recruitment, screening, and referral of qualified workers, to agricultural areas where these services have in the past contributed to positive economic conditions for the agricultural industry;

~~((3))~~ (4) Providing otherwise unobtainable information and analysis to the legislature and program managers about issues related to employment and unemployment; and

~~((4))~~ (5) To research and consider the degree to which the employment security department can contract with private employment agencies, private for-profit and not-for-profit organizations in the fields of job placement, vocational counseling, career development, career change and employment preparation on a fee for service-performance basis.

NEW SECTION. Sec. 4. A new section is added to chapter 50.62 RCW to read as follows:

(1) Each year the employment security department shall publish an annual report on the unemployed based on research conducted on the continuous usage and benefit history and other sources that identifies:

(a) The demographic groups of unemployment insurance claimants that experience the greatest difficulty finding new employment with wages comparable to their prelayoff earnings;

(b) The demographic groups of unemployment insurance claimants that have the highest rates of failure to find unemployment insurance covered-employment after a layoff;

(c) The demographic, industry, and employment characteristics of the unemployment insurance claimant population most closely associated with the exhaustion of an unemployment claim;

(d) The demographic, industry, and employment characteristics of those locked-out workers who are eligible for unemployment compensation under RCW 50.20.090; and

(e) The demographic groups which are defined as the "long-term unemployed" for purposes of this chapter. This listing shall be updated each year.

(2) The employment security department shall continue to fund the continuing wage and benefit history at a level necessary to produce the annual report described in subsection (1) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 50.12 RCW to read as follows:

The employment security department shall submit an annual report to the legislature and the governor that includes but is not limited to:

(1) Identification and analysis of industries in the United States, Washington state, and local labor markets with high levels of seasonal, cyclical, and structural unemployment;

(2) The industries and local labor markets with plant closures and mass lay-offs and the number of affected workers;

(3) An analysis of the major causes of plant closures and mass lay-offs;

(4) The number of dislocated workers and persons who have exhausted their unemployment benefits, classified by industry, occupation, and local labor markets;

(5) The experience of the unemployed in their efforts to become reemployed. This should include research conducted on the continuous wage and benefit history;

(6) Five-year industry and occupational employment projections;

(7) Annual and hourly average wage rates by industry and occupation.

**NEW SECTION.** Sec. 6. Section 5 of this act shall take effect if and only if the legislature provides funds sufficient for its implementation in an appropriations act adopted prior to July 1, 1987.

Passed the Senate April 23, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 285

[Substitute Senate Bill No. 5094]

### SALES TAX—CONSTRUCTION WORK—RETAIL SALE AND SALE AT RETAIL REDEFINED

AN ACT Relating to excise taxation; and amending RCW 82.04.050.

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

Sec. 1. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 231, Laws of 1986 and RCW 82.04.050 are each amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their 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 a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of

or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is 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, or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon, or (e) purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, 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, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by

title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner; (d) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; ~~((d))~~ (e) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; ~~((e))~~ (f) the sale of and charge made for the furnishing of lodging and all other services 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, and 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 enjoy the same; ~~((f))~~ (g) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), ~~((and))~~ (e), and (f) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) Amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

(4) The term shall also include the renting or leasing of tangible personal property to consumers.

(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.

(6) The term shall not include the sale of or charge made for labor and services rendered in respect to 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 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, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

(7) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving 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 article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

Passed the Senate March 11, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

---

## CHAPTER 286

[Engrossed Senate Bill No. 5549]

### DEATH PENALTY EXECUTION DATES—RESETTING OF THE EXECUTION DATE DOES NOT REQUIRE DEFENDANT'S PRESENCE

AN ACT Relating to the resetting of execution dates; and amending RCW 10.95.200.

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

Sec. 1. Section 20, chapter 138, Laws of 1981 and RCW 10.95.200 are each amended to read as follows:



Whenever the day appointed for the execution of a defendant shall have passed, from any cause whatever, without the execution of such defendant having occurred, (~~the defendant shall be returned to the trial court from which the death warrant was issued and~~) the trial court which issued the original death warrant shall issue a new death warrant in accordance with RCW 10.95.160. The defendant's presence before the court is not required. However, nothing in this section shall be construed as restricting the defendant's right to be represented by counsel in connection with issuance of a new death warrant.

Passed the Senate March 10, 1987.

Passed the House April 23, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 287

[Second Substitute Senate Bill No. 5871]

### CHILD DAY CARE—STUDY OF FACILITIES AVAILABLE FOR CHILDREN OF COLLEGE AND UNIVERSITY STUDENTS, FACULTY, AND STAFF

AN ACT Relating to child day care; and creating a new section.

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

**NEW SECTION.** Sec. 1. The state board for community college education and the higher education coordinating board shall each conduct a survey of institutionally-related child day care facilities that were available during the 1986-87 academic year to children of college or university students, staff, and faculty in their assigned institutions. These surveys shall include, but not be limited to, an examination of: The number of children served, the percentage of children from each segment of the institution's population, the size and location of the facility used, the fees charged, and the annual budget, including sources of funding, of the facility.

If a state institution of higher education does not have a child day care facility on or near the campus for children of students, staff, and faculty, the appropriate board shall require that institution to conduct an assessment to determine the need for and interest in such facilities on or near that campus. The assessments will be undertaken in consultation with students, faculty, and staff from each affected institution.

The surveys and, if required, needs assessments, with recommendations for meeting identified needs, shall be completed and submitted to the appropriate policy committees of the legislature by December 1, 1987.

Passed the Senate April 24, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 7, 1987.

Filed in Office of Secretary of State May 7, 1987.

## CHAPTER 288

[Substitute House Bill No. 291]

## VOTER CHALLENGES

AN ACT Relating to voting challenges; amending RCW 29.10.125, 29.10.127, 29.10.130, and 29.10.140; and repealing RCW 29.10.123.

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

Sec. 1. Section 2, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.125 are each amended to read as follows:

Registration of a person as a voter is presumptive evidence of his or her right to vote at any primary or election, general or special(~~(, but)~~). A person's right to vote may be challenged at the polls only by a precinct election officer (and he or she may be required then and there to establish his or her right to vote. Each precinct election officer shall challenge a person offering to vote when the officer knows or suspects the person to be unqualified as a voter). A challenge may be made only upon the belief or knowledge of the challenging officer that the voter is unqualified. The challenge must be supported by evidence or testimony given to the county canvassing board under RCW 29.10.127 and may not be based on unsupported allegations or allegations by anonymous third parties. The identity of the challenger, and any third person involved in the challenge, shall be public record and shall be announced at the time the challenge is made.

Challenges (~~(may be)~~) initiated by a registered voter (~~(subject to the following conditions:~~

~~(1) Challenges on grounds other than residence may be made at the polls and the person challenged may be required then and there to establish his or her right to vote to the precinct election officers;~~

~~(2) Challenges on the grounds of residence alone)) must be filed not later than ((seven)) the day((s)) before any primary or election, general or special, at the office of the appropriate county auditor. A challenged voter may properly transfer or reregister until three days before the primary or election, general or special, by applying personally to the county auditor.~~

Sec. 2. Section 3, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.127 are each amended to read as follows:

When the right of a person has been challenged under RCW 29.10.125 or 29.10.130(2), (~~(the officers conducting the election at the polling place shall require)~~) the challenged person shall be permitted to vote a ballot which shall be placed in a sealed envelope separate from other voted ballots. In precincts where voting machines are used, any person whose right to vote is challenged under RCW 29.10.125 or 29.10.130(2) shall be furnished ((with)) a paper ballot, which shall be placed in a sealed envelope after being marked. Included with the challenged ballot shall be (1) an affidavit filed under RCW 29.10.130 challenging the person's right to vote or (2) an

affidavit signed by the precinct election officer and any third party involved in the officer's challenge and stating the reasons the voter is being challenged. The sealed ballots of challenged voters shall be transmitted at the close of the election to the canvassing board or other authority charged by law with canvassing the returns of the particular primary or election. The county auditor shall notify the challenger and the challenged voter, by certified mail, of the time and place at which the county canvassing board will meet to rule on challenged ballots. If the challenge is made by a precinct election officer under RCW 29.10.125, the officer must appear in person before the board unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenging officer has based his or her challenge upon evidence provided by a third party, that third party must appear with the challenging officer before the canvassing board, unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenge is filed under RCW 29.10.130, the challenger must either appear in person before the board or submit an affidavit supporting the challenge. The challenging party must prove to the canvassing board by clear and convincing evidence that the challenged voter's registration is improper. If the challenging party fails to meet this burden, the challenged ballot shall be accepted as valid and counted. The canvassing board shall give the challenged voter the opportunity to present testimony, either in person or by affidavit, and evidence to the canvassing board before making their determination. All challenged ballots must be determined no later than the time of canvassing for the particular primary or election. The decision of the canvassing board or other authority charged by law with canvassing the returns shall be final. Challenges of absentee ballots shall be determined according to RCW 29.36.100.

Sec. 3. Section 2, chapter 156, Laws of 1965 ex. sess. as last amended by section 4, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.130 are each amended to read as follows:

(1) Any registered voter may request that the registration of another voter be canceled if he or she believes that the voter does not meet the requirements of Article VI, section 1 of the state Constitution or that voter no longer maintains a legal voting residence at the address shown on his or her registration record. The challenger shall ((sign a form;)) file with the county auditor a signed affidavit subject to the penalties of perjury, to the effect that to his or her personal knowledge and belief another registered voter does not actually reside at the address as given on his or her registration record or is otherwise not a qualified voter and that the voter in question is not protected by the provisions of Article VI, section 4, of the Constitution of the state of Washington. The person filing the challenge must furnish the address at which the challenged voter actually resides ((in order to assure that proper notice will be received by the challenged voter)).

(2) Any such challenge of a voter's registration and right to vote made less than thirty days before a primary or election, special or general, shall be administered under RCW 29.10.127. The county auditor shall notify the challenged voter and the precinct election officers in the voter's precinct that a challenge has been filed, provide the name of the challenger, and instruct both the precinct election officers and the voter that, in the event the challenged voter desires to vote at the ensuing primary or election, a challenged ballot will be provided. The voter shall also be informed that the status of his or her registration and the disposition of any challenged ballot will be determined by the county canvassing board in the manner provided by RCW 29.10.127. If the challenged voter does not vote at the ensuing primary or election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the primary or election under RCW 29.10.140.

Sec. 4. Section 3, chapter 156, Laws of 1965 ex. sess. as last amended by section 5, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.140 are each amended to read as follows:

All challenges of voter registration under RCW 29.10.130 made thirty days or more before a primary or election, general or special, shall be delivered to the appropriate county auditor who shall ((send)) notify the challenged voter, by certified mail, ((a notice of intent to cancel the registration on account of a challenge of residence to that address at which the challenged voter is alleged to reside.

~~Any voter whose registration has been so challenged and who believes that the allegation is not true shall, within twenty days of such mailing, file a written response with the county auditor. The county auditor shall immediately request, by certified mail, the challenger and))~~ that his or her voter registration has been challenged.

The notification shall be mailed to the address at which the challenged voter is registered, any address provided by the challenger under RCW 29.10.130, and to any other address at which the individual whose registration is being challenged is alleged to reside or at which the county auditor would reasonably expect that individual to receive notice of the challenge of his or her voter registration. Included in the notification shall be a request that the challenged voter ((to)) appear at a ((meeting)) hearing to be held within ten days of the mailing of the request, at ((x)) the place, day, and hour ((to be)) stated ((in the request, for determination of)), in order to determine the validity of ((such)) his or her registration. The challenger shall be provided with a copy of this notification and request. If either the challenger or the challenged voter is unable to appear in person, he or she may file a reply by means of an affidavit stating under oath the reasons he or she believes the registration to be invalid or valid((, and if the challenger is unable to appear in person he or she may file a statement by means of affidavit stating the reasons he or she believes the registration to be invalid)).

If both the challenger and the challenged voter file affidavits instead of appearing in person, an evaluation of the affidavits by the county auditor constitutes a hearing for the purposes of this section.

The county auditor shall hold a hearing at which time both parties ~~((shall))~~ may present their facts and arguments. After reviewing the facts and arguments, including any evidence submitted by either side, the county auditor shall rule as to the validity or invalidity of the ~~((challenge))~~ challenged registration. His or her ruling is final subject only to a petition for judicial review by the superior court under chapter 34.04 RCW. If ~~((the challenger))~~ either party, or both parties, fail((s)) to appear at the meeting or fail((s)) to file an affidavit, the ~~((registration in question may remain in full effect as determined by the county auditor. If the challenged voter fails to appear at the meeting or fails to file an affidavit, then the registration shall be canceled and the voter so notified))~~ county auditor shall determine the status of the registration based on his or her evaluation of the available facts.

NEW SECTION. Sec. 5. Section 1, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.123 are each repealed.

Passed the House April 15, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

---

## CHAPTER 289

[Substitute Senate Bill No. 6023]

### PORT DISTRICTS—USE OF INDUSTRIAL DEVELOPMENT FACILITIES AS SECURITY—PORT PROPERTY AND FACILITIES INCLUDES CERTAIN AGRICULTURAL PRODUCT FACILITIES

AN ACT Relating to port industrial bonding; amending RCW 53.40.020; and adding a new section to chapter 53.40 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 53.40 RCW to read as follows:

The port commission of any port district, as security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, may mortgage, pledge, or otherwise encumber the particular industrial development facility or facilities or any part or parts thereof that are being financed by the revenue bonds, whether then owned or thereafter acquired, and may assign any mortgage and repledge any security conveyed to the port district for that particular facility or facilities.

Sec. 2. Section 3, chapter 59, Laws of 1957 as amended by section 2, chapter 183, Laws of 1959 and RCW 53.40.020 are each amended to read as follows:

All such revenue bonds authorized under the terms of this chapter may be issued and sold by the port district from time to time and in such amounts as is deemed necessary by the port commission to provide sufficient funds for the carrying out of all port district powers, and without limiting the generality thereof, shall include the following: Acquisition, construction, reconstruction, maintenance, repair, additions and operation of port properties and facilities, including in the cost thereof engineering, inspection, accounting, fiscal and legal expenses; the cost of issuance of bonds, including printing, engraving and advertising and other similar expenses; payment of interest on the outstanding bonds issued for any project during the period of actual construction and for six months after the completion thereof, and the proceeds of such bond issue are hereby made available for all such purposes. "Port property and facilities," as used in this section, includes facilities for the freezing or processing of agricultural products.

Passed the Senate April 21, 1987.  
Passed the House April 9, 1987.  
Approved by the Governor May 8, 1987.  
Filed in Office of Secretary of State May 8, 1987.

---

CHAPTER 290

[Substitute House Bill No. 937]

INDUSTRIAL INSURANCE—SELF-INSURED EMPLOYERS—INJURY CLAIM REPORTING REQUIREMENTS

AN ACT Relating to reports by self-insured employers; and adding a new section to chapter 51.32 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 51.32 RCW to read as follows:

On any industrial injury claim where the self-insured employer or injured worker has requested a determination by the department, the self-insurer must submit all medical reports and any other specified information not previously submitted to the department. When the department requests information from a self-insurer by certified mail, the self-insurer shall submit all information in its possession concerning a claim within ten working days from the date of receipt of such certified notice.

Passed the House March 13, 1987.  
Passed the Senate April 15, 1987.  
Approved by the Governor May 8, 1987.  
Filed in Office of Secretary of State May 8, 1987.

## CHAPTER 291

[House Bill No. 795]

## MARRIAGE SOLEMNIZATION

AN ACT Relating to marriages; and amending RCW 26.04.050.

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

Sec. 1. Section 4, page 404, Laws of 1854 as last amended by section 95, chapter 258, Laws of 1984 and RCW 26.04.050 are each amended to read as follows:

The following named officers and persons, active or retired, are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, superior court commissioners, any regularly licensed or ordained minister or any priest of any church or religious denomination, and judges of courts of limited jurisdiction as defined in RCW 3.02.010.

Passed the House April 21, 1987.

Passed the Senate April 1, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

## CHAPTER 292

[Substitute House Bill No. 1012]

PUBLIC UTILITY DISTRICT TERRITORY ANNEXATION—BOUNDARY  
CHANGES—PROCEDURES FOR ANNEXATION OF ANOTHER DISTRICT'S  
TERRITORY

AN ACT Relating to the annexation of areas currently served by a public utility district; amending RCW 54.12.010 and 54.04.035; and adding a new section to chapter 54.04 RCW.

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

Sec. 1. Section 4, chapter 1, Laws of 1931 as last amended by section 37, chapter 126, Laws of 1979 ex. sess. and RCW 54.12.010 are each amended to read as follows:

Within ten days after such election, the county canvassing board shall canvass the returns, and if at such election a majority of the voters voting upon such proposition shall vote in favor of the formation of such district, the canvassing board shall so declare in its canvass of the returns of such election, and such public utility district shall then be and become a municipal corporation of the state of Washington, and the name of such public utility district shall be Public Utility District No. . . . . of . . . . . County. The powers of the public utility district shall be exercised through a commission consisting of three members in three commissioner districts, and five members in five commissioner districts. When the public utility district

is coextensive with the limits of such county, then, at the first election of commissioners and until any change shall have been made in the boundaries of public utility district commissioner districts, one public utility district commissioner shall be chosen from each of the three county commissioner districts of the county in which the public utility district is located if the county is not operating under a "Home Rule" charter. When the public utility district comprises only a portion of the county, with boundaries established in accordance with chapter 54.08 RCW, or when the public utility district is located in a county operating under a "Home Rule" charter, three public utility district commissioner districts, numbered consecutively, having approximately equal population and boundaries, following ward and precinct lines, as far as practicable, shall be described in the petition for the formation of the public utility district, which shall be subject to appropriate change by the county legislative authority if and when they change the boundaries of the proposed public utility district, and one commissioner shall be elected from each of said public utility district commissioner districts. In all five commissioner districts an additional commissioner at large shall be chosen from each of the two at large districts. No person shall be eligible to be elected to the office of public utility district commissioner for a particular district commissioner district unless he is a registered voter of the public utility district commissioner district or at large district from which he is elected.

Except as otherwise provided, the term of office of each public utility district commissioner other than the commissioners at large shall be six years, and the term of each commissioner at large shall be four years. Each term shall be computed in accordance with RCW 29.04.170 following the commissioner's election. One commissioner at large and one commissioner from a commissioner district shall be elected at each general election held in an even-numbered year for the term of four years and six years respectively. All candidates shall be voted upon by the entire public utility district.

When a public utility district is formed, three public utility district commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such public utility district shall be formed. If the general election adopting the proposition to create the public utility district was held in an even-numbered year, the commissioner residing in commissioner district number one shall hold office for the term of six years; the commissioner residing in commissioner district number two shall hold office for the term of four years; and the commissioner residing in commissioner district number three shall hold office for the term of two years. If the general election adopting the proposition to create the public utility district was held in an odd-numbered year, the commissioner residing in commissioner district number one shall hold office for the term of five years, the commissioner in district two shall hold office for the term of three years, and the commissioner in district three shall hold office for the term of



one year. The commissioners first to be elected as above provided shall hold office from the first day of the month following the commissioners' election and their respective terms of office shall be computed from the first day of January next following the election.

All public utility district commissioners shall hold office until their successors shall have been elected and have qualified and assume office in accordance with RCW 29.04.170. A filing for nomination for public utility district commissioner shall be accompanied by a petition signed by one hundred registered voters of the public utility district which shall be certified by the county auditor to contain the required number of registered voters, and shall otherwise be filed in accord with the requirements of RCW 29.21.060. At the time of filing such nominating petition, the person so nominated shall execute and file a declaration of candidacy subject to the provisions of RCW 29.21.060, as now or hereafter amended. The petition and each page of the petition shall state whether the nomination is for a commissioner from a particular commissioner district or for a commissioner at large and shall state the districts; otherwise it shall be void. A vacancy in the office of public utility district commissioner shall occur by death, resignation, removal, conviction of a felony, nonattendance at meetings of the public utility district commission for a period of sixty days unless excused by the public utility district commission, by any statutory disqualification, or by any permanent disability preventing the proper discharge of his duty. In the event of a vacancy in said office, such vacancy shall be filled at the next general election held in an even-numbered year, the vacancy in the interim to be filled by appointment by the remaining commissioners. If more than one vacancy exists at the same time in a three commissioner district, or more than two in a five commissioner district, a special election shall be called by the county canvassing board upon the request of the remainder, or, that failing, by the county election board, such election to be held not more than forty days after the occurring of such vacancies.

A majority of the persons holding the office of public utility district commissioner at any time shall constitute a quorum of the commission for the transaction of business, and the concurrence of a majority of the persons holding such office at the time shall be necessary and shall be sufficient for the passage of any resolution, but no business shall be transacted, except in usual and ordinary course, unless there are in office at least a majority of the full number of commissioners fixed by law.

The boundaries of the public utility district commissioners' district may be changed only by the public utility district commission, and shall be examined every ten years to determine substantial equality of population, but said boundaries shall not be changed oftener than once in four years, and only when all members of the commission are present. Whenever territory is added to a public utility district under RCW 54.04.035, the boundaries of the public utility commissioners' districts shall be changed to include such

additional territory. The proposed change of the boundaries of the public utility district commissioners' district must be made by resolution and after public hearing. Notice of the time of a public hearing thereon shall be published for two weeks prior thereto. Upon a referendum petition signed by ten percent of the qualified voters of the public utility district being filed with the county auditor, the county legislative authority shall submit such proposed change of boundaries to the voters of the public utility district for their approval or rejection. Such petition must be filed within ninety days after the adoption of resolution of the proposed action. The validity of said petition shall be governed by the provisions of chapter 54.08 RCW.

Sec. 2. Section 1, chapter 101, Laws of 1983 and RCW 54.04.035 are each amended to read as follows:

In addition to other powers authorized in Title 54 RCW, public utility districts may annex territory as provided in this section.

The boundaries of a public utility district may be enlarged and new contiguous territory added pursuant to the procedures for annexation by cities and towns provided in RCW 35.13.015 through ~~((35.13.160))~~ 35.13.110. The provisions of these sections concerning community municipal corporations, review boards, and comprehensive plans, however, do not apply to public utility district annexations. For purposes of conforming with such procedures, the public utility district is deemed to be the city or town and the board of commissioners is deemed to be the city or town legislative body.

Annexation procedures provided in this section may only be used to annex territory ~~((; not located in another public utility district;))~~ that is both: (1) Contiguous to the annexing public utility district; and (2) located within the service area of the annexing public utility district. As used in this section, a public utility district's "service area" means those areas whether located within or outside of the annexing public utility district's boundaries that ~~((are))~~ were generally served with electrical energy by the annexing public utility district on January 1, 1987. Such service area may, or may not, ~~((be))~~ have been recognized in an agreement made under chapter 54.48 RCW, but no area may be included within such service area ~~((shall not be provided))~~ that was generally served with electrical energy on January 1, 1987, by another public utility as defined in RCW 54.48.010. An area proposed to be annexed may be located in the same or a different county as the annexing public utility district.

If an area proposed to be annexed is located within the boundaries of another public utility district, annexation may be initiated only upon petition of registered voters residing in the area in accordance with RCW 35.13.020 and adoption by the boards of commissioners of both districts of identical resolutions stating (a) the boundaries of the area to be annexed, (b) a determination that annexation is in the public interest of the residents of the area to be annexed as well as the public interest of their respective

districts, (c) approval of annexation by the board, (d) the boundaries of the districts after annexation, (e) the disposition of any assets of the districts in the area to be annexed, (f) the obligations to be assumed by the annexing district, (g) apportionment of election costs, and (h) that voters in the area to be annexed will be advised of lawsuits that may impose liability on the annexed territory and the possible impact of annexation on taxes and utility rates.

If annexation is approved, the area annexed shall cease to be a part of the one public utility district at the same time that it becomes a part of the other district. The annexing public utility district shall assume responsibility for providing the area annexed with the services provided by the other public utility district in the area annexed.

**NEW SECTION.** Sec. 3. A new section is added to chapter 54.04 RCW to read as follows:

When territory has been added to a public utility district in accordance with RCW 54.04.035, the supervisor of elections and other officers of the county in which the public utility district first operated shall coordinate elections, the levy and collection of taxes, and other necessary duties with the appropriate county officials of the other county.

Passed the House April 21, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

---

## CHAPTER 293

[Engrossed Substitute House Bill No. 373]

### RURAL DEVELOPMENT—STUDY ON OFFICE-INTENSIVE INDUSTRY FEASIBILITY AND TELECOMMUNICATIONS INFRASTRUCTURE

AN ACT Relating to rural development; amending RCW 80.36.380; creating new sections; and making an appropriation.

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

**NEW SECTION.** Sec. 1. It is the intent of the legislature to:

- (1) Promote economic development in the rural community through the use of telecommunications;
- (2) Find ways to diversify the rural economy by using information-intensive service-sector type businesses; and
- (3) Find ways to use telecommunications applications to stimulate the economy in agricultural areas.

The legislature therefore directs the department of community development, and the utilities and transportation commission, to investigate the feasibility of introducing office-intensive industry into agriculturally based rural communities in Washington state.

**NEW SECTION.** Sec. 2. In its study, the department of community development shall:

(1) Examine the trends in office-intensive industry and the extent to which the industry decentralizes its facilities to determine how locating such facilities in rural areas can benefit the industry and the communities in which such facilities are located.

(2) Compare the cost of locating the office sector work for these industries in the rural community to conducting the work in a nearby urban setting in Washington state. The department shall base this comparison on a specific agriculturally based rural community in this state. This comparison should include:

- (a) Cost of labor;
- (b) Turn-over rates;
- (c) Availability and cost of office space;
- (d) Occupancy costs;
- (e) Availability and qualification of labor force; and
- (f) Such other factors found pertinent to the study.

(3) Determine whether the rural community has the sufficient telecommunications infrastructure to accommodate the potential facilities. The department should consider:

- (a) The type of local exchange facilities available;
- (b) The level of sophistication of central office switching technology;
- (c) The type, availability, and choice of long distance carriers; and
- (d) A comparison of party line and private line technology and cost.

(4) Determine the feasibility and the advantages and disadvantages of an industry locating its office sector branch in a rural community as opposed to a local entrepreneur setting up the branch and contracting with the industry to supply office services.

**NEW SECTION.** Sec. 3. (1) The utilities and transportation commission shall conduct a study to determine the number of party versus private lines in the rural community selected for study under section 2 of this act, and determine the cost, feasibility, and desirability of converting to private lines. This information shall be supplied to the department of community development.

(2) The department of community development and the utilities and transportation commission shall jointly develop recommendations for a program to update rural communities about telecommunications and computer applications to farming, logging, wood products manufacturing, and aquaculture and fishing enterprises.

**NEW SECTION.** Sec. 4. The department of community development and the utilities and transportation commission shall submit the results of their studies and their recommendations to the governor and the senate and house committees on energy and utilities by January 1, 1988.

**NEW SECTION.** Sec. 5. As we become an information-based society, the communications channels that serve us become part of the state's infrastructure. They are our highways and pathways to progress. No segment of this state must be unable to avail itself of communications facilities. In order to be able to promote economic development in the rural community through the use of telecommunications, the legislature further directs the utilities and transportation commission to conduct a study of the state's telecommunications infrastructure.

Sec. 6. Section 41, chapter 450, Laws of 1985 and RCW 80.36.380 are each amended to read as follows:

The commission shall provide the legislature with an annual report on the status of the Washington telecommunications industry. The report shall describe the competitiveness of all markets as defined by the commission; the availability of diverse and affordable telecommunications services to all people of Washington, particularly to customers in rural or sparsely populated areas; and the level of rates for local exchange and interexchange telecommunications service. The report also shall address the quality and extent of the state's telecommunications infrastructure. The report also shall address the question of whether competition in certain markets has developed to such an extent that the commission recommends additional regulatory flexibility such as detariffing or total deregulation and the evidence therefor; and the need for further legislation to achieve the purposes of RCW 80.36.300 through 80.36.370 and 80.04.010. The commission shall also monitor cost of service methodologies and shall recommend to the legislature whether cost of service ratemaking shall become a standard for telecommunications services.

**NEW SECTION.** Sec. 7. The sum of forty-two thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the general fund to the department of community development for the purposes of this act.

Passed the House April 22, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

---

## CHAPTER 294

[Engrossed House Bill No. 24]

### SPECIAL FUEL USED IN LOGGING OPERATIONS ON FEDERAL LAND—EXCISE TAX EXEMPTION

AN ACT Relating to motor vehicle fuel excise tax payments; and adding a new section to chapter 82.38 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 82.38 RCW to read as follows:

There is exempted from the tax imposed by this chapter the use of special fuel for the operation of a motor vehicle as a part of or incidental to logging operations upon a highway under federal jurisdiction within the boundaries of a federal area if the federal government requires a fee for the privilege of operating the motor vehicle upon the highway, the proceeds of which are reserved for constructing or maintaining roads in the federal area, or requires maintenance or construction work to be performed on the highway for the privilege of operating the motor vehicle on the highway.

Passed the House April 22, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

## CHAPTER 295

[House Bill No. 954]

### ELECTION STATUTES—GENDERLESS DESIGNATIONS AND CORRECTIONS

AN ACT Relating to genderless designations in some of the elections statutes; amending RCW 29.04.020, 29.18.050, 29.30.060, 29.30.101, 29.30.350, 29.30.450, 29.33.180, 29.34.085, 29.36.030, 29.36.070, 29.42.020, 29.42.030, 29.42.040, 29.42.050, 29.42.070, 29.45.030, 29.80.010, and 42.17.030; and reenacting and amending RCW 42.17.240.

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

Sec. 1. Section 29.04.020, chapter 9, Laws of 1965 as last amended by section 2, chapter 361, Laws of 1977 ex. sess. and RCW 29.04.020 are each amended to read as follows:

The county auditor of each county shall be ex officio the supervisor of all primaries and elections, general or special, and it shall be ~~((his))~~ the county auditor's duty to provide places for holding such primaries and elections; to appoint the precinct election officers; to provide for their compensation; to provide ballot boxes and ballots or voting machines, poll books, or precinct lists of registered voters, and tally sheets, and deliver them to the precinct election officers at the polling places; to publish and post notices of calling such primaries and elections in the manner provided by law: **PROVIDED**, That notice of a general election held in an even-numbered year shall indicate that the office of precinct ~~((committeeman))~~ committee officer will be on the ballot; and to apportion to each city, town, or district, its share of the expense of such primaries and elections: **PROVIDED**, That this section shall not apply to general or special elections for any city, town, or district which is not subject to RCW 29.13.010 and 29.13.020, but all such elections shall be held and conducted at the time, in the manner, and by the

officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections.

Sec. 2. Section 29.18.050, chapter 9, Laws of 1955 as amended by section 4, chapter 142, Laws of 1984 and RCW 29.18.050 are each amended to read as follows:

A filing fee of one dollar shall accompany each declaration of candidacy for precinct (~~(committeeman)~~) committee officer; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with an annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary shall accompany the declaration of candidacy for any office with an annual salary of more than one thousand dollars per annum.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a nominating petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

(1) A federal or state-wide office, the fee shall be paid to the secretary of state for deposit in the state treasury.

(2) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(3) A county office or a legislative, judicial, or district office that includes territory from a single county, the fee shall be paid to the county auditor for deposit in the county treasury.

(4) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury.

Sec. 3. Section 29.30.060, chapter 9, Laws of 1965 as last amended by section 3, chapter 120, Laws of 1986 and RCW 29.30.060 are each amended to read as follows:

In counties or portions of counties using paper ballots, on or before the fifteenth day before a primary or an election, the county auditor shall prepare a sample paper ballot which (~~(he)~~) shall be displayed in a conspicuous place in (~~(his)~~) the county auditor's office for public inspection. Sample paper ballots shall be substantially in the same form as the official paper ballots but upon colored paper. The names of the candidates in the primary for each office shall be arranged on the sample ballot in the order provided by RCW 29.18.022 and 29.18.045, and the names of candidates in the general election for each office shall be in the order in which their names appear on

the official ballot, as provided in RCW 29.30.081(2), except that the position of precinct (~~(committeeman)~~) committee officer shall be shown on the general election sample ballot only by a listing of the position itself, and the names of candidates therefor need not be shown.

Sec. 4. Section 58, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.101 are each amended to read as follows:

The names of the persons certified as the nominees resulting from a primary election by the secretary of state or the county canvassing board shall be printed on the official ballot prepared for the ensuing election.

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board, or (3) a minor party convention, or (4) of the state or county central committee of a major political party to fill a vacancy on its ticket occasioned by any cause on account of which it is lawfully authorized so to do.

No person who has offered himself or herself as a candidate for the nomination of one party at the primary shall have (~~(his)~~) the person's name printed on the ballot of the succeeding general election as the candidate of another political party.

No candidate's name shall appear more than once upon the ballot, unless the name appears once for the office of precinct (~~(committeeman)~~) committee officer, in which case the name may appear not more than twice: PROVIDED, That any candidate who has been nominated by two or more political parties may, upon a written notice filed with the county auditor within three days after the certification of the canvass of the primary, designate the political party under whose title (~~(he)~~) the person desires to have his or her name placed.

Sec. 5. Section 37, chapter 361, Laws of 1977 ex. sess. as amended by section 4, chapter 120, Laws of 1986 and RCW 29.30.350 are each amended to read as follows:

In counties or portions of counties using absentee ballots designed to be tabulated on a vote tallying system, on or before the fifteenth day before a primary or an election, the county auditor shall prepare sample ballots which (~~(he)~~) shall be displayed in a conspicuous place in (~~(his)~~) the county auditor's office for public inspection. Sample ballots shall be substantially in the same form as the official ballot pages but the names of the candidates in the primary for each office shall be arranged on the sample ballot in the order provided by RCW 29.18.022 and 29.18.045, and the names of candidates in the general election for each office shall be arranged in the order in which their names appear on the official ballot, as provided in RCW 29.30.380, except that the position of precinct (~~(committeeman)~~) committee officer shall be shown on the general election sample ballot only by a listing of the position itself, and the names of candidates therefor need not be shown.



Sec. 6. Section 46, chapter 361, Laws of 1977 ex. sess. as amended by section 5, chapter 120, Laws of 1986 and RCW 29.30.450 are each amended to read as follows:

In counties or portions of counties using voting machines, on or before the fifteenth day before a primary or an election, the county auditor shall prepare a voting machine diagram which ~~((he))~~ the auditor shall display in a conspicuous place in ~~((his))~~ the auditor's office for public inspection. Voting machine diagrams shall be substantially in the same form as the official ballot labels, but the names of the candidates in the primary for each office shall be arranged on the diagram in the order provided by RCW 29.18.022 and 29.18.045, and the names of candidates in the general election for each office shall be arranged in the order in which their names appear on the official ballot labels as provided in RCW 29.30.480(2), except that the position of precinct ~~((committeeman))~~ committee officer shall be shown on the general election voting machine diagram only by a listing of the position itself, and the names of candidates therefor need not be shown. Voting machine diagrams shall also include instructions for write-in voting.

Sec. 7. Section 29.33.180, chapter 9, Laws of 1965 as amended by section 62, chapter 361, Laws of 1977 ex. sess. and RCW 29.33.180 are each amended to read as follows:

Not more than ten nor less than three days before each election at which voting machines are to be used the board or officer charged with the duty of providing ballots shall publish in newspapers representing at least two political parties a diagram of reduced size showing the face of the voting machine after the official ballot labels are arranged thereon, together with illustrated instructions how to vote and a statement of the locations of voting machines which are on public exhibition. Diagrams of voting machines used at general elections held in even-numbered years shall show the position of precinct ~~((committeeman))~~ committee officer, but need not list the names of candidates therefor. In lieu of publication thereof, the board or officer may send by mail or otherwise at least three days before the elections a printed copy of the diagram to each registered voter.

Sec. 8. Section 1, chapter 143, Laws of 1983 and RCW 29.34.085 are each amended to read as follows:

No voting device may contain the names of candidates for the offices of United States representative, state senator, state representative, county council, or county commissioner in more than one district or the names of candidates for the office of precinct ~~((committeeman))~~ committee officer in more than one precinct. In all even-year state general elections, voting devices shall be grouped by precinct and physically separated from the voting devices containing ballot pages for other precincts. For all other primaries and elections, in each polling place the voting devices containing ballot pages for candidates from each congressional, legislative, or county council or commissioner district shall be grouped together and physically separated

from those devices containing ballot pages for other districts. Each voter shall be directed by the precinct election officers to the correct group of voting devices and an explanation to the voters that separate devices are being used for specific precincts shall be prominently displayed within the polling place.

\*Sec. 9. Section 29.36.030, chapter 9, Laws of 1965 as last amended by section 77, chapter 361, Laws of 1977 ex. sess. and RCW 29.36.030 are each amended to read as follows:

***Upon receipt of the voter's signed application, the officer having jurisdiction of the election, or ((his)) the officer's duly authorized representative, shall issue an absentee ballot for the election concerned.***

At each general election in the even-numbered year, each absentee voter shall also be given a separate ballot containing the names of the candidates that have filed for the office of precinct ((committeeman)) committee officer provided that two or more candidates have filed for the same political party in the absentee voter's precinct and providing space for writing in the name of additional candidates.

***In addition, if other elections, including special or general, are also being held on the same day and it can be determined that the absentee voter is qualified to vote at such elections, such additional absentee ballots shall be automatically issued to the end that, whenever possible, each absentee voter receives the ballots for all elections ((he)) the voter would have received if ((he)) the voter had been able to vote in person.***

***The election officer, or ((his)) the officer's duly authorized representative, shall include the following additional items when issuing an absentee ballot:***

- (1) Instructions for voting.***
- (2) A size #9 envelope, capable of being sealed and free of any identification marks, for the purpose of containing the voted absentee ballot.***
- (3) A size #10 envelope, capable of being sealed and preaddressed to the issuing officer, for the purpose of returning the #9 envelope containing the marked absentee ballot.***

***Upon the left hand portion of the face of the larger envelope shall also be printed a blank statement in the following form:***

State of ..... }  
 County of ..... } ss.

***I, ....., do solemnly swear under the penalty as set forth in RCW 29.36.110 (see below), that I am a resident of and qualified voter in ..... precinct of ..... city in ..... county, Washington, that I have the legal right to vote at the election to be held in***

*said precinct on the . . . . . day of . . . . ., 19..: That I have not voted another ballot and have herein enclosed my ballot for such election.*

*(signed) .....*

**Voter**

*(date of oath) .....*

**PENALTY PROVISION:** *Any person who violates any of the provisions, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment.*

\*Sec. 9 was partially vetoed, see message at end of chapter.

\*Sec. 10. *Section 29.36.070, chapter 9, Laws of 1965 as amended by section 2, chapter 73, Laws of 1974 ex. sess. and RCW 29.36.070 are each amended to read as follows:*

*Upon the canvass of the votes, if there are on file one or more absentee ballot inner envelopes, the canvassing authority shall cause such envelopes to be opened and the absentee precinct ((committeeman)) committee officer ballot, if any, shall be physically separated from the remainder of the absentee ballot. The absentee precinct ((committeeman)) committee officer ballot shall be, subject to the provisions of RCW 29.36.075 and 29.36.077, counted separately. The remainder of the absentee ballot shall be grouped and counted without regard as to precinct by legislative districts if the election is a state primary or state election, special or general.*

*These ballots shall be made a part of the returns and handled accordingly.*

\*Sec. 10 was vetoed, see message at end of chapter.

Sec. 11. *Section 29.42.020, chapter 9, Laws of 1965 as amended by section 1, chapter 45, Laws of 1972 ex. sess. and RCW 29.42.020 are each amended to read as follows:*

The state committee of each major political party shall consist of one committeeman and one committeewoman from each county elected by the county committee at its organization meeting. It shall have a ((chairman)) chair and vice ((chairman))-chair who must be of opposite sexes. This committee shall meet during January of each odd-numbered year for the purpose of organization at a time and place designated by a sufficient notice to all the newly elected state committeemen and committeewomen by the authorized officers of the retiring committee. For the purpose of this section a notice mailed at least one week prior to the date of the meeting shall constitute sufficient notice. At its organizational meeting it shall elect its ((chairman)) chair and vice ((chairman))-chair, and such officers as its by-laws may provide, and adopt bylaws, rules and regulations. It shall have power to:

(1) Call conventions at such time and place and under such circumstances and for such purposes as the call to convention shall designate. The

manner, number and procedure for selection of state convention delegates shall be subject to the committee's rules and regulations duly adopted;

(2) Provide for the election of delegates to national conventions;

(3) Fill vacancies on the ticket for any federal or state office to be voted on by the electors of more than one county;

(4) Provide for the nomination of presidential electors; and

(5) Perform all functions inherent in such an organization.

Notwithstanding any provision of this chapter, the committee shall not set rules which shall govern the conduct of the actual proceedings at a party state convention.

Sec. 12. Section 29.42.030, chapter 9, Laws of 1965 as last amended by section 1, chapter 85, Laws of 1973 and RCW 29.42.030 are each amended to read as follows:

The county central committee of each major political party shall consist of the precinct ~~((committeemen))~~ committee officers of the party from the several voting precincts of the county. Following each state general election held in even-numbered years, this committee shall meet for the purpose of organization at an easily accessible location within the county, subsequent to the certification of precinct ~~((committeemen))~~ committee officers by the county auditor and no later than the second Saturday of the following January. The authorized officers of the retiring committee shall cause notice of the time and place of such meeting to be mailed to each precinct ~~((committeeman))~~ committee officer at least seventy-two hours prior to the date of the meeting.

At its organization meeting, the county central committee shall elect a ~~((chairman))~~ chair and vice ~~((chairman))~~ chair who must be of opposite sexes; it shall also elect a state committeeman and a state committeewoman.

Sec. 13. Section 29.42.040, chapter 9, Laws of 1965 as amended by section 6, chapter 4, Laws of 1973 and RCW 29.42.040 are each amended to read as follows:

Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his or her declaration of candidacy with the county auditor for the office of precinct ~~((committeeman))~~ committee officer of his or her party in that precinct. When elected ~~((he))~~ the precinct committee officer shall serve so long as ~~((he))~~ the committee officer remains an eligible voter in that precinct and until ~~((his))~~ a successor has been elected at the next ensuing state general election in the even-numbered year.

Sec. 14. Section 29.42.050, chapter 9, Laws of 1965 as last amended by section 7, chapter 4, Laws of 1973 and RCW 29.42.050 are each amended to read as follows:

The statutory requirements for filing as a candidate at the primaries shall apply to candidates for precinct ~~((committeeman))~~ committee officer

except that the filing period for this office alone shall be extended to and include the Friday immediately following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, and the office shall not be voted upon at the primaries, but the names of all candidates must appear under the proper party and office designations on the ballot for the general November election for each even-numbered year and the one receiving the highest number of votes shall be declared elected: PROVIDED, That to be declared elected, a candidate must receive at least ten percent of the number of votes cast for the candidate of ~~((his))~~ the candidate's party receiving the greatest number of votes in ~~((his))~~ the precinct. Any person elected to the office of precinct ~~((committeeman))~~ committee officer who has not filed a declaration of candidacy shall pay the fee of one dollar to the county auditor for a certificate of election. The term of office of precinct ~~((committeeman))~~ committee officer shall be for two years, commencing upon completion of the official canvass of votes by the county canvassing board of election returns. Should any vacancy occur in this office by reason of death, resignation, or disqualification of the incumbent, or because of failure to elect, the respective county ~~((chairman))~~ chair of the county central committee shall be empowered to fill such vacancy by appointment: PROVIDED, HOWEVER, That in legislative districts having a majority of its precincts in a class AA county, such appointment shall be made only upon the recommendation of the legislative district ~~((chairman))~~ chair: PROVIDED, That the person so appointed shall have the same qualifications as candidates when filing for election to such office for such precinct: PROVIDED FURTHER, That when a vacancy in the office of precinct ~~((committeeman))~~ committee officer exists because of failure to elect at a state general election, such vacancy shall not be filled until after the organization meeting of the county central committee and the new county ~~((chairman))~~ chair selected as provided by RCW 29.42.030.

Sec. 15. Section 1, chapter 32, Laws of 1967 ex. sess. and RCW 29.42.070 are each amended to read as follows:

Within forty-five days after the state-wide general election in even-numbered years, or within thirty days following July 30, 1967, for the biennium ending with the 1968 general elections, the county ~~((chairman))~~ chair of each major political party shall call separate meetings of all elected precinct ~~((committeemen))~~ committee officers in each legislative district a majority of the precincts of which are within a class AA county for the purpose of electing a legislative district ~~((chairman))~~ chair in such district. The district ~~((chairman))~~ chair shall hold ~~((his))~~ office until the next legislative district reorganizational meeting two years later, or until ~~((his))~~ a successor is elected.

The legislative district ~~((chairman))~~ chair can only be removed by the majority vote of the elected precinct ~~((committeemen))~~ committee officers in ~~((his))~~ the chair's district.

Sec. 16. Section 29.45.030, chapter 9, Laws of 1965 as amended by section 3, chapter 101, Laws of 1965 ex. sess. and RCW 29.45.030 are each amended to read as follows:

The precinct (~~((committeeman))~~) committee officer of each major political party shall certify to (~~((his))~~) the officer's county (~~((chairman))~~) chair a list of those persons belonging to (~~((his))~~) the officer's political party qualified to act upon the election board in (~~((his))~~) the officer's precinct.

At least sixty days prior to the primary or election the (~~((chairman))~~) chair of the county central committee of each major political party shall certify to the officer having jurisdiction of the election, a list of those persons belonging to (~~((his))~~) the county chair's political party in each precinct who are qualified to act on the election board therein.

The county (~~((chairman))~~) chair shall compile this list from the names certified by (~~((his))~~) the various precinct (~~((committeemen))~~) committee officers unless no names or not sufficient names have been certified from a precinct, in which event (~~((he))~~) the county chair may include therein the names of qualified members of (~~((his))~~) the county chair's party selected by (~~((him))~~) the county chair. The county (~~((chairman))~~) chair shall also have the authority to substitute names of persons recommended by (~~((his))~~) the precinct (~~((committeemen))~~) committee officers if in (~~((his))~~) the judgment of the county chair such persons are not qualified to serve as precinct election officers.

Sec. 17. Section 29.80.010, chapter 9, Laws of 1965 as last amended by section 1, chapter 54, Laws of 1984 and RCW 29.80.010 are each amended to read as follows:

As soon as possible before each state general election at which federal or state officials are to be elected, the secretary of state shall publish and mail to each individual place of residence of the state a candidates' pamphlet containing photographs and campaign statements of eligible nominees who desire to participate therein, together with a campaign mailing address and telephone number submitted by the nominee at the nominee's option, and in even-numbered years containing a description of the office of precinct (~~((committeeman))~~) committee officer and its duties, in order that voters will understand that the office is a state office and will be found on the ballot of the forthcoming general election. In odd-numbered years no candidates' pamphlet may be published unless an election is to be held to fill a vacancy in one or more of the following state-wide elective offices: United States senator, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, superintendent of public instruction, commissioner of public lands, insurance commissioner, or justice of the supreme court.

Sec. 18. Section 3, chapter 1, Laws of 1973 as last amended by section 1, chapter 12, Laws of 1986 and RCW 42.17.030 are each amended to read as follows:

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct (~~committeeman~~) committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405(2) through (5).

Sec. 19. Section 9, chapter 10, Laws of 1982 as last amended by section 1, chapter 34, Laws of 1984 and by section 14, chapter 125, Laws of 1984 and RCW 42.17.240 are each reenacted and amended to read as follows:

(1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) For the purposes of this section, the term "executive state officer" includes those listed in RCW 43.17.020 and those listed in RCW 42.17.2401.

(8) This section does not apply to incumbents or candidates for a federal office or the office of precinct (~~committeeman~~) committee officer.

Passed the House March 16, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 8, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 8, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to portions of section 9 and all of section 10, House Bill No. 954, entitled:

"AN ACT Relating to genderless designations in some of the elections statutes."

Parts of section 9 of this bill conflict with amendments to RCW 29.36.030 contained in section 11 of Substitute House Bill No. 614. Section 10 of this bill conflicts with section 15 of Substitute House Bill No. 614. In order to avoid confusion in the code, I have vetoed most of section 9 and all of section 10.

With these exceptions, House Bill No. 954 is approved."

---

## CHAPTER 296

[Senate Bill No. 5693]

### VOTING—EMPLOYERS TO PROVIDE WORKERS WITH AN OPPORTUNITY TO VOTE

AN ACT Relating to voting access; and adding a new section to chapter 49.28 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 49.28 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, every employer shall arrange employees' working hours on the day of a primary or election, general or special, so that each employee will have a reasonable time up to two hours available for voting during the hours the polls are open as provided by RCW 29.13.080.

If an employee's work schedule does not give the employee two free hours during the time the polls are open, not including meal or rest breaks, the employer shall permit the employee to take a reasonable time up to two hours from the employee's work schedule for voting purposes. In such a case, the employer shall add this time to the time for which the employee is paid.

(2) The provisions of this section apply only if, during the period between the time an employee is informed of his or her work schedule for a primary or election day and the date of the primary or election, there is insufficient time for an absentee ballot to be secured for that primary or election.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.



## CHAPTER 297

[Substitute House Bill No. 739]

## PRIVATE ACTIVITY BOND ALLOCATION

AN ACT Relating to private activity bond allocation; amending RCW 39.44.200; adding new sections to chapter 39.86 RCW; creating new sections; repealing RCW 39.86.010, 39.86.020, 39.86.030, 39.86.031, 39.86.040, 39.86.050, 39.86.060, 39.86.070, 39.86.900, 39.86.901, 39.86.902, 39.86.903, and 39.86.904; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. **LEGISLATIVE FINDINGS AND POLICY.** The federal tax reform act of 1986 imposes an annual ceiling on the aggregate amount of federally tax-exempt private activity bonds, including bonds for housing, student loans, exempt facilities, small issue industrial, redevelopment, and certain public utility projects, that may be issued during any calendar year by or on behalf of states and their political subdivisions. The tax reform act of 1986 establishes a private activity bond ceiling for each state of seventy-five dollars per capita for 1987 and of fifty dollars per capita for 1988 and each year thereafter. However, a study by the department of community development indicates that the dollar amount of the state ceiling is considerably less than the anticipated dollar amount for which issuers would need an allocation from the state ceiling. The tax reform act of 1986 provides a formula for allocating the annual ceiling among various issuers of private activity bonds within a state, but permits each state to enact a different allocation method that is appropriate to that state's needs. The purpose of this chapter is to provide a flexible and efficient method of allocating the annual state ceiling in Washington in a manner that recognizes the need of the state and its political subdivisions to finance activities or projects that satisfy a substantial public purpose.

**NEW SECTION.** Sec. 2. **DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Agency" means the department of community development.
- (2) "Board" means the community economic revitalization board established under chapter 43.160 RCW.
- (3) "Bonds" means bonds, notes, or other obligations of an issuer.
- (4) "Bond use category" means any of the following categories of bonds which are subject to the state ceiling: (a) Housing, (b) student loans, (c) small issue, (d) exempt facility, (e) redevelopment, (f) public utility; and (g) remainder.
- (5) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.

(6) "Code" means the federal internal revenue code of 1986 as it exists on the effective date of this section. It also means the code as amended after the effective date of this section, but only if the amendments are approved by the agency under section 9 of this act.

(7) "Director" means the director of the agency or the director's designee.

(8) "Exempt facility" means the bond use category which includes all bonds which are exempt facility bonds as described in the code, except those for qualified residential rental projects.

(9) "Firm and convincing evidence" means documentation that satisfies the director that the issuer is committed to the prompt financing of, and will issue tax exempt bonds for, the project or program for which it requests an allocation from the state ceiling.

(10) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

(11) "Initial allocation" means the portion or dollar value of the state ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with section 3 of this act.

(12) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue private activity bonds under state law.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the tax reform act of 1986.

(14) "Program" means the activities for which housing bonds or student loan bonds may be issued.

(15) "Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.

(16) "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

(17) "Remainder" means that portion of the state ceiling remaining after initial allocations are made under section 3 of this act for any other bond use category.

(18) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

(19) "State" means the state of Washington.

(20) "State ceiling" means the volume limitation for each calendar year on tax-exempt private activity bonds, as imposed by the code.

(21) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code.

**NEW SECTION.** Sec. 3. INITIAL ALLOCATION. (1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:

<u>Bond Use Category</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990 and thereafter</u>
Housing	5%	25%	25%	35%
Student Loans	10%	15%	15%	15%
Exempt Facility	40%	20%	20%	35%
Public Utility	10%	10%	10%	10%
Small Issue	30%	25%	25%	0%
Remainder and redevelopment	5%	5%	5%	5%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in section 4 of this act.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in section 4 of this act.

(5)(a) Prior to September 1 of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning September 1 of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in section 4 of this act.

**NEW SECTION.** Sec. 4. CRITERIA. (1) In granting an allocation, reallocation, or carryforward of the state ceiling as provided in this chapter, the agency shall consider existing state priorities and other such criteria, including but not limited to, the following criteria:

(a) Need of issuers to issue private activity bonds within a bond use category;

(b) Amount of the state ceiling available;

(c) Public benefit and purpose to be satisfied, including economic development, educational opportunity, and public health, safety, or welfare;

(d) Cost or availability of alternative methods of financing for the project or program; and

(e) Certainty of using the allocation which is being requested.

(2) In determining whether to allocate an amount of the state ceiling to an issuer within any bond use category, the agency shall consider, but is not limited to, the following criteria for each of the bond use categories:

(a) Housing: Criteria which comply with RCW 43.180.200.

(b) Student loans: Criteria which comply with the applicable provisions of Title 28B RCW and rules adopted by the higher education coordinating board or applicable state agency dealing with student financial aid.

(c) Small issue: Recommendation by the board regarding how the amount of the state ceiling set aside for the small issue bond use category shall be allocated among issuers. Factors may include:

(i) The number of employment opportunities the project is likely to create or retain in relation to the amount of the bond issuance;

(ii) The level of unemployment existing in the geographic area likely to be affected by the project;

(iii) A commitment to providing employment opportunities to low-income persons in cooperation with the employment security department;

(iv) Geographic distribution of projects;

(v) The number of persons who will benefit from the project;

(vi) Consistency with criteria identified in subsection (1) of this section;

(vii) Order in which requests were received; and

(viii) Requirements of the board's umbrella bond program.

(d) Exempt facility or redevelopment: Factors which may include:

(i) State issuance needs;

(ii) Consistency with criteria identified in subsection (1) of this section;

(iii) Order in which requests were received;

(iv) The proportionate number of persons in relationship to the size of the community who will benefit from the project; and

(v) The unique timing and issuance needs of large scale projects that may require allocations in more than one year.

(e) Public utility: Factors which may include:

(i) Consistency with criteria identified in subsection (1) of this section; and

(ii) Timing needs for issuance of bonds over a multi-year period.

**NEW SECTION.** Sec. 5. PROCEDURE FOR OBTAINING STATE CEILING ALLOCATION. (1) No issuer may receive an allocation of the state ceiling without a certificate of approval from the agency.

(2)(a) For each state ceiling allocation request, an issuer shall submit to the agency, no sooner than ninety days prior to the beginning of a calendar year for which an allocation of the state ceiling is being requested, a form identifying:

(i) The amount of the allocation sought;

(ii) The bond use category from which the allocation sought would be made;

(iii) The project or program for which the allocation is requested;  
(iv) The financing schedule for which the allocation is needed; and  
(v) Any other such information required by the agency, including information which corresponds to the allocation criteria of section 4 of this act.

(b) Nothing in (a) of this subsection precludes a public utility issuer from filing and the agency from considering a request at such times as may be appropriate in order to meet the criteria set forth in section 4(2)(e)(ii) of this act.

(3) The agency may approve or deny an allocation for all or a portion of the issuer's request. Any denied request, however, shall remain on file with the agency for the remainder of the calendar year and shall be considered for receiving any allocation, reallocation, or carryforward of unused portions of the state ceiling during that period.

(4) After receiving an allocation request, the agency shall mail to the requesting issuer a written certificate of approval or notice of denial for an allocation amount, by a date no later than the latest of the following:

(a) Forty-five days from the effective date of this section;

(b) February 1 of the calendar year, other than 1987, for which the request is made;

(c) Fifteen days from the date the agency receives an allocation request; or

(d) Fifteen days from the date the agency receives a recommendation by the board with regard to a small issue allocation request, should the board choose to review individual requests.

(5)(a) For requests of the state ceiling of any calendar year, the following applies to all bond use categories except housing and student loans:

(i) Except for housing and student loans, any allocations granted prior to April 1, for which bonds have not been issued by September 1 of the same calendar year, shall revert to the agency on September 1 of the same calendar year for reallocation unless an extension or carryforward is granted;

(ii) Except for housing and student loans, any allocations granted on or after April 1, for which bonds have not been issued by December 15 of the same calendar year, shall revert to the agency on December 15 of the same calendar year for reallocation unless an extension or carryforward is granted.

(b) For each calendar year, any housing or student loan allocations, for which bonds have not been issued by December 15 of the same calendar year, shall revert to the agency on December 15 of the same calendar year for reallocation unless an extension or carryforward is granted.

(6) An extension of the deadlines provided by subsection (5) of this section may be granted by the agency for the approved allocation amount or a portion thereof, based on:

(a) Firm and convincing evidence that the bonds will be issued before the end of the calendar year if the extension is granted; and

(b) Any other criteria the agency deems appropriate.

(7) If an issuer determines that bonds subject to the state ceiling will not be issued for the project or program for which an allocation was granted, the issuer shall promptly notify the agency in writing so that the allocation may be canceled and the amount may be available for reallocation.

(8) Bonds subject to the state ceiling may be issued only to finance the project or program for which a certificate of approval is granted.

(9) Within three business days of the date that bonds for which an allocation of the state ceiling is granted have been delivered to the original purchasers, the issuer shall mail to the agency a written notification of the bond issuance. In accordance with chapter 39.44 RCW, the issuer shall also complete bond issuance information on the form provided by the agency.

(10) If the total amount of tax-exempt bonds issued for a project or program is less than the amount allocated, the remaining portion of the allocation shall revert to the agency for reallocation in accordance with the criteria in section 4 of this act. If the amount of tax-exempt bonds actually issued under the state ceiling is greater than the amount allocated, the entire allocation shall be disallowed.

**NEW SECTION.** Sec. 6. REALLOCATION PROCESS AND CARRYFORWARDS. (1) Beginning September 1 of each calendar year, the agency may allocate or reallocate any portions of the state ceiling for which no certificate of approval is in effect. Reallocations may also be made from the remainder category at any time during the year.

(2) Prior to the end of each calendar year, the agency shall allocate or reallocate any unused portions of the state ceiling among one or more issuers as carryforward, to be used within three years, in accordance with the code and relevant criteria described in section 4 of this act.

**NEW SECTION.** Sec. 7. EXECUTIVE ORDERS. If federal legislation is enacted or federal regulations are promulgated which affect the state ceiling, when the legislature is not in session or is less than forty-five days from the constitutional end of session, the governor may establish by executive order an alternative system for the allocation of tax-exempt bonds under the state ceiling, effective until the legislature acts. In allocating or reallocating under this section, the governor shall take into account the requirements of federal law, the policy choices expressed in state law, and the projected needs of issuers.

**NEW SECTION.** Sec. 8. FEES. A fee schedule shall be established by rule by the agency to assist in support of bond allocation activities. Fees shall reflect costs actually incurred or expected to be incurred by the agency in its bond allocation activities.

**NEW SECTION.** Sec. 9. CODE AMENDMENTS. In order to permit the full use of the authorized state ceiling under federal law, the agency may adopt rules approving any amendments made to the code after the effective date of this section.

**NEW SECTION.** Sec. 10. ANNUAL REPORT. By February 1 of each year, the agency shall summarize for the legislature each previous year's bond allocation requests and issuance. Beginning in June of 1988 and thereafter in June of each even-numbered year, the agency shall also submit a biennial report summarizing usage of the bond allocation proceeds and any policy concerns for future bond allocations.

**NEW SECTION.** Sec. 11. RATIFICATION. Any state ceiling allocations taken prior to the effective date of this section in conformance with the code and an applicable executive order of the governor are ratified and confirmed and shall remain in full force and effect notwithstanding any other provision of this act.

Sec. 12. Section 5, chapter 130, Laws of 1985 and RCW 39.44.200 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 39.44.200 through 39.44.240.

(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. 13. REPEALER. The following acts or parts of acts are each repealed:

- (1) Section 16, chapter 446, Laws of 1985 and RCW 39.86.010;
- (2) Section 17, chapter 446, Laws of 1985 and RCW 39.86.020;
- (3) Section 18, chapter 446, Laws of 1985 and RCW 39.86.030;
- (4) Section 2, chapter 247, Laws of 1986 and RCW 39.86.031;
- (5) Section 19, chapter 446, Laws of 1985 and RCW 39.86.040;
- (6) Section 20, chapter 446, Laws of 1985 and RCW 39.86.050;
- (7) Section 21, chapter 446, Laws of 1985 and RCW 39.86.060;
- (8) Section 22, chapter 446, Laws of 1985 and RCW 39.86.070;
- (9) Section 23, chapter 446, Laws of 1985 and RCW 39.86.900;
- (10) Section 24, chapter 446, Laws of 1985 and RCW 39.86.901;
- (11) Section 27, chapter 446, Laws of 1985 and RCW 39.86.902;

(12) Section 28, chapter 446, Laws of 1985 and RCW 39.86.903; and  
(13) Section 30, chapter 446, Laws of 1985 and RCW 39.86.904.

**NEW SECTION.** Sec. 14. SEVERABILITY. 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. CAPTIONS. As used in this act, captions constitute no part of the law.

**NEW SECTION.** Sec. 16. LEGISLATIVE DIRECTIVE. Sections 1 through 10 of this act are each added to chapter 39.86 RCW.

**NEW SECTION.** Sec. 17. EMERGENCY CLAUSE. 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, 1987.  
Passed the Senate April 13, 1987.  
Approved by the Governor May 8, 1987.  
Filed in Office of Secretary of State May 8, 1987.

---

CHAPTER 298

[Engrossed House Bill No. 39]

SPECIAL DISTRICTS—TRANSFER OF TERRITORY—FILLING OF VACANCIES—  
SPECIAL ASSESSMENT BONDS OR NOTES—LEGISLATIVE BUDGET  
COMMITTEE TO REVIEW SPECIAL DISTRICTS

AN ACT Relating to special districts; amending RCW 85.38.070, 85.38.080, 85.38.190, and 85.38.240; adding a new section to chapter 85.38 RCW; adding a new chapter to Title 44 RCW; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 85.38 RCW to read as follows:

Territory that is located in one special district may be transferred from that special district to another special district as provided in this section, if a portion of this territory is coterminous with a portion of the boundaries of the special district to which it is transferred. Such a transfer shall be accomplished using the procedures in RCW 85.38.200 for annexing territory, except that the governing body of both special districts must approve the transfer and make findings that the transfer is in the public interest and that the special district to which the territory is transferred is better able to provide the activities and facilities serving the territory than the special district from which the territory is transferred.

Property in the territory so transferred shall remain liable for any special assessments of the special district from which it was transferred, if the



special assessments are associated with bonds or notes used to finance facilities serving the property, to the same extent as if the transfer had not occurred.

A transfer of territory also may include the transfer of property, facilities, and improvements owned by one special district to the other special district, with or without consideration being paid.

Sec. 2. Section 8, chapter 396, Laws of 1985 as amended by section 42, chapter 278, Laws of 1986 and RCW 85.38.070 are each amended to read as follows:

(1) Except as provided in RCW 85.38.090, each special district shall be governed by a three-member governing body. The term of office for each member of a special district governing body shall be six years and until his or her successor is elected and qualified. One member of the governing body shall be elected at the time of special district general elections and, each odd-numbered year for a term of six years beginning as provided in RCW 29.04.170 for assumption of office by elected officials of cities.

(2) The terms of office of members of the governing bodies of special districts, who are holding office on July 28, 1985, shall be altered to provide staggered six-year terms as provided in this subsection. The member who on July 28, 1985, has the longest term remaining shall have his or her term altered so that the position will be filled at the December, 1991, special district general election; the member with the second longest term remaining shall have his or her term altered so that the position will be filled at the December, 1989, special district general election; and the member with the third longest term of office shall have his or her term altered so that the position will be filled at the December, 1987, special district general election.

(3) The initial members of the governing body of a newly created special district shall be appointed by the legislative authority of the county within which the special district, or the largest portion of the special district, is located. These initial governing body members shall serve until their successors are elected and qualified at the next special district general election held at least ninety days after the special district is established. At that election the first elected members of the governing body shall be elected. No primary elections may be held. Any voter of a special district may become a candidate for such a position by filing written notice of this intention with the governing body of the special district at least thirty, but not more than sixty, days before a special district general election. The names of all candidates for such positions shall be listed alphabetically. At this first election, the candidate receiving the greatest number of votes shall have a six-year term, the candidate receiving the second greatest number of votes shall have a four-year term, and the candidate receiving the third greatest number of votes shall have a two-year term of office. The initially elected members of a governing body shall take office immediately when qualified as defined in

RCW 29.01.135. Thereafter the candidate receiving the greatest number of votes shall be elected for a six-year term of office. Members of a governing body shall hold their office until their successors are elected and qualified, and assume office as provided in RCW 29.04.170.

(4) Whenever a vacancy occurs in the governing body of a special district, the legislative authority of the county within which the special district, or the largest portion of the special district, is located, shall appoint a district voter to serve ~~((the remaining term of office))~~ until a person is elected, at the next special district election occurring sixty or more days after the vacancy has occurred, to serve the remainder of the unexpired term. The person so elected shall take office immediately when qualified as defined in RCW 29.01.135.

If an election for the position which became vacant would otherwise have been held at this special district election, only one election shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29.01.135 and shall serve both the remainder of the unexpired term and the succeeding term. A vacancy occurs upon the death, resignation, or incapacity of a governing body member or whenever the governing body member ceases being a qualified voter of the special district.

(5) An elected or appointed member of a special district governing body must be a qualified voter of the special district: PROVIDED, That the state, its agencies and political subdivisions, or their designees under RCW 85.38.010(3) shall not be eligible for election or appointment.

Sec. 3. Section 9, chapter 396, Laws of 1985 and RCW 85.38.080 are each amended to read as follows:

Each member of a governing body of a special district, whether elected or appointed, shall enter into a bond, payable to the special district. The bond shall be in the sum of not less than one thousand dollars nor more than five thousand dollars, as determined by the county legislative authority of the county within which the special district, or the largest portion of the special district, is located. The bond shall be conditioned on the faithful performance of his or her duties as a member of the governing body of the special district and shall be filed with the county ~~((treasurer))~~ clerk of the county within which the special district, or the largest portion of the special district, is located.

Sec. 4. Section 50, chapter 278, Laws of 1986 and RCW 85.38.190 are each amended to read as follows:

~~((Special districts shall have authority to enter into contracts for the construction of any improvement authorized by law, or for labor, materials, or equipment entering therein, without public bidding, with the written approval and consent of the governing body in instances of genuine emergency to be declared by the governing body or in any instance where the contract price does not exceed ten thousand dollars.))~~

Any proposed improvement or part thereof, not exceeding five thousand dollars in cost, may be constructed by district employees: PROVIDED, That this shall not restrict a special district from using volunteer labor and equipment on improvements, and providing reimbursement for actual expenses.

Sec. 5. Section 19, chapter 278, Laws of 1986 and RCW 85.38.240 are each amended to read as follows:

(1) Special assessment bonds and notes issued by special districts shall be issued and sold in accordance with chapter 39.46 RCW, except as otherwise provided in this chapter. The maximum term of any special assessment bond issued by a special district shall be twenty years. The maximum term of any special assessment note issued by a special district shall be five years.

(2) The governing body of a special district issuing special assessment bonds or notes shall create a special fund or funds, or use an existing special fund or funds, from which, along with any special assessment bond guaranty fund the special district has created, the principal of and interest on the bonds or notes exclusively are payable.

(3) The governing body of a special district may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on special assessment bonds or notes, and premiums on special assessment bonds or notes, if any. Such covenants may include, but are not limited to, depositing certain special assessments into a special fund or funds, and establishing, maintaining, and collecting special assessments which are to be placed into the special fund or funds. The special assessments covenanted to be placed into such a special fund or funds after June 11, 1986, only may include all or part of the new system of special assessments imposed for such purposes, pursuant to RCW 85.38.150 and 85.38.160. ~~((However, the special assessments covenanted to be placed into the special fund or funds from which the funding or refunding special assessment bonds or notes to be funded or refunded were payable:))~~ Special assessment bonds or notes issued after the effective date of this 1987 section may not be payable from special assessments imposed under authorities other than those provided in chapter 85.38 RCW.

(4) A special assessment bond or note issued by a special district shall not constitute an indebtedness of the state, either general or special, nor of the county, either general or special, within which all or any part of the special district is located. A special assessment bond or note shall not constitute a general indebtedness of the special district issuing the bond or note, but is a special obligation of the special district and the interest on and principal of the bond or note shall be payable only from special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created.

The owner of a special assessment bond or note, or the owner of an interest coupon, shall not have any claim for the payment thereof against the special district arising from the special assessment bond or note, or interest coupon, except for payment from the special fund or funds, the special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created. The owner of a special assessment bond or note, or the owner of an interest coupon, issued by a special district shall not have any claim against the state, or any county within which all or part of the special district is located, arising from the special assessment bond, note, or interest coupon. The special district issuing the special assessment bond or note shall not be liable to the owner of any special assessment bond or note, or owner of any interest coupon, for any loss occurring in the lawful operation of its special assessment bond guaranty fund.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each special assessment bond or note that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds or notes.

**NEW SECTION.** Sec. 6. The legislature finds that numerous special purpose districts for a wide range of purposes have been established throughout the state. The legislature finds that review of the authority to establish these districts is an important factor in maintaining control of the increasing number of governmental entities in this state.

**NEW SECTION.** Sec. 7. (1) The legislative budget committee in cooperation with the committee on governmental operations in the senate and the committee on local government in the house of representatives shall review the authority to establish the special purpose districts under subsection (2) of this section and make recommendations for the continuation, termination, or modification of the special purpose districts. In conducting the review, the following factors shall be considered:

(a) The extent to which the special purpose districts have complied with legislative intent;

(b) The extent to which the special purpose districts are operating in an efficient and economical manner which results in optimum performance;

(c) The extent to which the special purpose districts are operating in the public interest by effectively providing a needed service that should be continued rather than modified, consolidated, or eliminated;

(d) The extent to which the special purpose districts duplicate the activities of other special purpose districts or of the private sector, where appropriate; and

(e) The extent to which the termination or modification of the special purpose districts would adversely affect the public health, safety, or welfare.

(2) By January 1, 1988, a schedule shall be established to review the following districts with the review completed by January 15, 1993: Aquifer

protection areas under chapter 36.36 RCW; airport districts under RCW 14.08.290 through 14.08.330; cemetery districts under chapter 68.16 RCW; conservation districts under chapter 89.08 RCW; county rail districts under chapter 36.60 RCW; cultural arts, stadium, and convention districts under chapter 67.38 RCW; diking districts under chapter 85.05 RCW; diking and drainage improvement districts under chapter 85.15 RCW; diking, drainage, drainage improvement districts, and sewerage improvement districts under chapter 85.15 RCW; diking, drainage, and irrigation improvement districts under RCW 85.22.010; diking improvement districts under chapter 85.15 RCW; drainage districts under chapter 85.06 RCW; emergency medical services districts under RCW 36.32.480; ferry districts under RCW 36.54.080 through 36.54.100; fire protection districts under Title 52 RCW; flood control districts under chapter 86.09 RCW; flood control zone districts under chapter 86.15 RCW; health districts under chapter 70.46 RCW; housing authorities under chapter 35.82 RCW; intercounty diking and drainage districts under chapter 85.24 RCW; irrigation districts under Title 87 RCW; irrigation and rehabilitation districts under chapter 87.84 RCW; legal authorities under RCW 87.03.825 through 87.03.840; library districts under chapter 27.12 RCW; metropolitan municipal corporations districts under chapter 35.58 RCW; mosquito control districts under chapter 17.28 RCW; operating agencies under chapter 43.52 RCW; county park and recreation service areas under RCW 36.68.400; metropolitan park districts under chapter 35.61 RCW; park and recreation districts under chapter 36.69 RCW; pest districts under chapter 17.12 RCW; port districts under Title 53 RCW; public hospital districts under chapter 70.44 RCW; public utility districts under Title 54 RCW; public waterway districts under chapter 91.08 RCW; reclamation districts under chapter 89.30 RCW; river and harbor improvement districts under chapter 88.32 RCW; road districts under RCW 36.75.060; service districts under chapter 36.83 RCW; sewer districts under Title 56 RCW; sewerage improvement districts under chapter 85.15 RCW; solid waste collection districts under chapter 36.58A RCW; transit districts under chapters 36.57 and 36.57A RCW; television reception improvement districts under chapter 36.95 RCW; water districts under Title 57 RCW; regular weed districts under chapter 17.04 RCW; and intercounty weed districts under chapter 17.06 RCW.

(3) The recommendations shall be reported to the legislature, the special purpose districts concerned, and the state library.

**NEW SECTION.** Sec. 8. This chapter shall expire June 30, 1993.

**NEW SECTION.** Sec. 9. Sections 6 through 8 of this act shall constitute a new chapter in Title 44 RCW.

Passed the House April 15, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

CHAPTER 299

[Substitute House Bill No. 244]

DISCLOSURE OF MOTOR VEHICLE OWNER—NOTICE SHALL BE SENT TO THE OWNER

AN ACT Relating to exemptions from public disclosure; and amending RCW 46.12.380. Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 241, Laws of 1984 and RCW 46.12.380 are each amended to read as follows:

Notwithstanding the provisions of chapter 42.17 RCW, the name or address of an individual vehicle owner shall not be released by the department, county auditor, or other public agency except upon written request, signed by the person requesting disclosure, stating their full legal name and address. The request for disclosure is itself a public record, subject to inspection and copying, and shall be retained by the disclosing agency for two years.

~~((When deemed appropriate by the disclosing agency;))~~ Notice that such a disclosure request has been honored ~~((may))~~ shall be sent to the affected vehicle owner by the disclosing agency, indicating the name and address of the person requesting disclosure.

This section shall not apply to persons who routinely request disclosure of vehicle registration information for use in the course of their business or occupation.

- Passed the House April 20, 1987.
- Passed the Senate April 14, 1987.
- Approved by the Governor May 8, 1987.
- Filed in Office of Secretary of State May 8, 1987.

CHAPTER 300

[House Bill No. 549]

CENTENNIAL COMMISSION—CIVIL SERVICE EXEMPTION FOR ONE DEPUTY EXECUTIVE SECRETARY

AN ACT Relating to the Washington centennial commission; and adding a new section to chapter 41.06 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.06 RCW to read as follows:

(1) In addition to the exemptions set forth in RCW 41.06.070, this chapter shall not apply to one deputy executive secretary of the Washington centennial commission.

(2) This section shall expire December 31, 1989.

Passed the House April 22, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

## CHAPTER 301

[Substitute House Bill No. 695]

### REAL PROPERTY TAX EXEMPTION FOR SENIOR CITIZENS AND DISABLED PERSONS—INCOME LIMITS AND EXEMPTION AMOUNTS INCREASED

AN ACT Relating to property tax exemptions for senior citizens and disabled persons; amending RCW 84.36.381; and creating a new section.

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

Sec. 1. Section 1, chapter 182, Laws of 1974 ex. sess. as last amended by section 5, chapter 11, Laws of 1983 1st ex. sess. and RCW 84.36.381 are each amended to read as follows:

A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of January 1st of the year for which the exemption is claimed: **PROVIDED**, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year: **PROVIDED FURTHER**, That confinement of the person to a hospital or nursing home shall not disqualify the claim of exemption if the residence is temporarily unoccupied or if the residence is occupied by a spouse and/or a person financially dependent on the claimant for support;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant, and any lease for life shall be deemed a life estate;

(3) The person claiming the exemption must have been sixty-one years of age or older on January 1st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful

employment by reason of physical disability: PROVIDED, That any surviving spouse of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the preceding year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve.

(5) (a) A person who otherwise qualifies under this section and has a combined disposable income of ~~((fifteen))~~ eighteen thousand dollars or less shall be exempt from all excess property taxes; and ~~((in addition~~

~~(a) For taxes first due in 1984, a person who otherwise qualifies under this section and has a combined disposable income of twelve thousand dollars or less shall be exempt from all regular property taxes on up to twenty thousand dollars of the valuation of his or her residence; and))~~

(b) ~~((For taxes first due in 1985 and thereafter:))~~ (i) A person who otherwise qualifies under this section and has a combined disposable income of ~~((twelve))~~ fourteen thousand dollars or less but greater than ~~((nine))~~ twelve thousand dollars shall be exempt from all regular property taxes on the greater of twenty-four thousand dollars or thirty percent of the valuation of his or her residence, but not to exceed forty thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of ~~((nine))~~ twelve thousand dollars or less shall be exempt from all regular property taxes on the greater of ~~((twenty-five))~~ twenty-eight thousand dollars or fifty percent of the valuation of his or her residence.

NEW SECTION. Sec. 2. This act shall be effective for taxes levied for collection in 1989 and thereafter.

Passed the House April 22, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.



## CHAPTER 302

[Engrossed Senate Bill No. 5120]

VEHICLE AND VESSEL TITLING AND REGISTRATION—COUNTY AUDITOR  
AND AGENT FEES INCREASED—BAD CHECK REMEDY—CERTAIN  
IMMUNITIES GRANTED

AN ACT Relating to the titling, registration, and licensing of vehicles and vessels; amending RCW 46.01.140 and 46.01.230; adding a new section to chapter 46.01 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. Section 12, chapter 380, Laws of 1985 and RCW 46.01.140 are each amended to read as follows:

The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle upon the public highways of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of one dollar for each application in addition to any other fees required by law. Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of three dollars in addition to any other fees required by law. These additional fees, if paid to the county auditor as agent of the director, or if paid to an agent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his expenses in handling the application: PROVIDED, That an agent of the county auditor is entitled to an additional service charge of ~~((one dollar and seventy-five cents))~~ two dollars: PROVIDED FURTHER, That if the fee is collected by the state patrol or the department of transportation, as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such filing fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

Sec. 2. Section 44, chapter 170, Laws of 1965 ex. sess. as last amended by section 39, chapter 136, Laws of 1979 ex. sess. and RCW 46.01.230 are each amended to read as follows:

(1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified by certified mail that such certificate, license, or permit has been canceled pursuant to this section.

(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution, and where they have collected restitution may retain the reasonable handling fee. The amount of the reasonable handling fee may be set by rule by the director.

NEW SECTION. Sec. 3. A new section is added to chapter 46.01 RCW to read as follows:

No civil suit or action may ever be commenced or prosecuted against any county auditor, or against any other government officer or entity, or against any other person, by reason of any act done or omitted to be done in connection with the titling, licensing, or registration of vehicles or vessels while administering duties and responsibilities as an agent of the director of licensing, or as an agent of an agent of the director of licensing, pursuant to RCW 46.01.140. However, this section does not bar the state of

Washington or the director of licensing from bringing any action, whether civil or criminal, against any such agent, nor shall it bar a county auditor or other agent of the director from bringing an action against his or her agent.

**NEW SECTION.** Sec. 4. Section 3 of this act shall apply retroactively to all claims for which actions have not been filed before the effective date of section 3 of this act.

**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. Section 3 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 26, 1987.

Passed the House April 23, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

## CHAPTER 303

[Engrossed Senate Bill No. 5882]

### CONTRACTORS—INSURANCE AND FINANCIAL RESPONSIBILITY REQUIREMENTS

AN ACT Relating to contractors insurance; and amending RCW 18.27.050.

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

Sec. 1. Section 5, chapter 77, Laws of 1963 and RCW 18.27.050 are each amended to read as follows:

~~((At the time of registration the applicant shall furnish to the director satisfactory evidence that the applicant has procured and has in effect public liability and property damage insurance covering the applicant's contracting operations in the sum of not less than twenty thousand dollars for injury or damage to property and fifty thousand dollars for injury or damage including death to any one person and one hundred thousand dollars for injury or damage including death to more than one person.~~

~~In the event that such insurance shall cease to be effective the registration of the contractor shall be suspended until such insurance shall be reinstated:))~~

(1) At the time of registration and subsequent re-registration, the applicant shall furnish insurance or financial responsibility in the form of an assigned account in the amount of twenty thousand dollars for injury or

damages to property, and fifty thousand dollars for injury or damage including death to any one person, and one hundred thousand dollars for injury or damage including death to more than one person or financial responsibility to satisfy these amounts.

(2) Failure to maintain insurance or financial responsibility relative to the contractor's activities shall be cause to suspend or deny the contractor his or her or their registration.

(3)(a) Proof of financial responsibility authorized in this section may be given by providing, in the amount required by subsection (1) of this section, an assigned account acceptable to the department. The assigned account shall be held by the department to satisfy any execution on a judgment issued against the contractor for damage to property or injury or death to any person occurring in the contractor's contracting operations, according to the provisions of the assigned account agreement. The department shall have no liability for payment in excess of the amount of the assigned account.

(b) The assigned account filed with the director as proof of financial responsibility shall be canceled at the expiration of three years after:

(i) The contractor's registration has expired or been revoked; or

(ii) The contractor has furnished proof of insurance as required by subsection (1) of this section;

if, in either case, no legal action has been instituted against the contractor or on the account at the expiration of the three-year period.

(c) If a contractor chooses to file an assigned account as authorized in this section, the contractor shall, on any contracting project, notify each person with whom the contractor enters into a contract or to whom the contractor submits a bid that the contractor has filed an assigned account in lieu of insurance and that recovery from the account for any claim against the contractor for property damage or personal injury or death occurring in the project requires the claimant to obtain a court judgment.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

---

## CHAPTER 304

[Engrossed Second Substitute House Bill No. 221]

### TELECOMMUNICATIONS DEVICES FOR THE HEARING IMPAIRED

AN ACT Relating to telecommunications devices for the hearing impaired; adding new sections to chapter 43.20A RCW; creating new sections; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. The legislature finds that it is more difficult for hearing impaired people to have access to the telecommunications system than hearing persons. It is imperative that hearing impaired people be able to reach government offices and health, human, and emergency services with the same ease as other taxpayers. Regulations to provide telecommunications devices for the deaf with a relay system will help ensure that the hearing impaired community has equal access to the public accommodations and telecommunications system in the state of Washington in accordance with chapter 49.60 RCW.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.20A RCW to read as follows:

"Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

"Telecommunications device for the deaf (TDD)" means a teletypewriter that has a typewriter keyboard and a readable display that couples with the telephone, allowing messages to be typed rather than spoken. The device allows a person to make a telephone call directly to another person possessing similar equipment. The conversation is typed through one machine to the other machine instead of spoken.

"TDD relay system" is a service for hearing impaired people who have a TDD to call someone who does not have a TDD or vice versa. The service consists of several telephones being utilized by TDD relay service operators who receive either TDD or voice phone calls. If a TDD relay service operator receives a phone call from a hearing impaired person wishing to call a hearing person, the operator will call the hearing person and act as an intermediary by translating what is displayed on the TDD to voice and typing what is voiced into the TDD to be read by the deaf caller. This process can also be reversed with a hearing person calling a deaf person through the TDD relay service.

"Qualified trainer" is a person who is knowledgeable about TDDs, signal devices, and amplifying accessories; familiar with the technical aspects of equipment designed to meet hearing impaired people's needs; and is fluent in American sign language.

"Qualified contractor" shall have bilingual staff available for quality language/cultural interpretations; quality training of operators; and policies, training, and operational procedures to be determined by the office.

"The department" means the department of social and health services of the state of Washington.

"Office" means the office of deaf services within the state department of social and health services.

**NEW SECTION.** Sec. 3. A new section is added to chapter 43.20A RCW to read as follows:

(1) The department shall design and implement a program whereby TDDs, signal devices, and amplifying accessories capable of serving the needs of the hearing impaired shall be provided at no charge additional to the basic exchange rate, to an individual of school age or older, who is certified as hearing impaired by a licensed physician, audiologist, or a qualified state agency, and to any subscriber that is an organization representing the hearing impaired, as determined and specified by the TDD advisory committee. For the purpose of this section, certification implies that individuals cannot use the telephone for expressive or receptive communications due to hearing impairment.

(2) The office shall award contracts on a competitive basis, to qualified persons for which eligibility to contract is determined by the office, for the distribution and maintenance of such TDDs, signal devices, and amplifying accessories as shall be determined by the office. Such contract shall include a provision for the employment and use of a qualified trainer and the training of recipients in the use of such devices.

(3) TDDs, signal devices, and amplifying accessories shall be made available to qualified recipients by December 1, 1987.

NEW SECTION. Sec. 4. A new section is added to chapter 43.20A RCW to read as follows:

(1) The department advisory committee on deafness shall establish a TDD advisory committee to study the feasibility of implementing a state-wide telecommunications relay system. The TDD advisory committee shall consist of individuals from hearing impaired communities, representatives from the department, utilities and transportation commission, agencies and services serving the hearing impaired, and local exchange companies in the state. In order to develop and implement a state-wide relay system providing cost-effective relay centers at a reasonable cost and that will meet the requirements of the hearing impaired, the TDD advisory committee shall investigate options, conduct public hearings to determine the most cost-effective method of creating a state-wide relay system providing relay centers to the hearing impaired, and solicit the advice, counsel, and assistance of interested parties and nonprofit consumer organizations for hearing impaired persons state-wide. Such committee shall begin the study within thirty days of the effective date of this section, to be completed within six months after the study begins. The TDD advisory committee, shall also, in conjunction with the department, monitor the activities and moneys that is being spent by the department for the program herein.

(2) Pursuant to the recommendations of the TDD advisory committee, the office shall implement a program whereby relay centers will be provided state-wide using operator intervention to connect hearing impaired persons and offices of organizations representing the hearing impaired, as determined and specified by the TDD advisory committee pursuant to subsection

(4) of this section, and connect hearing persons within six months after the office receives the recommendations.

(3) The program will be funded by telecommunications devices for the deaf (TDD) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine the amount of money needed to fund the program. That information shall be given to the utilities and transportation commission. The utilities and transportation commission shall then determine the amount of TDD excise tax to be placed on each access line. The TDD excise tax shall not exceed ten cents per month per access line. The TDD excise tax shall be separately identified on each ratepayer's bill as "Telecommunications devices funds for deaf and hearing impaired." All proceeds from the TDD excise tax will be put into a fund to be administered by the office through the department.

(4) The TDD advisory committee shall establish criteria and specify state-wide organizations representing the hearing impaired meeting such criteria that are to receive telecommunications devices pursuant to section 3(1) of this act, and in which offices the equipment shall be installed if an organization has more than one office.

(5) The office shall establish a policy determining the ultimate ownership and responsibility for the recovery of TDDs, signal devices, and amplifying accessories from recipients who are moving from this state.

(6) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services in accordance with the provisions of section 3 of this act.

(7) A study will be authorized to determine the number of hearing impaired people who have party lines and the costs of converting them to single lines. The TDD advisory committee will report the study findings to the utilities and transportation commission. The study will be completed by the TDD advisory committee within a year of the effective date of this section.

NEW SECTION. Sec. 5. Nothing in sections 3 and 4 of this act is inconsistent with any telecommunications device systems created by county legislative authorities under RCW 70.54.180. To the extent possible, the office, utilities and transportation commission, the TDD advisory committee, and any other persons or organizations implementing the provisions of sections 3 and 4 of this act will use the telecommunications devices already in place and work with county governments in ensuring that no duplication of services occurs.

NEW SECTION. Sec. 6. This act shall be known as the "Clyde Randolph Ketchum Act."

**NEW SECTION.** Sec. 7. Sections 1 through 6 of this act shall expire June 30, 1990. A review and determination on its continuation beyond this date shall be made prior to its expiration.

Passed the House April 22, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

## CHAPTER 305

[Engrossed House Bill No. 1021]

### EDUCATION FOR LOW-INCOME WORKING PERSONS AND SINGLE HEADS OF HOUSEHOLDS—WASHINGTON STATE AND EMPLOYERS' HIGHER EDUCATIONAL OPPORTUNITIES PROGRAM

AN ACT Relating to higher educational opportunities; adding a new chapter to Title 28B RCW; adding a new section to chapter 28B.15 RCW; creating a new section; making an appropriation; providing an expiration date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature recognizes that families headed by women constitute the largest percentage group below the poverty level in Washington state. Due to financial and familial obligations certain persons are not able to attend institutions of higher education. The legislature further recognizes that education enhances a person's chances of being productive and improving his or her economic status. The legislature intends to cooperate with the higher education coordinating board, and with selected private business entities in the development of a scholarship program aimed at providing higher educational opportunities for low-income working persons and single heads of households.

**NEW SECTION.** Sec. 2. (1) The Washington state and employers' higher educational opportunities program is created. The higher education coordinating board shall develop and revise, as necessary, the Washington state and employers' higher educational opportunities program. The pilot program shall be made available to three selected private business entities for each congressional district.

(2) The pilot program shall be administered by the higher education coordinating board and designed to:

(a) Provide socially and economically disadvantaged working persons with an increased chance to improve their social and economic status through public higher educational opportunities;

(b) Encourage and permit certain employees through higher education to acquire skills to meet the responsibilities and challenges of their present vocation or profession;

(c) Encourage and permit certain employees through higher education to acquire skills to pursue new career opportunities;



(d) Promote cooperation between the state, private business entities, and public institutions of higher education in working towards the goals of the program; and

(e) Monitor and evaluate the effectiveness of the program.

**NEW SECTION.** Sec. 3. An administrator shall be appointed to coordinate the pilot program. The coordinator shall be chosen from the higher education coordinating board's staff.

**NEW SECTION.** Sec. 4. (1) The higher education coordinating board shall select three private business entities for each congressional district to participate in the Washington state and employer higher educational opportunities program. Each eligible private business entity in Washington state may apply for participation on forms prescribed by the higher education coordinating board. Guidelines and application procedures for the selection of participating business entities shall be developed by the higher education coordinating board. These private business entities shall not include private colleges or universities.

(2) The following factors shall be required of business entity applicants:

(a) The business shall be located in Washington state;

(b) The business shall be owned by a private entity;

(c) The business shall have been in operation for at least three years;

and

(d) The business entity shall employ at least ten employees.

(3) The guidelines shall include the following factors which shall be considered in the selection process:

(a) The variety of jobs and disciplines used within the company including opportunities for advancement;

(b) Whether the business employs persons with diverse economic, social, and ethnic backgrounds; and

(c) The commitment by the business entity to cooperate with the higher education coordinating board to meet the objectives of the program.

(4) Those private business entities which already have an education program where the business pays tuition and fees costs for employees enrolled in work-related courses at state institutions of higher education, and which have applied for participation in the Washington state and employers' higher educational opportunities program, shall maintain their previous financial commitment to their respective education programs.

**NEW SECTION.** Sec. 5. (1) By July 1, 1988, the higher education coordinating board shall select fifty employees from the twenty-four selected businesses to participate in the Washington state and employers' higher educational opportunities program. An employee shall be recommended by the employee's employer. Recommended employees may apply for participation on forms prescribed by the higher education coordinating board.

Guidelines and application procedures for the selection of participating employees shall be developed by the higher education coordinating board. The board shall adopt such rules as are necessary to administer the program.

(2) To be eligible, the scholarship applicants shall:

(a) Be Washington state residents;

(b) Not be related to the employers;

(c) Be full-time employees working thirty-five hours or more per week or the equivalent during any monthly period who have been employed by their current employers for a minimum of one year.

(3) In selecting the recipients the following factors shall be considered:

(a) Age;

(b) Disability;

(c) Income;

(d) Number of dependents; and

(e) Family situation including whether or not the applicant is a single head of household;

(f) Whether the applicant needs retraining to meet the job requirements of the current employment or to advance to a higher position;

(g) Whether the applicant needs continued higher education to advance to professional status or to change professions or disciplines; and

(h) Whether the applicant is capable of succeeding in an institution of higher education and is committed to meet the objectives of the program.

(4) Academic qualifications shall not be the sole criteria for selection. Selection is not intended to be an academically competitive process.

(5) Scholarship recipients shall have applied or be in the process of applying to the applicant's preferred institution or institutions of higher education.

**NEW SECTION.** Sec. 6. Two types of scholarships are available through the Washington state and employers' higher educational opportunities program:

(1) A scholarship for retraining purposes to provide the recipient with tuition and fees payment for forty-five quarter credits or the equivalent of one academic year of full-time attendance as defined by the institution of higher education attended by the scholarship recipient.

(2) A scholarship for career promotion or career change purposes to provide the recipient with tuition and fees payment for ninety quarter credits or the equivalent of two academic years of full-time attendance as defined by the institution of higher education attended by the scholarship recipient.

**NEW SECTION.** Sec. 7. Each scholarship award shall specify that:

(1) The type of scholarship under section 6 of this act and the duration of the scholarship which shall not exceed a total of three years of part-time attendance as defined by the institution of higher education attended by the scholarship recipient;

(2) Use of the scholarship is subject to the various academic requirements, disciplinary standards, and other requirements and standards respecting attendance and graduation as established by the institution of higher education attended;

(3) Scholarship recipients shall maintain a minimum cumulative grade point of 2.5 each quarter or semester or the recipient's scholarship shall be terminated unless the higher education coordinating board waives for good cause the minimum cumulative grade point average requirement for a particular student; and

(4) In order to advance the objectives of the program throughout the private sector, a person is not eligible for more than one scholarship award.

**NEW SECTION.** Sec. 8. The higher education coordinating board, in cooperation with an advisory committee which includes representatives from institutions of higher education and businesses, and chosen by the higher education coordinating board, shall develop guidelines for the administration of this program. The guidelines shall include, but not be limited to, the following:

(1) Fifty percent of the tuition and fees for each scholarship recipient shall be waived by the applicable institution of higher education if the employer pays fifty percent of the tuition and fees; and

(2) Tuition and fee payments and waivers shall be administered in an expedient manner so as not to interfere with recipient's enrollment at an institution of higher education.

**NEW SECTION.** Sec. 9. The higher education coordinating board shall submit a report to the legislature, including its findings and specific recommendations evaluating the program by January 1990.

**NEW SECTION.** Sec. 10. A new section is added to chapter 28B.15 RCW to read as follows:

Fifty percent of the tuition and fees at any institution of higher education shall be waived for a scholarship recipient under sections 1 through 9 of this act if the requirements of sections 1 through 9 of this act are met.

**NEW SECTION.** Sec. 11. The sum of twenty thousand dollars, or so much thereof as may be necessary, is appropriated from the general fund to the higher education coordinating board for the 1987-89 biennium for the administration of the program under sections 2 through 9 of this act.

**NEW SECTION.** Sec. 12. Sections 1 through 9 of this act shall constitute a new chapter in Title 28B RCW.

**NEW SECTION.** Sec. 13. After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate educational mission.

**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 shall expire June 30, 1990.

NEW SECTION. Sec. 16. 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, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

---

## CHAPTER 306

[House Bill No. 379]

### RISK RETENTION GROUPS REGULATED

AN ACT Relating to insurance; adding a new chapter to Title 48 RCW; 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 regulate the formation and operation of risk retention groups in this state formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986.

NEW SECTION. Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Commissioner" means the insurance commissioner of Washington state or the commissioner, director, or superintendent of insurance in any other state.

(2) "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by:

(a) Any person who performs that work; or

(b) Any person who hires an independent contractor to perform that work; but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability.

(3) "Domicile," for purposes of determining the state in which a purchasing group is domiciled, means:

(a) For a corporation, the state in which the purchasing group is incorporated; and

(b) For an unincorporated entity, the state of its principal place of business.

(4) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able:

(a) To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

(b) To pay other obligations in the normal course of business.

(5) "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state.

(6) "Liability" means legal liability for damages including costs of defense, legal costs and fees, and other claims expenses because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of:

(a) Any business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations; or

(b) Any activity of any state or local government, or any agency or political subdivision thereof.

"Liability" does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the federal Employers' Liability Act 45 U.S.C. 51 et seq.

(7) "Personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subsection (6) of this section.

(8) "Plan of operation or a feasibility study" means an analysis which presents the expected activities and results of a risk retention group including, at a minimum:

(a) The coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;

(b) Historical and expected loss experience of the proposed members and national experience of similar exposures;

(c) Pro forma financial statements and projections;

(d) Appropriate opinions by a qualified, independent, casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

(e) Identification of management, underwriting procedures, managerial oversight methods, and investment policies; and

(f) Such other matters as may be prescribed by the commissioner for liability insurance companies authorized by the insurance laws of the state.

(9) "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage including damages resulting from the loss of use of property arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability

of any person for those damages if the product involved was in the possession of such a person when the incident giving rise to the claim occurred.

(10) "Purchasing group" means any group which:

(a) Has as one of its purposes the purchase of liability insurance on a group basis;

(b) Purchases the insurance only for its group members and only to cover their similar or related liability exposure, as described in (c) of this subsection;

(c) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

(d) Is domiciled in any state.

(11) "Risk retention group" means any corporation or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands:

(a) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members;

(b) Which is organized for the primary purpose of conducting the activity described under (a) of this subsection;

(c) Which:

(i) Is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

(ii) Before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before such date, had certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of such state, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability as the terms were defined in the federal Product Liability Risk Retention Act of 1981 before the date of the enactment of the federal Risk Retention Act of 1986;

(d) Which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person;

(e) Which:

(i) Has as its members only persons who have an ownership interest in the group and which has as its owners only persons who are members who are provided insurance by the risk retention group; or

(ii) Has as its sole member and sole owner an organization which is owned by persons who are provided insurance by the risk retention group;

(f) Whose members are engaged in businesses or activities similar or related with respect to the liability of which such members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations;

(g) Whose activities do not include the provision of insurance other than:

(i) Liability insurance for assuming and spreading all or any portion of the liability of its group members; and

(ii) Reinsurance with respect to the liability of any other risk retention group or any members of such other group which is engaged in businesses or activities so that the group or member meets the requirement described in (f) of this subsection from membership in the risk retention group which provides such reinsurance; and

(h) The name of which includes the phrase "risk retention group."

(12) "State" means any state of the United States or the District of Columbia.

**NEW SECTION.** Sec. 3. A risk retention group seeking to be chartered in this state must be chartered and licensed as a liability insurance company authorized by the insurance laws of this state and, except as provided elsewhere in this chapter, must comply with all of the laws, rules, regulations, and requirements applicable to the insurers chartered and licensed in this state and with section 4 of this act to the extent the requirements are not a limitation on laws, rules, regulations, or requirements of this state. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the insurance commissioner of this state a plan of operation or a feasibility study and revisions of the plan or study if the group intends to offer any additional lines of liability insurance.

**NEW SECTION.** Sec. 4. Risk retention groups chartered in states other than this state and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as follows:

(1) Before offering insurance in this state, a risk retention group shall submit to the commissioner:

(a) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and any other information including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified under section 2(11) of this act;

(b) A copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to its state of domicile: PROVIDED, HOWEVER, That the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance which: (i) Was defined in the federal Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(ii) was offered before that date by any risk retention group which had been chartered and operating for not less than three years before that date; and

(c) A statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(2) Any risk retention group doing business in this state shall submit to the commissioner:

(a) A copy of the group's financial statement submitted to its state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American academy of actuaries or a qualified loss reserve specialist under criteria established by the national association of insurance commissioners;

(b) A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(c) Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group; and

(d) Any information as may be required to verify its continuing qualification as a risk retention group under section 2(11) of this act.

(3)(a) All premiums paid for coverages within this state to risk retention groups shall be subject to taxation at the same rate and subject to the same interest, fines, and penalties for nonpayment as that applicable to foreign admitted insurers.

(b) To the extent agents or brokers are utilized, they shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state.

(c) To the extent agents or brokers are not utilized or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the state. Each risk retention group shall report all premiums paid to it for risks insured within the state.

(4) Any risk retention group, its agents and representatives, shall be subject to any and all unfair claims settlement practices statutes and regulations specifically denominated by the commissioner as unfair claims settlement practices regulations.

(5) Any risk retention group, its agents and representatives, shall be subject to the provisions of chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or practices. However, if the commissioner seeks an injunction regarding such conduct, the injunction must be obtained from a court of competent jurisdiction.

(6) Any risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within sixty days after a request by the commissioner of this state. The examination shall be coordinated to avoid



unjustified repetition and conducted in an expeditious manner and in accordance with the national association of insurance commissioners' examiner handbook.

(7) Any policy issued by a risk retention group shall contain in ten-point type on the front page and the declaration page, the following notice:

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

(8) The following acts by a risk retention group are hereby prohibited:

(a) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in that group; and

(b) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

(9) No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

(10) No risk retention group may offer insurance policy coverage prohibited by Title 48 RCW or declared unlawful by the highest court of this state.

(11) A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under section 4(6) of this act.

**NEW SECTION.** Sec. 5. (1) No risk retention group shall be permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall any risk retention group, or its insureds, receive any benefit from any such fund for claims arising out of the operations of the risk retention group.

(2) A risk retention group shall participate in this state's joint underwriting associations and mandatory liability pools or plans required by the commissioners.

**NEW SECTION.** Sec. 6. A policy of insurance issued to a risk retention group or any member of that group shall not be required to be countersigned.

**NEW SECTION.** Sec. 7. Any purchasing group meeting the criteria established under the provisions of the federal Liability Risk Retention Act of 1986 shall be exempt from any law of this state relating to the creation of groups for the purchase of insurance, prohibition of group purchasing, or any law that would discriminate against a purchasing group or its members.

In addition, an insurer shall be exempt from any law of this state which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group shall be subject to all other applicable laws of this state.

**NEW SECTION.** Sec. 8. (1) A purchasing group which intends to do business in this state shall furnish notice to the commissioner which shall:

- (a) Identify the state in which the group is domiciled;
- (b) Specify the lines and classifications of liability insurance which the purchasing group intends to purchase;
- (c) Identify the insurance company from which the group intends to purchase its insurance and the domicile of that company;
- (d) Identify the principal place of business of the group; and
- (e) Provide any other information as may be required by the commissioner to verify that the purchasing group is qualified under section 2(10) of this act.

(2) The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process, except that this requirement shall not apply in the case of a purchasing group:

- (a) Which:
  - (i) Was domiciled before April 2, 1986; and
  - (ii) Is domiciled on and after October 27, 1986, in any state of the United States;
- (b) Which:
  - (i) Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state;
  - (ii) Since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state;
- (c) Which was a purchasing group under the requirements of the federal Product Liability Retention Act of 1981 before October 27, 1986; and
- (d) Which does not purchase insurance that was not authorized for purposes of an exemption under that act, as in effect before October 27, 1986.

**NEW SECTION.** Sec. 9. A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of that state.

**NEW SECTION.** Sec. 10. The commissioner is authorized to make use of any of the powers established under Title 48 RCW to enforce the laws of this state so long as those powers are not specifically preempted by

the federal Product Liability Risk Retention Act of 1981, as amended by the federal Risk Retention Amendments of 1986. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, and impose penalties. With regard to any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural law and regulations of the state. The injunctive authority of the commissioner in regard to risk retention groups is restricted by the requirement that any injunction be issued by a court of competent jurisdiction.

**NEW SECTION.** Sec. 11. A risk retention group which violates any provision of this chapter shall be subject to fines and penalties applicable to licensed insurers generally, including revocation of its license and/or the right to do business in this state.

**NEW SECTION.** Sec. 12. Any person acting, or offering to act, as an agent or broker for a risk retention group or purchasing group, which solicits members, sells insurance coverage, purchases coverage for its members located within the state or otherwise does business in this state shall be subject to the provisions of chapter 48.17 RCW and before commencing any such activity, obtain a license and pay the fees designated for the license under RCW 48.14.010.

**NEW SECTION.** Sec. 13. An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating, in any state or in all states or in any territory or possession of the United States, upon a finding that the group is in a hazardous financial condition, shall be enforceable in the courts of the state.

**NEW SECTION.** Sec. 14. The commissioner may establish and from time to time amend the rules relating to risk retention groups as may be necessary or desirable to carry out the provisions of this chapter.

**NEW SECTION.** Sec. 15. Sections 1 through 14 of this act shall constitute a new chapter in Title 48 RCW.

**NEW SECTION.** Sec. 16. 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 25, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

CHAPTER 307

[Second Substitute House Bill No. 163]

SCHOOL BOARD DIRECTOR COMPENSATION

AN ACT Relating to compensation of school board directors; adding a new section to chapter 28A.57 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 declares it is the policy of the state to:

(1) Ensure, for the sake of educational excellence, that the electorate has the broadest possible field in which to choose qualified candidates for its school boards;

(2) Ensure that the opportunity to serve on school boards be open to all, regardless of financial circumstances; and

(3) Ensure that the time-consuming and demanding service as directors not be limited to those able or willing to make substantial personal and financial sacrifices.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.57 RCW to read as follows:

Each member of the board of directors of a school district may receive compensation of fifty dollars per day or portion thereof for attending board meetings and for performing other services on behalf of the school district, not to exceed four thousand eight hundred dollars per year, if the district board of directors has authorized by board resolution, at a regularly scheduled meeting, the provision of such compensation. A board of directors of a school district may authorize such compensation only from locally collected excess levy funds available for that purpose, and compensation for board members shall not cause the state to incur any present or future funding obligation.

Any director may waive all or any portion of his or her compensation under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the director's election and before the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The compensation provided in this section shall be in addition to any reimbursement for expenses paid to such directors by the school district.

**NEW SECTION.** Sec. 3. This act shall take effect on September 1, 1987.

Passed the House April 15, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

---

## CHAPTER 308

[Engrossed Substitute Senate Bill No. 5285]

### PUBLIC BROADCASTING GRANTS

AN ACT Relating to public broadcasting; adding new sections 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 finds that public broadcasting creates a cultural and educational environment that is important to the citizens of the state. The legislature also finds that it is in the public interest to provide state support to bring cultural, educational, and public affairs broadcasting services to the citizens of the state.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.63A RCW to read as follows:

The department of community development shall distribute grants to eligible public radio and television broadcast stations under sections 3 and 4 of this act to assist with programming, operations, and capital needs.

**NEW SECTION.** Sec. 3. A new section is added to chapter 43.63A RCW to read as follows:

(1) Eligibility for grants under this section shall be limited to broadcast stations which are:

(a) Licensed to Washington state organizations, nonprofit corporations, or other entities under section 73.621 of the regulations of the federal communications commission; and

(b) Qualified to receive community service grants from the federally chartered corporation for public broadcasting. Eligibility shall be established as of February 28th of each year.

(2) The formula in this subsection shall be used to compute the amount of each eligible station's grant under this section.

(a) Appropriations under this section shall be divided into a radio fund, which shall be twenty-five percent of the total appropriation under this section, and a television fund, which shall be seventy-five percent of the total appropriation under this section. Each of the two funds shall be divided into a base grant pool, which shall be fifty percent of the fund, and an incentive grant pool, which shall be the remaining fifty percent of the fund.

(b) Each eligible participating public radio station shall receive an equal share of the radio base grant pool, plus a share of the radio incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating radio stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(c) Each eligible participating public television station shall receive an equal share of the television base grant pool, plus a share of the television incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating television stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(3) Annual financial reports to the corporation for public broadcasting by eligible stations shall also be submitted by the stations to the department of community development.

NEW SECTION. Sec. 4. A new section is added to chapter 43.63A RCW to read as follows:

(1) Eligibility for grants under this section shall be limited to broadcast stations that:

(a) Have a noncommercial educational license granted by the federal communications commission;

(b) Are not eligible under section 3 of this act;

(c) Have a permanent employee who is assigned operational management responsibility for the station and who is not compensated with moneys granted under this section;

(d) Meet the operating schedule requirements of the station's federal broadcast license;

(e) Have facilities and equipment that allow for program origination and production;

(f) Have a daily broadcast schedule devoted primarily to serving the educational, informational, and cultural needs of the community within its primary service area. The programming shall be intended for a general audience and not designed to further a particular religious philosophy or political organization;

(g) Originate a locally produced program service designed to serve the community;

(h) Maintain financial records in accordance with generally accepted accounting principles; and

(i) Complete an eligibility criteria statement and annual financial survey pursuant to rules adopted by the department of community development.

(2) (a) A grant of up to ten thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities

developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(b) A grant of up to eight thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities not fully developed under federal communications commission rules.

(c) A grant of up to five thousand dollars per year may be made under this section to those eligible stations operating less than twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(d) A grant of up to one thousand five hundred dollars per year may be made under this section to those eligible stations not meeting the requirements of (a), (b), or (c) of this subsection.

(3) Funding received under this section is specifically for the support of public broadcast operations and facilities improvements which benefit the general community. No funds received under this section may be used for any other purposes by licensees of eligible stations.

(4) Any portion of the appropriation not expended under this section shall be transferred for expenditure under section 3 of this act.

Passed the Senate February 20, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

---

CHAPTER 309

[Substitute Senate Bill No. 5514]

SEWER AND WATER DISTRICTS—SMALL WORKS ROSTER REQUIREMENTS  
WAIVED FOR SINGLE SOURCE PURCHASES—DISTRICTS SHALL NOT  
REQUIRE SPECIFIED ENGINEER FOR PRIVATE PARTY DESIGNS AND PLANS

AN ACT Relating to water and sewer districts; amending RCW 56.08.070 and 57.08.050; and adding a new section to chapters 56.08 and 57.08 RCW.

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 154, Laws of 1985 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 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. In addition, these requirements may be waived for 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.

Sec. 2. Section 21, chapter 114, Laws of 1929 as last amended by section 2, chapter 154, Laws of 1985 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 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. In addition, these requirements may be waived for 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.

NEW SECTION. Sec. 3. A new section is added to chapter 56.08 RCW to read as follows:

A sewer district may not require that a specified engineer prepare plans or designs for extensions to its systems if the extensions are to be financed and constructed by a private party, but may review, and approve or reject, the plans or designs which have been prepared for such a private party based upon standards and requirements established by the sewer district.

**NEW SECTION.** Sec. 4. A new section is added to chapter 57.08 RCW to read as follows:

A water district may not require that a specified engineer prepare plans or designs for extensions to its systems if the extensions are to be financed and constructed by a private party, but may review, and approve or reject, the plans or designs which have been prepared for such a private party based upon standards and requirements established by the water district.

Passed the Senate April 21, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

## CHAPTER 310

[Substitute Senate Bill No. 5113]

### MOTOR VEHICLE INSURANCE RATES BASED ON SEAT BELTS, CHILD RESTRAINTS, AND OTHER LIFE-SAVING DEVICES

AN ACT Relating to motor vehicle passenger safety device usage; adding a new section to chapter 48.19 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 48.19 RCW to read as follows:

Due consideration in making rates for motor vehicle insurance shall be given to:

(1) Any anticipated change in losses that may be attributable to the use of seat belts, child restraints, and other lifesaving devices. An exhibit detailing these changes and any credits or discounts resulting from any such changes shall be included in each filing pertaining to private passenger automobile (or motor vehicle) insurance.

(2) *Any anticipated change in losses that may be attributable to the use of lights and lighting devices that have been proven effective in increasing the visibility of motor vehicles during daytime or in poor visibility conditions and to the use of rear stop lights that have been proven effective in reducing rear-end collisions. An exhibit detailing these losses and any credits or discounts*

*resulting from any such changes shall be included in each filing pertaining to private passenger automobile (or motor vehicle) insurance.*

\*Sec. 1 was partially vetoed, see message at end of chapter.

Passed the Senate April 18, 1987.

Passed the House April 9, 1987.

Approved by the Governor May 11, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1(2), Substitute Senate Bill No. 5113, entitled:

"AN ACT Relating to motor vehicle passenger safety device usage."

Substitute Senate Bill No. 5113 in section 1(1) provides that any anticipated change in losses that may be attributed to usage of seatbelts, child restraints, and other lifesaving devices should be reflected in the credits or discounts provided by automobile insurers. I endorse this idea.

Section 1(2) involves a double amendment and duplication to Substitute House Bill No. 920, section 1(3) and is identical. I have therefore vetoed section 1(2) to avoid duplication in the statute.

With the exception of section 1(2), Substitute Senate Bill No. 5113 is approved."

## CHAPTER 311

[Substitute Senate Bill No. 5124]

### IMPOUNDMENT OF UNAUTHORIZED, ABANDONED, JUNK, AND OTHER VEHICLES—REVISIONS

AN ACT Relating to impoundment and disposition of unauthorized, abandoned, junk, and other vehicles; amending RCW 46.55.010, 46.55.030, 46.55.060, 46.55.070, 46.55.080, 46.55.090, 46.55.100, 46.55.110, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.170, 46.55.210, 46.55.220, 46.55.230, and 46.55.240; adding new sections to chapter 46.55 RCW; repealing RCW 46.61.562, 46.61.563, 46.61.564, 46.61.565, and 46.61.567; and prescribing penalties.

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

Sec. 1. Section 1, chapter 377, Laws of 1985 and RCW 46.55.010 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in his possession for ninety-six consecutive hours.

(2) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(3) "Commission" means the state commission on equipment established under RCW 46.37.005.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or ((other)) by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a motor vehicle certified under RCW 46.55-.230 as meeting all the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Is without a valid, current registration plate;

(e) Has a fair market value equal only to the value of the scrap in it.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(7) "Residential property" means property that has no more than four living units located on it.

(8) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the commission.

(9) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(10) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(11) "Tow truck service" means the transporting upon the public streets and highways of this state of ((unauthorized)) vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(12) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a) Public locations:

(i) Constituting a traffic hazard as defined in RCW 46.61.565 . . . . . Immediately

(ii) On a highway and tagged as described in RCW 46.52.170 . . . . . 24 hours

- (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 ..... Immediately
- (b) Private locations:
  - (i) On residential property ..... Immediately
  - (ii) On private, nonresidential property, properly posted under RCW 46.55.070 ..... Immediately
  - (iii) On private, nonresidential property, not posted ..... 24 hours

Sec. 2. Section 3, chapter 377, Laws of 1985 and RCW 46.55.030 are each amended to read as follows:

(1) Application for licensing as a registered tow truck operator shall be made on forms furnished by the department, shall be accompanied by an inspection certification from the Washington state patrol, shall be signed by the applicant or his agent, and shall include the following information:

(a) The name and address of the person, firm, partnership, association, or corporation under whose name the business is to be conducted;

(b) The names and addresses of all persons having an interest in the business, or if the owner is a corporation, the names and addresses of the officers of the corporation;

(c) The names and addresses of all employees who serve as tow truck drivers;

(d) Proof of minimum insurance required by subsection (3) of this section;

(e) Any other information the department may require; and

(f) A certificate of approval from the chief of police if the applicant's principal place of business is located in a city or town having a population over five thousand persons or, in all other instances, from a member of the Washington state patrol, certifying that:

(i) The applicant has an established place of business at the address shown on the application;

(ii) The place of business has an office area that is accessible to the public without entering the storage area; and

(iii) The place of business has adequate and secure storage facilities, as defined in this chapter and the rules of the department, where vehicles and their contents can be properly stored and protected.

(2) Before issuing a registration certificate to an applicant the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars running to the state and executed by a surety company authorized to do business in this state. The bond shall be approved as to form by the attorney general and conditioned that the operator shall conduct his business in conformity with the provisions of this

chapter pertaining to abandoned or unauthorized vehicles, and to compensate any person, company, or the state for failure to comply with this chapter or the rules adopted hereunder, or for fraud, negligence, or misrepresentation in the handling of these vehicles. Any person injured by the tow truck operator's failure to fully perform duties imposed by this chapter and the rules adopted hereunder, or an ordinance or resolution adopted by a city, town, or county is entitled to recover actual damages, including reasonable attorney's fees against the surety and the tow truck operator. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. As a condition of authority to do business, the operator shall keep the bond in full force and effect. Failure to maintain the penalty value of the bond or cancellation of the bond by the surety automatically cancels the operator's registration.

(3) Before the department may issue a registration certificate to an applicant, the applicant shall provide proof of minimum insurance requirements of:

(a) ~~((Two))~~ One hundred ~~((fifty))~~ thousand dollars for liability for bodily injury or property damage per occurrence; and

(b) ~~((One hundred))~~ Fifty thousand dollars of legal liability per occurrence, to protect against vehicle damage, including but not limited to fire and theft, from the time a vehicle comes into the custody of an operator until it is redeemed or sold.

(4) The fee for each original registration and annual renewal is one hundred dollars per company, plus fifty dollars per truck. The department shall forward the registration fee to the state treasurer for deposit in the motor vehicle fund.

(5) Upon approval of the application, the department shall issue a registration certificate to the registered operator to be displayed prominently at the operator's place of business.

Sec. 3. Section 6, chapter 377, Laws of 1985 and RCW 46.55.060 are each amended to read as follows:

(1) The address that the tow truck operator lists on his or her application shall be the business location of the firm where its files are kept. Each separate business location requires a separate registration under this chapter. The application shall also list all locations of secure areas for vehicle storage and redemption.

(2) At the business locations listed where vehicles may be redeemed, the registered operator shall post in a conspicuous and accessible location:

(a) All pertinent licenses and permits to operate as a registered tow truck operator;

(b) The current towing and storage charges itemized on a form approved by the department;

(c) The vehicle redemption procedure and rights;

(d) Information supplied by the department as to where complaints regarding either equipment or service are to be directed;

(e) Information concerning the acceptance of commercially reasonable tender as defined in RCW 46.55.120(1)(b).

(3) Ten days before the effective date of any change in an operator's fee schedule, the registered tow truck operator shall file the revised fee schedule with the department.

(4) The department shall adopt rules concerning fencing and security requirements of storage areas, which may provide for modifications or exemptions where needed to achieve compliance with local zoning laws.

(5) On any day when the registered tow truck operator holds the towing services open for business, the business office shall remain open with personnel present who are able to release impounded vehicles in accordance with this chapter and the rules adopted under it.

(6) A registered tow truck operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a reasonable time.

(7) Towing contracts with private property owners shall be in written form and state the hours of authorization to impound, the persons empowered to authorize such impounds, and the present charge of a private impound for the classes of tow trucks to be used in such impound, and shall be retained in the files of the registered tow truck operator for three years.

(8) Any fee that is charged for the storage of a vehicle shall be calculated on a twenty-four hour basis, and shall be charged to the nearest half day from the time the vehicle arrived at the secure storage area.

(9) All billing invoices that are provided to the redeemer of the vehicle shall be itemized so that the individual fees are clearly discernable.

Sec. 4. Section 7, chapter 377, Laws of 1985 and RCW 46.55.070 are each amended to read as follows:

(1) No person may impound, tow, or otherwise disturb any ((motor)) unauthorized vehicle standing on nonresidential private property or in a public parking facility for less than twenty-four hours unless a sign is posted near each entrance and on the property in a clearly conspicuous and visible location to all who park on such property that clearly indicates:

(a) The times a vehicle may be impounded as an unauthorized vehicle; and

(b) The name, telephone number, and address of the towing firm where the vehicle may be redeemed.

(2) The requirements of subsection (1) of this section do not apply to residential property. Any person having charge of such property may have an unauthorized vehicle impounded immediately upon giving written authorization.



(3) The department shall adopt rules relating to the size of the sign required by subsection (1) of this section, its lettering, placement, and the number required.

(4) This section applies to all new signs erected after July 1, 1986. All other signs must meet these requirements by July 1, 1989.

Sec. 5. Section 8, chapter 377, Laws of 1985 and RCW 46.55.080 are each amended to read as follows:

If a vehicle is in violation of the time restrictions of RCW 46.55.010(12), it may be impounded by a registered tow truck operator at the direction of a law enforcement officer or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or his agent if it is on private property. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

The person requesting a private impound or a law enforcement officer or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator may not serve as an agent of a property owner for the purposes of signing an impound authorization.

**NEW SECTION.** Sec. 6. A new section is added to chapter 46.55 RCW to read as follows:

(1) A law enforcement officer discovering an apparently abandoned vehicle shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

- (a) The date and time the sticker was attached;
- (b) The identity of the officer;
- (c) A statement that if the vehicle is not removed within twenty-four hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense; and
- (d) The address and telephone number where additional information may be obtained.

(2) If the vehicle has current Washington registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(3) If the vehicle is not removed within twenty-four hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety.

(4) For the purposes of this section a place of safety includes the business location of a registered tow truck operator.

Sec. 7. Section 9, chapter 377, Laws of 1985 and RCW 46.55.090 are each amended to read as follows:

(1) All vehicles impounded shall be taken to the nearest storage location that has been inspected and is listed on the application filed with the department.

(2) All vehicles shall be handled and returned in substantially the same condition as they existed before being towed.

(3) All personal belongings and contents in the vehicle shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. Personal belongings shall not be sold at auction to fulfill a lien against the vehicle.

(4) All personal belongings not claimed before the auction shall be turned over to the local law enforcement agency to which the initial notification of impoundment was given. Such personal belongings shall be disposed of pursuant to chapter ~~((63.29))~~ 63.32 or 63.40 RCW.

(5) ~~((After January 1, 1986, all employees who serve as))~~ Tow truck drivers shall have a Washington state driver's license endorsed for vehicle combinations under RCW 46.20.440 or the equivalent issued by another state.

(6) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner or the vehicle's insurer may view the vehicle without charge during normal business hours.

Sec. 8. Section 10, chapter 377, Laws of 1985 and RCW 46.55.100 are each amended to read as follows:

(1) At the time of impoundment the registered tow truck operator providing the towing service shall give immediate notification, by telephone or radio, to a law enforcement agency having jurisdiction who shall maintain a log of such reports, unless the impoundment was requested by that law enforcement agency. The initial notice of impoundment shall be followed by a written notice within twenty-four hours.

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle in the operator's possession after the ninety-six hour abandonment period. Such report need not be sent when the impoundment is pursuant to a writ, court order, or police hold. The owner notification and abandonment process shall be initiated by the registered tow truck operator immediately following notification by a court or law enforcement officer that the writ, court order, or police hold is no longer in effect.

(3) Following the submittal of an abandoned vehicle report, the department shall provide the registered tow truck operator with owner information within seventy-two hours.

(4) Within fifteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle to the crime information center of the Washington state patrol.

(5) If the operator sends an abandoned vehicle report to the department and the department finds no owner information, an operator may proceed with an inspection of the vehicle to determine whether owner identification is within the vehicle.

Sec. 9. Section 11, chapter 377, Laws of 1985 and RCW 46.55.110 are each amended to read as follows:

(1) In the case of an unauthorized vehicle impounded from public property, the law enforcement agency or other public official directing the impoundment, or in the case of a vehicle impounded from private property, the impounding towing operator, shall notify the legal and registered owners of the impoundment of the unauthorized vehicle. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, as provided by the law enforcement agency. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120.

(2) In the case of an abandoned vehicle, within twenty-four hours after receiving information on the vehicle owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners.

NEW SECTION. Sec. 10. A new section is added to chapter 46.55 RCW to read as follows:

A police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(2) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable, or too intoxicated, to decide upon steps to be taken to protect his or her property;

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer, and the driver, because of intoxication or otherwise, is mentally incapable of deciding upon steps to be taken to safeguard his or her property;

(5) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property.

Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

***\*NEW SECTION. Sec. 11. A new section is added to chapter 46.55 RCW to read as follows:***

***The Washington state patrol, under its authority to remove vehicles from the highway, may remove the vehicles directly, through towing operators appointed by the state commission on equipment and called on a rotational or other basis, through contracts with towing operators, or by a combination of these methods. When removal is to be accomplished through a towing operator on a noncontractual basis, the commission may appoint any towing operator for this purpose upon the application of the operator. Each appointment shall be contingent upon the submission of an application to the commission and the making of subsequent reports in such form and frequency and compliance with such standards of equipment, performance, pricing, and practices as may be required by rule of the commission.***

***An appointment may be rescinded by the commission at the request of the Washington state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway.***

***Rules adopted under this section are binding only upon those towing operators appointed by the commission for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the commission made under this section may appeal the decision under chapter 34.04 RCW.***

***\*Sec. 11 was vetoed, see message at end of chapter.***

Sec. 12. Section 12, chapter 377, Laws of 1985 and RCW 46.55.120 are each amended to read as follows:

(1) Vehicles impounded by registered tow truck operators pursuant to RCW (~~46.52.170, 46.61.565, or~~) 46.55.080, section 6, or 10 of this act may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, or one who has

purchased a vehicle from the registered owner(;) who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle.

(b) The vehicle shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such ((motor)) vehicle. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards, or personal checks drawn on in-state banks if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. Any person who stops payment on a personal check, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2) (a) The ~~((towing company))~~ registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, and a copy of the ((tow)) towing and storage ((receipt)) invoice. The ~~((towing company))~~ registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the district court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. If the hearing request is not received by the district court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the district court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The district court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, and the registered and legal owners of the ((motor)) vehicle and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper.

(c) At the conclusion of the hearing, the district court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the ~~((charges))~~ fees.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be invalid, then the registered and legal owners of the vehicle shall bear no impoundment, towing, or storage ~~((costs))~~ fees, and any bond or other security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment ~~((charges))~~ fees permitted under this chapter.

(4) Any impounded abandoned vehicle not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(2) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle may be redeemed at any time before the start of the auction upon payment of towing and storage ~~((costs))~~ fees.

Sec. 13. Section 13, chapter 377, Laws of 1985 and RCW 46.55.130 are each amended to read as follows:

(1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW 46.55.110(2) to the registered and legal owners, the vehicle ~~((or-hulk))~~ remains unclaimed and has not been listed as a stolen vehicle, then the registered ~~((disposer))~~ tow truck operator having custody of the vehicle ~~((or-hulk))~~ shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days before the date of the auction. The ~~((advertisement))~~ notice shall contain a description of the vehicle including the make, model, year, and license number and a notification that a three-hour public viewing period will be available before the auction. The auction shall be held during daylight hours of a normal business day.

(2) The following procedures are required in any public auction of such abandoned vehicles:

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

(c) The open bid process, including all written bids, shall be used so that everyone knows the dollar value that must be exceeded;

(d) The highest two bids received shall be recorded in written form;

(e) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;

(f) The registered tow truck operator shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location, the operator shall post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted;

(g) All surplus moneys derived from the auction after satisfaction of the registered tow truck operator's lien shall be remitted within thirty days to the department for deposit in the state motor vehicle fund. A report identifying the vehicles resulting in any surplus shall accompany the remitted funds. If the director subsequently receives a valid claim from the registered vehicle owner of record within one year from the date of the auction, the surplus moneys shall be remitted to (~~the registered~~) such owner;

(h) If an operator receives no bid, or if the operator is the successful bidder at auction, the operator shall, within thirty days sell the (~~unclaimed abandoned~~) vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor by use of the abandoned vehicle report-affidavit of sale, or the operator shall apply for title to the vehicle.

(3) (a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(2).

(b) The failure of the registered (~~disposer~~) tow truck operator to comply with the time limits provided in this chapter limits the accumulation of storage charges to five days except where delay is unavoidable. Providing incorrect or incomplete identifying information to the department in the abandoned vehicle report shall be considered a failure to comply with these time limits if correct information is available.

Sec. 14. Section 14, chapter 377, Laws of 1985 and RCW 46.55.140 are each amended to read as follows:

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. (~~However,~~) The lien does not apply to

personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle. The registered tow truck operator also has a deficiency claim against the ~~((last))~~ registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of three hundred dollars less the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars less the amount bid at auction, unless the impound is determined to be invalid. A registered owner who has completed and filed with the department the seller's report as provided for by RCW 46.12.101 is relieved of liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any ~~((motor))~~ vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner~~(;)~~ or operator~~(, or driver)~~ of a ~~((motor))~~ vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the ~~((motor))~~ vehicle which does not comply with the requirements of this chapter.

Sec. 15. Section 15, chapter 377, Laws of 1985 and RCW 46.55.150 are each amended to read as follows:

The registered tow truck operator shall keep a transaction file on each vehicle. The transaction file shall contain as a minimum those of the following items that are required at the time the vehicle is redeemed or becomes abandoned and is sold at a public auction:

(1) A signed impoundment authorization as required by RCW 46.55.080;

(2) A record of the twenty-four hour written impound notice to a law enforcement agency;

(3) A copy of the impoundment notification to registered and legal owners, sent within twenty-four hours of impoundment, that advises the owners of the address of the impounding firm, a twenty-four hour telephone number, and the name of the person or agency under whose authority the vehicle was impounded;

(4) A copy of the abandoned vehicle report that was sent to and returned by the department;

(5) A copy and proof of mailing of the notice of custody and sale sent by the registered tow truck operator to the owners advising them they have fifteen days to redeem the vehicle before it is sold at public auction;

(6) A copy of the ~~((advertisement))~~ published notice of public auction;

(7) A copy of the affidavit of sale showing the sales date, purchaser, amount of the lien, and sale price;

(8) A record of the two highest bid offers on the vehicle;

(9) A copy of the notice of opportunity for hearing given to those who redeem vehicles;

(10) An itemized invoice of charges against the vehicle.



The transaction file shall be kept for a minimum of three years.

**\*Sec. 16. Section 17, chapter 377, Laws of 1985 and RCW 46.55.170 are each amended to read as follows:**

**(1) All law enforcement agencies or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with any supporting documents, including all results from local investigations, to the department.**

**(2) Complaints involving deficiencies of equipment shall be forwarded by the department to the ((state)) commission on equipment.**

**\*Sec. 16 was vetoed, see message at end of chapter.**

Sec. 17. Section 21, chapter 377, Laws of 1985 and RCW 46.55.210 are each amended to read as follows:

Whenever it appears to the director that any registered tow truck operator or a person offering towing services has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule adopted hereunder, the director may issue an order directing the operator or person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing((;)). The temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice.

Sec. 18. Section 22, chapter 377, Laws of 1985 and RCW 46.55.220 are each amended to read as follows:

If an application for a license to conduct business as a registered tow truck operator is filed by any person whose license has previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department, after a hearing, of which the applicant has been given twenty days' notice in writing and at which the applicant may appear in person or by counsel and present testimony, may refuse to issue such a person a license to conduct business as a registered tow truck operator.

Sec. 19. Section 23, chapter 377, Laws of 1985 and RCW 46.55.230 are each amended to read as follows:

(1) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction or any person authorized by the director may inspect and certify that a vehicle meets the requirements of a junk vehicle. The person making the certification shall record the make and vehicle identification number or license number of the vehicle if available, and shall also describe in detail the damage or missing equipment to verify that the value of the junk vehicle is equivalent only to the value of the scrap in it.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall obtain a junk vehicle notification form from the department. The landowner shall send by certified mail, notification to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to contest the sale of a junk vehicle in a district court hearing.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner shall place a legal notice of custody and sale in a newspaper of general circulation in the county. The newspaper notice shall include (a) the description of the vehicle; (b) the address of the location of the junk vehicle; (c) the date by which the registered or legal owner must redeem the vehicle; and (d) a telephone number where the landowner can be reached. If the vehicle remains unclaimed more than twenty days after publication of the notice, the landowner may sign an affidavit of sale to be used as a title document.

(6) The landowner of the property upon which the junk vehicle is located is entitled to recover from the vehicle's registered owner any costs incurred in the removal of the junk vehicle.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

Sec. 20. Section 24, chapter 377, Laws of 1985 and RCW 46.55.240 are each amended to read as follows:

(1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(c) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearing officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of unauthorized junk ((motor)) vehicles or parts thereof from private property. Costs of removal may be assessed against the ((last)) registered owner of the vehicle ((or automobile hullk)) if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle ((or automobile hullk)) has complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle ((or automobile hullk)) will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state

patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

**\*NEW SECTION.** Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 178, Laws of 1979 ex. sess. and RCW 46.52-.170;

(2) Section 3, chapter 178, Laws of 1979 ex. sess. and RCW 46.52-.180;

(3) Section 4, chapter 178, Laws of 1979 ex. sess., section 7, chapter 274, Laws of 1983 and RCW 46.52.190;

(4) Section 5, chapter 178, Laws of 1979 ex. sess., section 8, chapter 274, Laws of 1983 and RCW 46.52.200;

(5) Section 1, chapter 167, Laws of 1977 ex. sess. and RCW 46.61-.562;

**(5) Section 2, chapter 167, Laws of 1977 ex. sess. and RCW 46.61.563;**

(7) Section 3, chapter 167, Laws of 1977 ex. sess. and RCW 46.61-.564;

(8) Section 65, chapter 155, Laws of 1965 ex. sess., section 4, chapter 167, Laws of 1977 ex. sess., section 21, chapter 178, Laws of 1979 ex. sess., section 3, chapter 154, Laws of 1984 and RCW 46.61.565; and

**(9) Section 5, chapter 167, Laws of 1977 ex. sess., section 22, chapter 178, Laws of 1979 ex. sess. and RCW 46.61.567.**

**\*Sec. 21 was partially vetoed, see message at end of chapter.**

Passed the Senate April 20, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 11, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 11, 16, 21(6) and 21(9), Substitute Senate Bill No. 5124, entitled:

"AN ACT Relating to impoundment and disposition of unauthorized, abandoned, junk, and other vehicles."

Sections 11, 16, 21(6) and 21(9) conflict with amendments to RCW 46.61.567, 46.55.170, RCW 46.61.563 and RCW 46.61.567, respectively, contained in sections 744, 741, 743 and 744 of Substitute House Bill No. 454. These sections are not vetoed for their substance, but are vetoed to avoid confusion with Substitute House Bill No. 454. Substitute Senate Bill No. 5124 specifies certain duties to be carried out by

the state commission on equipment. The state commission on equipment is abolished under Substitute House Bill No. 454 and the commission's responsibilities are transferred to the Washington State Patrol.

References are made to the state commission on equipment in sections 11 and 16 of Substitute Senate Bill No. 5124. Substitute House Bill No. 454 establishes the Legislature's clear intention that the Washington State Patrol, and not the state commission on equipment, carry out the responsibilities set forth in the above-referenced sections of Substitute Senate Bill No. 5124.

With the exception of sections 11, 16, 21(6) and 21(9), Substitute Senate Bill No. 5124 is approved."

## CHAPTER 312

[Substitute House Bill No. 755]

### COMMUNITY CORRECTIONS BOARDS AND PLANS—LOCAL AND STATE OFFENDER MANAGEMENT PARTNERSHIPS

AN ACT Relating to community corrections; amending RCW 72.09.050; adding new sections to chapter 72.09 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. It is the purpose of section 3 of this act to encourage local and state government to join in partnerships for the sharing of resources regarding the management of offenders in the correctional system. The formation of partnerships between local and state government is intended to reduce duplication while assuring better accountability and offender management through the most efficient use of resources at both the local and state level.

**NEW SECTION.** Sec. 2. A new section is added to chapter 72.09 RCW to read as follows:

The definitions in this section apply throughout this chapter.

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

(2) "Secretary" means the secretary of corrections.

(3) "County" refers to a county or combination of counties.

(4) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

**NEW SECTION.** Sec. 3. A new section is added to chapter 72.09 RCW to read as follows:

(1) A county may establish a community corrections board which shall consist of nine members. The county legislative authority shall appoint four members to the board, two of whom shall be from the private sector. The secretary shall appoint one member to the board. In addition, the county prosecutor and county sheriff, or their designees, a judge of the county superior court selected by the county superior court judges, and a county district court judge, selected by the county district court judges, shall be members of the board.

(2) If a combination of counties establishes a community corrections board, an intergovernmental agreement shall establish the composition and powers of the board, not to exceed the authority granted in this section.

(3) The community corrections board shall develop a community corrections plan for the county. Upon request, the department may provide technical assistance in developing the plan. The plan shall describe the existing correctional resources, goals, objectives, needs, and problems for local and state correctional services in the county. The plan shall review ways to maximize resources and reduce duplication of services. Areas to be addressed in the plan include, but are not limited to: Voluntary services for offenders, which include employment, substance and alcohol abuse services, housing and mental health services; ways to share administrative costs between local and state government; and the development of alternatives to partial and total confinement.

(4) The secretary shall adopt rules for the submittal and review of all plans. Representatives from other state and local agencies and organizations shall participate in the review process. Initiatives that reduce the duplication of services or maximize the use of existing resources shall be given priority.

(5) The department shall establish a base level of correctional services, which shall be determined and distributed in a consistent manner statewide. The department's contributions to any partnerships, approved pursuant to this section, shall not operate to reduce this base level of services.

Sec. 4. Section 5, chapter 136, Laws of 1981 as amended by section 1, chapter 19, Laws of 1986 and RCW 72.09.050 are each amended to read as follows:

The secretary shall manage the department of corrections and shall be responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons. In addition, the secretary shall have broad powers to enter into agreements with any federal agency, or any other state, or any Washington state agency or local government providing for the operation of any correctional facility or program for persons convicted of felonies or misdemeanors or for juvenile offenders. Such agreements for counties with community corrections boards shall be required in the community corrections plan pursuant to section 3 of this 1987 act. The agreements may provide for joint operation or operation by the department of corrections, alone, or by any of the other governmental entities, alone. The secretary may employ persons to aid in performing the functions and duties of the department. The secretary may delegate any of his functions or duties to department employees. The secretary is authorized to promulgate standards for the department of corrections within appropriation levels authorized by the legislature.

Pursuant to the authority granted in chapter 34.04 RCW, the secretary shall adopt rules providing for inmate restitution when restitution is determined appropriate as a result of a disciplinary action.

Passed the House April 22, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

---

## CHAPTER 313

[Substitute Senate Bill No. 5814]

### MOBILE HOMES ARE SUBJECT TO CONTRACTOR REGISTRATION STATUTE— MOBILE HOME SITING REQUIREMENTS ESTABLISHED

AN ACT Relating to mobile homes; amending RCW 18.27.090; and declaring an emergency.

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

Sec. 1. Section 2, chapter 25, Laws of 1974 ex. sess. as last amended by section 1, chapter 4, Laws of 1983 and RCW 18.27.090 are each amended to read as follows:

This chapter shall not apply to:

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

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

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

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

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

(6) Any construction, alteration, improvement, or repair of personal property, except this chapter shall apply to all mobile/manufactured housing. A mobile/manufactured home may be installed, set up, or repaired by the registered or legal owner, by a contractor licensed under this chapter, or by a mobile/manufactured home retail dealer or manufacturer licensed under chapter 46.70 RCW who shall warranty service and repairs under chapter 46.70 RCW;

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

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

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

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

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

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

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

(14) A licensed architect or civil or professional engineer acting solely in his professional capacity, an electrician licensed under the laws of the state of Washington, or a plumber licensed under the laws of the state of Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in this subsection is applicable only when the licensee is operating within the scope of his license;

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



(16) Contractors on highway projects who have been prequalified as required by chapter 13 of the Laws of 1961, RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance work.

**NEW SECTION.** Sec. 2. The legislature finds that setting up and siting mobile/manufactured homes must be done properly for the health, safety, and enjoyment of the occupants. Therefore, when any of the following cause a health and safety risk to the occupants of a mobile/manufactured home, or severely hinder the use and enjoyment of the mobile/manufactured home, a violation of RCW 19.86.020 shall have occurred:

(1) The mobile/manufactured home has been improperly installed by a contractor licensed under chapter 18.27 RCW, or a mobile/manufactured dealer or manufacturer licensed under chapter 46.70 RCW;

(2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW has not been fulfilled by the person or business giving the warranty; and

(3) A bonding company that issues a bond under chapter 18.27 RCW or chapter 46.70 RCW does not reasonably and professionally investigate and resolve claims made by injured parties.

**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 25, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

---

## CHAPTER 314

[Engrossed Substitute Senate Bill No. 5225]

### COMMUNITY COLLEGE COLLECTIVE BARGAINING MODIFIED

AN ACT Relating to community college negotiations by academic personnel; amending RCW 28B.52.010, 28B.52.020, 28B.52.030, 28B.52.035, 28B.52.060, 28B.52.200, and 28B.50.140; and adding new sections to chapter 28B.52 RCW.

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

Sec. 1. Section 1, chapter 196, Laws of 1971 ex. sess. and RCW 28B.52.010 are each amended to read as follows:

It is the purpose of this chapter to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees and the community college districts by which they are employed.

It is the purpose of this chapter to promote cooperative efforts by prescribing certain rights and obligations of the employees and employers and by establishing orderly procedures governing the relationship between the employees and their employers which procedures are designed to meet the special requirements and needs of public employment in higher education. It is the intent of this chapter to promote activity that includes the elements of open communication and access to information in a timely manner, with reasonable discussion and interpretation of that information. It is the further intent that such activity shall be characterized by mutual respect, integrity, reasonableness, and a desire on the part of the parties to address and resolve the points of concern.

Sec. 2. Section 2, chapter 196, Laws of 1971 ex. sess. as last amended by section 12, chapter 296, Laws of 1975 1st ex. sess. and RCW 28B.52.020 are each amended to read as follows:

As used in this chapter:

(1) "Employee organization" means any organization which includes as members the academic employees of a community college district and which has as one of its purposes the representation of the employees in their employment relations with the community college district.

(2) "Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any community college district, whether full or part time, with the exception of the chief administrative officer of, and any administrator in, each community college district.

(3) "Administrator" means any person employed either full or part time by the community college district and who performs administrative functions as at least fifty percent or more of his assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules and regulations as adopted in accordance with RCW 28B.52.080.

(4) "Commission" means the public employment relations commission.

(5) "Unfair labor practice" means any unfair labor practice listed in section 11 of this 1987 act.

(6) "Union security provision" means a provision in a collective bargaining agreement under which some or all employees in the bargaining unit may be required, as a condition of continued employment on or after the thirtieth day following the beginning of such employment or the effective date of the provision, whichever is later, to become a member of the exclusive bargaining representative or pay an agency fee equal to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative.

(7) "Exclusive bargaining representative" means any employee organization which has:

(a) Been certified or recognized under this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Before the effective date of this section, been certified or recognized under a predecessor statute as the representative of the employees in a bargaining unit which continues to be appropriate under this chapter.

(8) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which items are mandatory subjects for bargaining.

Sec. 3. Section 3, chapter 196, Laws of 1971 ex. sess. as amended by section 2, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.030 are each amended to read as follows:

~~Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its community college district, shall have the right((; after using established administrative channels, to meet, confer and negotiate with the board of trustees of the community college district or its delegated representative(s) to communicate the considered professional judgment of the academic staff prior to the final adoption by the board of proposed community college district policies relating to, but not limited to; curriculum, textbook selection, in-service training, student teaching programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties)) to bargain as defined in RCW 28B.52.020(8).~~

Sec. 4. Section 4, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.035 are each amended to read as follows:

At the conclusion of any negotiation processes as provided for in RCW 28B.52.030, any matter upon which the parties have reached agreement shall be reduced to writing and acted upon in a regular or special meeting of the boards of trustees, and become part of the official proceedings of said board meeting. Provisions of written contracts relating to salary increases shall not exceed the amount or percentage established by the legislature in the appropriations act and allocated to the board of trustees by the state

board for community college education. The length of ((terms within)) term of any such agreement shall be for not more than three fiscal years. Any provisions of these agreements pertaining to salary increases will not be binding upon future actions of the legislature. If any provision of a salary increase is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision.

**NEW SECTION.** Sec. 5. A new section is added to chapter 28B.52 RCW to read as follows:

Employees have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and also have the right to refrain from any or all of these activities except to the extent that employees may be required to make payments to an exclusive bargaining representative or charitable organization under a union security provision authorized in this chapter.

**NEW SECTION.** Sec. 6. A new section is added to chapter 28B.52 RCW to read as follows:

A board of trustees or an employee organization that enters into a negotiated agreement under RCW 28B.52.030 may include in the agreement procedures for binding arbitration of the disputes arising about the interpretation or application of the agreement including but not limited to non-retention, dismissal, denial of tenure, and reduction in force.

**NEW SECTION.** Sec. 7. A new section is added to chapter 28B.52 RCW to read as follows:

Except as otherwise expressly provided in this chapter, this chapter shall not be construed to deny or otherwise abridge any rights, privileges, or benefits granted by law to employees. This chapter shall not be construed to interfere with the responsibilities and rights of the board of trustees as specified by federal and state law.

**NEW SECTION.** Sec. 8. A new section is added to chapter 28B.52 RCW to read as follows:

(1) Upon filing with the employer the voluntary written authorization of a bargaining unit employee under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit employee the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all employees who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit employees affected thereby and shall transmit such funds to the employee organization or to the depository designated by the employee organization.

(3) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the employee and the employee organization to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payments have been made. If the employee and the employee organization do not reach agreement on such matter, the commission shall designate the charitable organization.

Sec. 9. Section 5, chapter 196, Laws of 1971 ex. sess. as last amended by section 13, chapter 296, Laws of 1975 1st ex. sess. and RCW 28B.52.060 are each amended to read as follows:

The commission (~~(is authorized to)~~) shall conduct (~~((fact-finding and))~~) mediation activities upon the (~~((consent))~~) request of ((both parties)) either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the community college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may, request the assistance and advice of the commission. Nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter.

NEW SECTION. Sec. 10. A new section is added to chapter 28B.52 RCW to read as follows:

The commission may adjudicate any unfair labor practices alleged by a board of trustees or an employee organization and shall adopt reasonable rules to administer this section. However, the parties may agree to seek relief from unfair labor practices through binding arbitration.

NEW SECTION. Sec. 11. A new section is added to chapter 28B.52 RCW to read as follows:

(1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

(3) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

Sec. 12. Section 6, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.200 are each amended to read as follows:

Nothing in chapter 28B.52 RCW as now or hereafter amended shall compel either party to agree to a proposal or to make a concession, nor shall any provision in chapter 28B.52 RCW as now or hereafter amended be construed as limiting or precluding the exercise by each community college board of trustees of any powers or duties authorized or provided to it by law unless such exercise is contrary to the terms and conditions of any lawful negotiated agreement, except that other than to extend the terms of a previous contract, a board of trustees shall not take unilateral action on any unresolved issue under negotiation, unless the parties have first participated in good faith mediation or some other procedure as authorized by RCW 28B.52.060 to seek resolution of the issue.

**NEW SECTION.** Sec. 13. A new section is added to chapter 28B.52 RCW to read as follows:

The right of community college faculty to engage in any strike is prohibited. The right of a board of trustees to engage in any lockout is prohibited. Should either a strike or lockout occur, the representative of the faculty or board of trustees may invoke the jurisdiction of the superior court in the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order against either or both parties. In fashioning an order, the court shall take into consideration not only the elements necessary for injunctive relief but also the purpose and goals of this chapter and any mitigating factors such as the commission of an unfair labor practice by either party.

Sec. 14. Section 6, chapter 14, Laws of 1979 as last amended by section 96, chapter 370, Laws of 1985 and RCW 28B.50.140 are each amended to read as follows:

Each community college board of trustees:

(1) Shall operate all existing community colleges and vocational-technical institutes in its district;

(2) Shall create comprehensive programs of community college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3);

(3) Shall employ for a period to be fixed by the board a college president for each community college, a director for each vocational-technical institute or school operated by a community college, a district president, if deemed necessary by the board, in the event there is more than one college and/or separated institute or school located in the district, members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Salary increases shall not exceed the amount or percentage established in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community college education;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However, the authority of community college boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(5);

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the

acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the community college district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate;

(13) Shall enforce the rules and regulations prescribed by the state board for community college education for the government of community colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations



of the state board for community college education as the board of trustees may in its discretion deem necessary or appropriate to the administration of community college districts: **PROVIDED**, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community college facilities, and discipline: **PROVIDED, FURTHER**, That the board of trustees may suspend or expel from community colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community college education: **PROVIDED**, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services: **PROVIDED FURTHER**, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: **PROVIDED**, That such contracts shall be subject to review by the state board for community college education and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the projected total cost of offering the educational service: **PROVIDED FURTHER**, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(4), may participate in higher education centers and consortia that involve any four-year public or independent college or university; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

**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 Senate April 22, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

## CHAPTER 315

[House Bill No. 86]

### LOCAL IMPROVEMENT DISTRICTS, UTILITY LOCAL IMPROVEMENT DISTRICTS, AND LOCAL UTILITY DISTRICTS—FINANCING OF SANITARY SEWERS OR POTABLE WATER FACILITIES

AN ACT Relating to improvement districts; adding new sections to chapter 35.43 RCW; adding a new section to chapter 36.94 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 56.20 RCW; adding a new section to chapter 57.16 RCW; and adding a new section to chapter 87.03 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 35.43 RCW to read as follows:

Whenever it is proposed that a local improvement district or utility local improvement district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed improvement district shall be mailed to the owners of any property located outside of the proposed improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local improvement district. The notice shall include information about this restriction.

**NEW SECTION.** Sec. 2. A new section is added to chapter 35.43 RCW to read as follows:

A public hearing shall be held on the creation of a proposed local improvement district or utility local improvement district that is initiated by petition. Notice requirements for this public hearing shall be the same as for the public hearing on the creation of a proposed local improvement district or utility local improvement district that is initiated by resolution.

**NEW SECTION.** Sec. 3. A new section is added to chapter 36.94 RCW to read as follows:

Whenever it is proposed that a local improvement district or utility local improvement district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed improvement district shall be mailed to the owners of any property located outside of the proposed improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local improvement district. The notice shall include information about this restriction.

**NEW SECTION.** Sec. 4. A new section is added to chapter 54.16 RCW to read as follows:

Whenever it is proposed that a local utility district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed local utility district shall be mailed to the owners of any property located outside of the proposed local utility district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local utility district. The notice shall include information about this restriction.

**NEW SECTION.** Sec. 5. A new section is added to chapter 56.20 RCW to read as follows:

Whenever it is proposed that a utility local improvement district finance sanitary sewers facilities, additional notice of the public hearing on the proposed improvement district shall be mailed to the owners of any property located outside of the proposed utility local improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer facilities installed by the utility local improvement district. The notice shall include information about this restriction.

**NEW SECTION.** Sec. 6. A new section is added to chapter 57.16 RCW to read as follows:

Whenever it is proposed that a local improvement district or utility local improvement district finance potable water facilities, additional notice of the public hearing on the proposed improvement district shall be mailed to the owners of any property located outside of the proposed improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific water facilities installed by the local improvement district. The notice shall include information about this restriction.

**NEW SECTION.** Sec. 7. A new section is added to chapter 87.03 RCW to read as follows:

Whenever it is proposed that a local improvement district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed local improvement district shall be mailed to the owners of any property located outside of the proposed local improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local improvement district. The notice shall include information about this restriction.

Passed the House April 15, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

## CHAPTER 316

[Substitute House Bill No. 677]

### INDUSTRIAL INSURANCE—DELEGATION OF SUBPOENA POWER— AGRICULTURAL LABOR EXEMPTION REMOVED—DELINQUENT ASSESSMENTS—FEES AND MEDICAL CHARGES

AN ACT Relating to industrial insurance administration; amending RCW 51.04.040, 51.12.020, and 51.48.131; adding a new section to chapter 51.36 RCW; and prescribing penalties.

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

Sec. 1. Section 51.04.040, chapter 23, Laws of 1961 as last amended by section 9, chapter 200, Laws of 1986 and RCW 51.04.040 are each amended to read as follows:

The director and his or her authorized assistants shall have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department, any billing submitted to the department, or the assessment or collection of premiums. The superior court shall have the power to enforce any such subpoena by proper proceedings.

Sec. 2. Section 51.12.020, chapter 23, Laws of 1961 as last amended by section 1, chapter 252, Laws of 1983 and RCW 51.12.020 are each amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, repair, remodeling, or similar work in or about the private home of the employer.

(3) A person whose employment is not in the course of the trade, business, or profession of his or her employer and is not in or about the private home of the employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors or partners: PROVIDED, That after July 26, 1981, sole proprietors or partners who for the first time register under chapter 18.27 RCW or become licensed for the first time under chapter 19.28 RCW shall be included under the mandatory coverage provisions of this title subject to the provisions of RCW 51.32.030. These persons may elect to withdraw from coverage under RCW 51.12.115.

~~(6) ((Any employee, not regularly and continuously employed by the employer in agricultural labor, whose cash remuneration paid by or due from any one employer in that calendar year for agricultural labor is less than one hundred fifty dollars. Employees not regularly and continuously employed in agricultural labor by any one employer but who are employed in agricultural labor on a seasonal basis shall come under the coverage of this title only when their cash remuneration paid or due in that calendar year exceeds one hundred fifty dollars but only as of the occurrence of that event and only as to their work for that employer.~~

(7)) Any child under eighteen years of age employed by his parent or parents in agricultural activities on the family farm.

~~((8))~~ (7) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

~~((9))~~ (8) Any ~~((executive))~~ officer of a corporation elected and empowered in accordance with the articles of incorporation or bylaws of a corporation who at all times during the period involved is also a director and shareholder of the corporation. ~~((Any officer who was considered by the department to be covered on and after June 30, 1977, shall continue to be covered until such time as the officer voluntarily elects to withdraw from coverage in the manner provided by RCW 51.12.110.))~~ However, any corporation may elect to cover such officers who are in fact employees of the corporation in the manner provided by RCW 51.12.110.

~~((10))~~ (9) Services rendered by a musician or entertainer under a 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. A purchaser does not include the leader of a group or recognized entity who employs other than on a casual basis musicians or entertainers.

Sec. 3. Section 7, chapter 315, Laws of 1985 and RCW 51.48.131 are each amended 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 department, within thirty days after receiving a notice of appeal, may modify, reverse, or change any notice of assessment, or may hold any such notice of assessment in abeyance pending further investigation, and the board shall thereupon deny the appeal, without prejudice to the employer's right to appeal from any subsequent determinative notice of assessment issued by the department.

The burden of proof rests upon the employer in an appeal 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.

**NEW SECTION.** Sec. 4. A new section is added to chapter 51.36 RCW to read as follows:

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 self-insured 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 self-insured prior to final adjudication of claim allowance. The self-insured 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.

Passed the House March 9, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

## CHAPTER 317

[Engrossed Substitute Senate Bill No. 5838]

## HEALTH STUDIOS

AN ACT Relating to health studios; adding a new chapter to Title 19 RCW; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. The legislature finds that there exist in connection with a substantial number of contracts for health studio services certain practices and business methods which have worked undue financial hardship upon some of the citizens of the state and that existing legal remedies are inadequate to correct existing problems in the industry. The legislature declares that it is a matter of public interest that the citizens of our state be assured reasonable protection when contracting for health studio services.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Business day" means any day except a Sunday or a legal holiday.

(2) "Buyer" or "member" means a person who purchases health studio services.

(3) "Health studio" includes any person or entity engaged in the sale of instruction, training, assistance or use of facilities which purport to assist patrons to improve their physical condition or appearance through physical exercise, body building, weight loss, figure development, or any other similar activity. For the purposes of this chapter, "health studio" does not include: (a) Public common schools, private schools approved under RCW 28A.02-.201, and public or private institutions of higher education; (b) persons providing professional services within the scope of a person's license under Title 18 RCW; (c) bona fide nonprofit organizations which have been granted tax-exempt status by the Internal Revenue Service, the functions of which as health studios are only incidental to their overall functions and purposes; (d) a person or entity which offers physical exercise, body building, figure development or similar activities as incidental features of a plan of instruction or assistance relating to diet or control of eating habits; (e) bona fide nonprofit corporations organized under chapter 24.03 RCW which have members and whose members have meaningful voting rights to elect and remove a board of directors which is responsible for the operation of the health club and corporation; and (f) a preexisting facility primarily offering aerobic classes, where the initiation fee is less than fifty dollars and no memberships are sold which exceed one year in duration. For purposes of this subsection, "preexisting facility" means an existing building used for health studio services covered by the fees collected.

(4) "Health studio services" means instruction, services, privileges, or rights offered for sale by a health studio. "Health studio services" do not include: (a) Instruction or assistance relating to diet or control of eating habits not involving substantial on-site physical exercise, body building, figure development, or any other similar activity; or (b) recreational or social programs which either involve no physical exercise or exercise only incidental to the program.

(5) "Initiation or membership fee" means a fee paid either in a lump sum or installments on a one-time basis when a person first joins a health studio for the privilege of belonging to the health studio.

(6) "Special offer or discount" means any offer of health studio services at a reduced price or without charge to a prospective member.

(7) "Use fees or dues" means fees paid on a regular periodic basis for use of a health studio. This does not preclude prepayment of use fees at the buyer's option.

**NEW SECTION.** Sec. 3. (1) Each health studio shall prepare and provide to each prospective buyer a written comprehensive list of all membership plans of health studio services offered for sale by the health studio. The list shall contain a description and the respective price of each membership plan of health studio services offered.

(2) A health studio is prohibited from selling a membership plan of health studio services not included in the list.

(3) A health studio is prohibited from making a special offer or offering a discount unless such special offer or discount is made in writing and available to all prospective members: **PROVIDED**, That a special offer or discount offered to groups need not be available to all similarly-situated prospective members.

(4) A health studio is prohibited from making any misrepresentation to any prospective buyer or current member regarding qualifications of staff, availability or quality of facilities or services, or results obtained through exercise, body building, figure development, or weight loss programs, or the present or maximum number of customers who may contract to use the facilities or services.

**NEW SECTION.** Sec. 4. A contract for the sale of health studio services shall be in writing. A copy of the contract, as well as the rules of the health studio if not stated in the contract, shall be given to the buyer when the buyer signs the contract.

**NEW SECTION.** Sec. 5. A contract for health studio services shall include all of the following:

(1) The name and address of the health studio facilities operator;

(2) The date the buyer signed the contract;

(3) A description of the health studio services and general equipment to be provided, or acknowledgement in a conspicuous form that the buyer



has received a written description of the health studio services and equipment to be provided. If any of the health studio services or equipment are to be delivered at a planned facility, at a facility under construction, or through substantial improvements to an existing facility, the description shall include a date for completion of the facility, construction, or improvement. Health studio services must begin within twelve months from the date the contract is signed unless the completion of the facility, construction, or improvement is delayed due to war, or fire, flood, or other natural disaster;

(4) A statement of the duration of the contract. No contract for health studio services may require payments or financing by the buyer over a period in excess of thirty-six months from the date of the contract, nor may any contract term be measured by or be for the life of the buyer;

(5) The use fees or dues to be paid by the buyer and if such fees are subject to periodic adjustment. Use fees or dues may not be raised more than once in any calendar year;

(6) A complete statement of the rules of the health studio or an acknowledgement in a conspicuous form that the buyer has received a copy of the rules;

(7) Clauses which notify the buyer of the right to cancel:

(a) If the buyer dies or becomes totally disabled. The contract may require that the disability be confirmed by an examination of a physician agreeable to the buyer and the health studio;

(b) (i) Subject to (b)(ii) of this subsection, if the buyer moves his or her permanent residence to a location more than twenty-five miles from the health studio or an affiliated health studio offering the same or similar services and facilities at no additional expense to the buyer and the buyer cancels after one year from signing the contract if the contract extends for more than one year. The health studio may require reasonable evidence of relocation;

(ii) If at the time of signing the contract requiring payment of an initiation or membership fee the buyer lived more than twenty-five miles from the health studio, the buyer may cancel under (7)(b)(i) of this section only if the buyer moves an additional five miles or more from the health studio.

(c) If a contract extends for more than one year or requires payment of an initiation or membership fee, in which case the buyer may cancel the contract for any reason upon thirty days' written notice to the health studio;

(d) If the health studio facilities are permanently closed and comparable facilities owned and operated by the seller are not made available within a ten-mile radius of the closed facility;

(e) If a facility, construction, or improvement is not completed by the date represented by the contract;

(f) If the contract for health studio services was sold prior to the opening of the facility, the buyer may cancel within the first five business days

the facility opens for use of the buyer and the health studio begins to provide the agreed upon health studio services;

(8) Clauses explaining the buyer's right to a refund and relief from future payment obligations after cancellation of the contract;

(9) A provision under a conspicuous caption in capital letters and boldface type stating substantially the following:

**"BUYER'S RIGHT TO CANCEL**

If you wish to cancel this contract without penalty, you may cancel it by delivering or mailing a written notice to the health studio. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign this contract. The notice must be mailed to . . . . . (insert name and mailing address of health studio). If you cancel within the three days, the health studio will return to you within thirty days all amounts you have paid."

**NEW SECTION.** Sec. 6. After receipt of a written notice of cancellation, the health studio shall provide a refund to the buyer within thirty days. The health studio may require the buyer to return any membership card or other materials which evidence membership in the health studio. The buyer is entitled to a refund and relief from future obligations for payments of initiation or membership fees and use fees or dues as follows:

(1) The buyer is entitled to a refund of the unused portion of any prepaid use fees or dues and relief from future obligations to pay use fees or dues concerning use after the date of cancellation.

(2) (a) Subject to (b) of this subsection, if a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to section 5(7)(a) of this act, the buyer is entitled to a pro rata refund of the fee less a predetermined amount not to exceed one-half of the initial initiation or membership fee if the contract clearly states what percentage of the fee is nonrefundable or refundable.

(b) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to section 5(7)(a) of this act three years or more after the signing of the contract requiring payment of such fee, such fee is nonrefundable.

(3) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to section 5(7) (b) or (c) of this act, the buyer is entitled to a pro rata refund of the fee less a predetermined amount not to exceed one-half of the initial initiation or membership fee unless the contract clearly states that the initiation or membership fee is nonrefundable, and the clause is separately signed by the buyer.

(4) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to section 5(7)(d) of this act, the buyer is entitled to a pro rata refund of the fee.

(5) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to section 5(7) (e) or (f) of this act, the buyer is entitled to a full refund of the fee.

If a buyer is entitled to a pro rata refund under this section, the amount shall be computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term.

**NEW SECTION.** Sec. 7. (1) All moneys paid to a health studio prior to the opening of the facility shall immediately be deposited in a trust account of a federally insured financial institution located in this state. The trust account shall be designated and maintained for the benefit of health studio members. Moneys maintained in the trust account shall be exempt from execution, attachment, or garnishment. A health studio shall not in any way encumber the corpus of the trust account or commingle any other operating funds with trust account funds. Withdrawals from the trust account shall be made no sooner than thirty days after the opening of the entire facility.

(2) The health studio shall within seven days of the first deposit notify the office of the attorney general in writing, of the name, address, and location of the depository and any subsequent change thereof.

(3) The health studio shall provide the buyer with a written receipt for the money and shall provide written notice of the name, address, and location of the depository and any subsequent change thereof.

(4) The health studio shall maintain a record of each trust account deposit, including the name and address of each member whose funds are being deposited, the amount paid and the date of the deposit. Upon request of the attorney general's office, upon five days' notice, such records shall be produced for inspection.

(5) If prior to the opening of the facility the status of the health studio is transferred to another, any sums in the trust account affected by the transfer shall simultaneously be transferred to an equivalent trust account of the successor, and the successor shall promptly notify the buyer and the office of the attorney general of the transfer and of the name, address, and location of the new depository.

(6) The buyer's claim to any money under this section is prior to that of any creditor of the health studio, including a trustee in bankruptcy or receiver.

(7) After the health studio receives a notice of cancellation of the contract, or if the health studio fails to open a facility at the stated date of completion and if the buyer so requests, then the health studio shall provide a refund within thirty days.

**NEW SECTION.** Sec. 8. The requirements of section 7 of this act do not apply to any health studios which, prior to any preopening sales, have provided a bond guaranteeing the completion or opening of any facility for which contracts for health studio services were sold prior to the opening of the facility. The bond shall be drawn upon a surety in the amount of one hundred fifty thousand dollars, running to the state of Washington. An action on the bond may be brought by the office of the attorney general or by any buyer of a contract for health studio services sold prior to the opening of the facility.

**NEW SECTION.** Sec. 9. Failure to furnish a bond as required by section 8 of this act or to maintain a trust account as required by section 7 of this act shall constitute a class C felony punishable as provided in chapter 9A.20 RCW.

**NEW SECTION.** Sec. 10. A health studio shall not request a buyer to waive any provision of this chapter. Any contract for health studio services which does not comply with the provisions of this chapter or in which a buyer waives any provision of this chapter is void and unenforceable as contrary to public policy.

**NEW SECTION.** Sec. 11. A violation of this chapter constitutes an unfair or deceptive act or practice and is a per se violation of the consumer protection act, chapter 19.86 RCW.

**NEW SECTION.** Sec. 12. Buyers who prevail in any cause of action under this chapter are entitled to reasonable attorneys' fees.

**NEW SECTION.** Sec. 13. The provisions of this chapter are cumulative and nonexclusive and do not affect any other remedy available at law.

**NEW SECTION.** Sec. 14. The provisions of this chapter shall not apply to any contracts for health studio services entered into before the effective date of this act.

**NEW SECTION.** Sec. 15. Sections 1 through 14 of this act shall constitute a new chapter in Title 19 RCW.

Passed the Senate April 25, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

---

## CHAPTER 318

[Senate Bill No. 5948]

### MOTOR VEHICLE RETAIL INSTALLMENT CONTRACT SERVICE CHARGES

AN ACT Relating to interest rates on retail installment contracts for the purchase of motor vehicles; amending RCW 63.14.130; and providing an effective date.

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

Sec. 1. Section 13, chapter 236, Laws of 1963 as last amended by section 5, chapter 280, Laws of 1984 and RCW 63.14.130 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer.

(1) Except as provided in subsection (2) of this section, the service charge, in a retail installment contract, shall not exceed the highest of the following:

(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one-quarter of one percent, of the equivalent coupon issue yields (as published by the Federal Reserve Bank of San Francisco) of the bill rates for twenty-six week treasury bills for the last market auctions conducted during February, May, August, and November of the year prior to the year in which the retail installment contract is executed; or

(b) Ten dollars.

(2) The service charge in a retail installment contract for the purchase of a motor vehicle shall not exceed the highest of the following:

(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one-quarter of one percent, of the equivalent coupon issue yield (as published by the Federal Reserve Bank of San Francisco) of the bill rate for twenty-six week treasury bills for the last market auction conducted during February, May, August, or November, as the case may be, prior to the quarter in which the retail installment contract for purchase of the motor vehicle is executed; or

(b) Ten dollars.

As used in this subsection, "motor vehicle" means 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 for devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(3) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed one and one-half percent per month on the outstanding unpaid balances. If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

~~((3))~~ (4) A service charge may be computed on the median amount within a range which does not exceed ten dollars and which is a part of a published schedule of consecutive ranges applied to an outstanding balance, provided the median amount is used in computing the service charge for all balances within such range.

**NEW SECTION.** Sec. 2. This act shall take effect January 1, 1988.

Passed the Senate April 21, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 11, 1987.

Filed in Office of Secretary of State May 11, 1987.

## CHAPTER 319

[Engrossed House Bill No. 772]

### TAX REVISIONS—TAX REFUNDS INTEREST RATE—FIREMEN PENSION FUNDING TAX LEVY MODIFIED—COUNTY REVALUATION PLANS— DESTROYED PROPERTY ASSESSMENT—IRRIGATION COMPONENTS

AN ACT Relating to the administration of property tax refunds, collections, and revaluation plans; amending RCW 84.69.100, 41.16.060, 84.40.200, 84.41.041, 36.21.080, 84.70.010, 84.70.040, and 36.95.080; adding a new section to chapter 84.04 RCW; and repealing RCW 84.70.020 and 84.70.030.

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

Sec. 1. Section 84.69.100, chapter 15, Laws of 1961 as amended by section 4, chapter 5, Laws of 1973 2nd ex. sess. and RCW 84.69.100 are each amended to read as follows:

Refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 shall include interest (~~((at the rate of five percent per annum))~~) from the date of collection of the portion refundable or from the date of claim for refund, whichever is later: PROVIDED, That refunds on a state, county, or district wide basis (~~((during 1973))~~) shall not commence to accrue interest until six months following the date of the final order of the court. No written protest by individual taxpayers need to be filed to receive a refund (~~((pursuant to this 1973 amendatory act))~~) on a state, county, or district wide basis. The rate of interest shall be 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 after June 30th of the calendar year preceding the date the taxes were paid or the claim for refund is filed, whichever is later. The department of revenue shall adopt this rate of interest by rule.

Sec. 2. Section 6, chapter 91, Laws of 1947 as last amended by section 4, chapter 155, Laws of 1980 and RCW 41.16.060 are each amended to read as follows:

It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of twenty-two and one-half cents per thousand dollars of assessed value against all the taxable property of such municipality: PROVIDED, That if a report by a qualified actuary on the condition of the fund establishes that the whole or any part of said dollar rate is not necessary to maintain the actuarial soundness of the fund, the levy of said twenty-two and one-half

cents per thousand dollars of assessed value may be omitted, or the whole or any part of said dollar rate may be levied and used for any other municipal purpose.

It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy and in addition to the city levy limit set forth in RCW (~~84.52.050, as now or hereafter amended~~) 84.52.043, to levy and place in the fund an additional tax of twenty-two and one-half cents per thousand dollars of assessed value against all taxable property of such municipality: PROVIDED, That if a report by a qualified actuary establishes that all or any part of the additional twenty-two and one-half cents per thousand dollars of assessed value levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of said additional twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of such dollar rate may be levied and used for any other municipal purpose; PROVIDED FURTHER, That cities that have annexed to library districts according to RCW 27.12.360 through 27.12.395 and/or fire protection districts according to RCW 52.04.061 through 52.04.081 shall not levy this additional tax to the extent that it causes the combined levies to exceed the statutory or constitutional limits.

The amount of a levy under this section allocated to the pension fund may be reduced in the same proportion as the regular property tax levy of the municipality is reduced by chapter 84.55 RCW.

Sec. 3. Section 84.40.200, chapter 15, Laws of 1961 and RCW 84.40.200 are each amended to read as follows:

(1) In all cases of failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property and assess the same at such amount as he believes to be the true value thereof.

(2) The assessor, in all cases of the assessment of personal property, shall deliver or mail to the person assessed, or to the person listing the property, a copy of the statement of property hereinbefore required, showing the valuation of the property so listed (~~(, which copy shall be signed by the assessor)~~).

Sec. 4. Section 2, chapter 131, Laws of 1974 ex. sess. as last amended by section 2, chapter 46, Laws of 1982 1st ex. sess. and RCW 84.41.041 are each amended to read as follows:

Each county assessor shall cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan shall provide that a reasonable portion of all taxable real property within a county shall be revalued and these newly-determined values placed on the assessment rolls each year. The department may approve a plan that provides that all property in

the county be revalued every two years. If the revaluation plan provides for physical inspection at least once each four years, during the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during the intervals between each physical inspection of real property, the valuation of such property shall be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

Sec. 5. Section 36.21.080, chapter 4, Laws of 1963 as last amended by section 1, chapter 220, Laws of 1985 and RCW 36.21.080 are each amended to read as follows:

~~((+))~~ 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:))

Sec. 6. Section 3, chapter 196, Laws of 1974 ex. sess. as last amended by section 1, chapter 274, Laws of 1981 and RCW 84.70.010 are each amended to read as follows:



(1) 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:

(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))~~ the number of days in the year and multiply the quotient by the number of ~~((months or major fraction thereof))~~ days remaining in the calendar year after the date of the destruction or reduction in value of the property.

~~(2) ((The amount of taxes to be abated under this section shall be determined by multiplying the amount of net loss determined under subsection (1) of this section by the rate percent of levy applicable to the property in the tax year to which the reduction of assessed value is applicable))~~ No reduction in the true cash value shall be made more than three years after the date of destruction or reduction in value.

(3) The assessor shall make such reduction on his or her own motion; however, the taxpayer may make application for reduction on forms prepared by the department and provided by the assessor. The assessor shall notify the taxpayer of the amount of reduction.

(4) If destroyed property is replaced prior to the valuation dates contained in RCW 36.21.080 and 36.21.090, the total taxable value for that year shall not exceed the value as of the appropriate valuation date in RCW 36.21.080 or 36.21.090, whichever is appropriate.

(5) The taxpayer may appeal the amount of reduction to the county board of equalization within thirty days of notification or July 15th of the year of reduction, whichever is later. The board shall reconvene, if necessary, to hear the appeal.

Sec. 7. Section 6, chapter 196, Laws of 1974 ex. sess. and RCW 84-70.040 are each amended to read as follows:

No relief under ~~((RCW 84.70.010 through 84.70.040))~~ this chapter shall be given to any person who is convicted of arson with regard to the property for which relief is sought.

NEW SECTION. Sec. 8. A new section is added to chapter 84.04 RCW to read as follows:

Notwithstanding RCW 84.04.080 and 84.04.090, the department shall classify, by rule, the components of irrigation systems as real or personal property for purposes of taxation under this title.

**\*Sec. 9. Section 8, chapter 155, Laws of 1971 ex. sess. as amended by section 1, chapter 52, Laws of 1981 and RCW 36.95.080 are each amended to read as follows:**

***The board shall, on or before the first day of July of any given year, ascertain and prepare a list of all persons believed to own television sets within the district, other than persons using a satellite dish antenna for such television sets, and deliver a copy of such list to the county ((assessor)) treasurer.***

**\*Sec. 9 was vetoed, see message at end of chapter.**

**NEW SECTION. Sec. 10.** The following acts or parts of acts are each repealed:

(1) Section 4, chapter 196, Laws of 1974 ex. sess., section 3, chapter 120, Laws of 1975 1st ex. sess., section 1, chapter 200, Laws of 1977 ex. sess., section 2, chapter 274, Laws of 1981 and RCW 84.70.020; and

(2) Section 5, chapter 196, Laws of 1974 ex. sess., section 4, chapter 120, Laws of 1975 1st ex. sess. and RCW 84.70.030.

Passed the House March 10, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 11, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 9, Engrossed House Bill No. 772, entitled:

"AN ACT Relating to the administration of property tax refunds, collections and revaluation plans."

This bill makes a number of changes to update and clarify various issues related to the administration of property taxes. I support these changes.

Section 9 would exempt owners of satellite dishes from the TV improvement district levy. Apparently there are only two TV improvement districts in the state and this technical amendment is not practical for them to implement. For this reason I have vetoed this section.

With the exception of section 9, Engrossed House Bill No. 772 is approved."

---

## CHAPTER 320

[Substitute House Bill No. 920]

### MOTOR VEHICLE INSURANCE RATES BASED ON ANTI-THEFT DEVICES AND LIGHTING

AN ACT Relating to rate-making criteria for private passenger automobile insurance; adding a new section to chapter 48.19 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 48.19 RCW to read as follows:

Due consideration in making rates for motor vehicle insurance shall be given to:

(1) ***Any anticipated change in losses that may be attributable to the use of seat belts, child restraints, and other lifesaving devices. An exhibit detailing these changes and any credits or discounts resulting from any such changes shall be included in each filing pertaining to private passenger automobile (or motor vehicle) insurance.***

(2) Any anticipated change in losses that may be attributable to the use of properly installed and maintained anti-theft devices in the insured private passenger automobile. An exhibit detailing these losses and any credits or discounts resulting from any such changes shall be included in each filing pertaining to private passenger automobile (or motor vehicle) insurance.

(3) Any anticipated change in losses that may be attributable to the use of lights and lighting devices that have been proven effective in increasing the visibility of motor vehicles during daytime or in poor visibility conditions and to the use of rear stop lights that have been proven effective in reducing rear-end collisions. An exhibit detailing these losses and any credits or discounts resulting from any such changes shall be included in each filing pertaining to private passenger automobile (or motor vehicle) insurance.

(4) Any anticipated change in losses per vehicle covered that may be attributable to the fact that the insured has more vehicles covered under the policy than there are insured drivers in the same household. An exhibit detailing these changes and any credits or discounts resulting from any such changes shall be included in each filing pertaining to private passenger automobile (or motor vehicle) insurance.

**\*Sec. 1 was partially vetoed, see message at end of chapter.**

**NEW SECTION. Sec. 2. This act shall take effect on January 1, 1988.**

Passed the House April 21, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 11, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1(1), Substitute House Bill No. 920, entitled:

"AN ACT Relating to rate-making criteria for private passenger automobile insurance."

Subsection 2 of this bill applies to "anti-theft devices installed in private passenger automobiles," and subsection 3 applies to "lights and lighting devices that have been proven effective in increasing the visibility of motor vehicles during daytime or in poor visibility conditions and to the use of rear stop lights that have proven effective in reducing rear end collisions." Both subsections indicate these devices should be reflected in the losses, credits or discounts charged by private passenger automobile insurance companies. I endorse these ideas.

Section 1(1) contains the identical language to section 1(2) of Substitute Senate Bill No. 5113. In order to avoid a duplication in the statute, I have vetoed this subsection.

With the exception of section 1(1), which I have vetoed, Substitute House Bill No. 920 is approved."

**CHAPTER 321**

[Engrossed Substitute House Bill No. 95]

**PREVAILING WAGE PROVISIONS REQUIRED IN CERTAIN STATE FACILITY CONSTRUCTION CONTRACTS**

AN ACT Relating to public contracts; and adding a new section to chapter 43.19 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.19 RCW to read as follows:

State agencies shall not cause a facility of new construction to be built by a private party through a contract to rent, lease or purchase at least eighty percent of such facility for occupation by a state agency unless the agreement requires the contractor or developer to comply with the prevailing wage provisions of chapter 39.12 RCW. This section shall not apply to any construction project for which a call for competitive bids was made before the effective date of this 1987 act.

Passed the House April 15, 1987.

Passed the Senate April 6, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

**CHAPTER 322**

[Engrossed Substitute Senate Bill No. 5001]

**JUDICIAL COUNCIL—MEMBERSHIP AND DUTIES REVISED**

AN ACT Relating to the judicial council; amending RCW 2.52.010, 2.52.030, and 2.52.050; adding a new section to chapter 2.52 RCW; and repealing RCW 2.52.060, 2.52.070, 2.52.080, and 43.131.308.

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

Sec. 1. Section 1, chapter 45, Laws of 1925 ex. sess. as last amended by section 1, chapter 112, Laws of 1977 ex. sess. and RCW 2.52.010 are each amended to read as follows:

There is hereby established a judicial council which shall consist of the following:

(1) The chief justice (~~and one other justice~~) of the supreme court(~~to be selected and appointed by the chief justice of the supreme court~~);

(2) (~~Two~~) One judge(~~s~~) of the court of appeals, to be selected and appointed by the three chief judges of the three divisions thereof;

(3) ~~((Two))~~ One judge(s) of the superior court, to be selected and appointed by the superior court judges' association;

(4) ~~((Four))~~ Two members of the state senate(~~(, no more than two of whom))~~ who shall not be members of the same political party(~~(, one of whom will be the chairman of the senate judiciary committee, two to be designated by the chairman, and one to be designated by the chief justice of the state supreme court, four))~~; two members of the state house of representatives(~~(, no more than two of whom))~~ who shall not be members of the same political party(~~(, one of whom shall be the chairman of the house judiciary committee, two to be designated by the chairman, and one to be designated by the chief justice of the state supreme court; unless the house judiciary committee is organized into two sections, in which case the chairman of each section shall be a member, and they shall designate the third house member, and the chief justice shall designate the fourth house member))~~);

(5) ~~((The dean of each recognized school of law within this state;~~

~~((Eight))~~ Four members of the bar who are practicing law, one of whom shall be either a public defender or a legal services attorney, and at least one of whom is a prosecuting attorney, with the public defender or legal services attorney ~~((and three others to be appointed by the chief justice of the supreme court with the advice and consent of the other judges of the court))~~, and ~~((four))~~ two to be appointed by the board of governors of the Washington state bar association from a list of nominees submitted by the legislative committee of the Washington state bar association;

(7) The attorney general; and

(8) ~~((Two))~~ One judge(s) from the courts of limited jurisdiction chosen by the Washington state magistrates' association(~~(, and~~

~~((9) A county clerk to be selected and appointed by the Washington state association of county clerks))~~.

Sec. 2. Section 3, chapter 45, Laws of 1925 ex. sess. and RCW 2.52-.030 are each amended to read as follows:

The chief justice shall be chairman of the council, and one of the other members may be appointed by the council to be executive secretary. ~~((The state law librarian shall be recording secretary, and he shall keep in his office records of the proceedings and acts of the council:))~~ The council may make rules for its procedure and the conduct of its business, and may employ such clerical assistants and procure such office supplies as shall be necessary in the performance of its duties.

Sec. 3. Section 1, chapter 260, Laws of 1981 and RCW 2.52.050 are each amended to read as follows:

It shall be the duty of the council:

(1) ~~((Continuously to survey and study the operation of the judicial department of the state, the volume and condition of business in the courts,~~

~~whether of record or not, the methods of procedure therein, the work accomplished, and the character of the results;~~

~~(2) To receive and consider suggestions from judges, public officers, members of the bar, and citizens as to remedies for faults in the administration of justice;~~

~~(3) To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and correcting faults in the administration of justice;~~

~~(4)) To receive recommendations from justices, judges, public officials, lawyers, and the public to amend current law, as those amendments may affect the administration of justice;~~

(2) To consider such recommendations, and to examine the common law and statutes of the state and judicial decisions, and propose changes in current law, as those changes may affect the administration of justice;

(3) To submit from time to time to the courts or the judges such suggestions as it may deem advisable for changes in rules, procedure, or methods of administration;

~~((5)) (4) To report ((annually)) as may be necessary to the governor and the legislature with the council's recommendations as to needed changes in the organization of the judicial department or the courts or in judicial procedure; and~~

~~((6)) (5) To assist the judges in giving effect to Art. 4, Section 25 of the state Constitution.~~

**NEW SECTION.** Sec. 4. A new section is added to chapter 2.52 RCW to read as follows:

The administrator for the courts shall make available to the council such staff as necessary to carry out the work of the council.

**NEW SECTION.** Sec. 5. The following acts or parts of acts are each repealed:

- (1) Section 6, chapter 45, Laws of 1925 ex. sess. and RCW 2.52.060;
- (2) Section 7, chapter 45, Laws of 1925 ex. sess. and RCW 2.52.070;
- (3) Section 8, chapter 45, Laws of 1925 ex. sess., section 5, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 2.52.080; and
- (4) Section 53, chapter 197, Laws of 1983 and RCW 43.131.308.

Passed the Senate April 26, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 323

[Substitute Senate Bill No. 5206]

## SUPERIOR COURTS—ADDITIONAL JUDGES IN KING, CHELAN, AND DOUGLAS COUNTIES

AN ACT Relating to superior court judges; amending RCW 2.08.061, 2.08.062, 2.56.030, and 2.32.180; and creating a new section.

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

Sec. 1. Section 3, chapter 125, Laws of 1951 as last amended by section 1, chapter 357, Laws of 1985 and RCW 2.08.061 are each amended to read as follows:

There shall be in the county of King no more than ~~((thirty-nine))~~ forty-six judges of the superior court; in the county of Spokane ten judges of the superior court; and in the county of Pierce fifteen judges of the superior court.

Sec. 2. Section 4, chapter 125, Laws of 1951 as last amended by section 2, chapter 357, Laws of 1985 and RCW 2.08.062 are each amended to read as follows:

There shall be in the counties of Chelan and Douglas jointly, ~~((two))~~ three judges of the superior court; in the county of Clark six judges of the superior court; in the county of Grays Harbor two judges of the superior court; in the county of Kitsap five judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis two judges of the superior court.

*\*Sec. 3. Section 3, chapter 259, Laws of 1957 as amended by section 1, chapter 132, Laws of 1981 and RCW 2.56.030 are each amended to read as follows:*

*The administrator for the courts shall, under the supervision and direction of chief justice:*

*(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;*

*(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;*

*(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;*

*(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;*

**(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;**

**(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;**

**(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;**

**(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;**

**(9) Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system; ~~(and)~~**

**(10) Submit annually, as of February 1st, to the chief justice and the judicial council, a report of the activities of the administrator's office for the preceding calendar year;**

**(11) Administer programs and standards for the training and education of judicial personnel;**

**(12) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration and the judicial council, both of which shall make recommendations to the legislature by January 1, 1989. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective; and**

**(13) Attend to such other matters as may be assigned by the supreme court of this state.**

\*Sec. 3 was vetoed, see message at end of chapter.

Sec. 4. Section 1, chapter 126, Laws of 1913 as last amended by section 1, chapter 244, Laws of 1957 and RCW 2.32.180 are each amended to read as follows:

It shall be and is the duty of each and every superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand, appoint a stenographic reporter to be attached to the court holden by him who shall have had at least three years' experience as a skilled, practical reporter, or who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency,



in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1 of this 1987 act. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge.

The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he is appointed: PROVIDED, That in no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each class AA county shall be made by the majority vote of the judges in said county acting en banc; the appointments in class A counties and counties of the first class may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him, but may be removed for incompetency, misconduct or neglect of duty, and before entering upon the discharge of his duties shall take an oath to perform faithfully the duties of his office, and file a bond in the sum of two thousand dollars for the faithful discharge of his duties. Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington.

NEW SECTION. Sec. 5. Sections 1 and 2 of this act shall take effect January 1, 1988. The additional judicial positions created by sections 1 and 2 of this act in King county and Chelan and Douglas counties shall be effective only if each county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities. The legislative authority of each county may in its discretion

phase in any additional judicial positions over a period of time not to extend beyond January 1, 1990.

Passed the Senate April 18, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 12, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 3, Substitute Senate Bill No. 5206 entitled:

"AN ACT Relating to superior court judges."

Section 3 of this bill requires the office of the administrator for the courts to conduct a weighted caseload analysis of Superior and District Court judge positions. Duplicate language is contained in section 6 of Engrossed Substitute House Bill No. 217.

With the exception of section 3, Substitute Senate Bill No. 5206 is approved."

---

## CHAPTER 324

[Engrossed Senate Bill No. 5546]

### SUBSTANTIAL BODILY HARM REDEFINED—SUBSTANTIAL PAIN DEFINED— SECOND DEGREE ASSAULT INCLUDES HARM TO AN UNBORN QUICK CHILD

AN ACT Relating to the crime of assault; amending RCW 9A.04.110 and 9A.36.021; amending section 12, chapter 257, Laws of 1986 (uncodified); providing an effective date; and declaring an emergency.

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

Sec. 1. Section 9A.04.110, chapter 260, Laws of 1975 1st ex. sess. as amended by section 3, chapter 257, Laws of 1986 and RCW 9A.04.110 are each amended to read as follows:

In this title unless a different meaning plainly is required:

- (1) "Acted" includes, where relevant, omitted to act;
- (2) "Actor" includes, where relevant, a person failing to act;
- (3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;
- (4) (a) "Bodily injury," "physical injury," or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;
- (b) "Substantial bodily harm" means bodily injury which involves a ~~((temporary but))~~ substantial disfigurement, ~~((or which causes a temporary but substantial))~~ loss or impairment of the function of any bodily part or organ, ~~((or which causes))~~ a fracture of any bodily part, or substantial pain, whether such substantial bodily harm is temporary or permanent;
- (c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement,

or which causes a significant permanent loss or impairment of the function of any bodily part or organ;

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded fire-arm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Property" means anything of value, whether tangible or intangible, real or personal;

(22) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(23) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(24) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(25) "Substantial pain" means serious physical pain extending for a period of time long enough to cause considerable suffering. The pain shall be the result of an actual injury capable of causing serious physical pain;

(26) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

~~((26))~~ (27) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

~~((27))~~ (28) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

Sec. 2. Section 5, chapter 257, Laws of 1986 and RCW 9A.36.021 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

~~((c))~~ (d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

~~((d))~~ (e) With intent to commit a felony, assaults another.

(2) Assault in the second degree is a class B felony.

Sec. 3. Section 12, chapter 257, Laws of 1986 (uncodified) is amended to read as follows:

Sections 3 through 10 of this act shall take effect on July 1, ~~((1987))~~ 1988.

NEW SECTION. Sec. 4. Section 3 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of this act shall take effect July 1, 1988.

Passed the Senate April 26, 1987.

Passed the House April 26, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 325

[Engrossed Substitute House Bill No. 168]

## FIRE PROTECTION DISTRICT SERVICE CHARGES

AN ACT Relating to fire protection districts; amending RCW 52.18.010, 52.18.020, 52.18.030, 52.18.040, 52.18.050, 52.18.060, 52.18.070, and 52.18.080; and adding a new section to chapter 52.18 RCW.

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

Sec. 1. Section 1, chapter 126, Laws of 1974 ex. sess. as amended by section 122, chapter 7, Laws of 1985 and RCW 52.18.010 are each amended to read as follows:

The board of fire commissioners of ~~((any))~~ a fire protection district ~~((created pursuant to chapter 52.02 RCW))~~ may by resolution, for fire protection district purposes authorized by law, fix and impose a service charge ~~((upon))~~ on 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))~~ benefits provided by the fire protection district, to be paid by the owners of ~~((such))~~ the properties: PROVIDED, That ~~((such))~~ a service charge shall not apply to personal property and improvements to real property owned or used by any recognized religious denomination or religious organization as, or including, a sanctuary or for purposes related to the bona fide religious ~~((works))~~ ministries of ~~((such))~~ the denomination or religious organization, including schools and educational facilities used for kindergarten, primary, or secondary educational purposes or for institutions of higher education and all grounds and buildings related thereto ~~((or to))~~, but not including personal property and improvements to real property owned or used by ~~((public or private schools or institutions of higher education))~~ any recognized religious denomination or religious organization for business operations, profit-making enterprises, or activities not including use of a sanctuary or related to kindergarten, primary, or secondary educational purposes or for 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))~~ A service charge imposed shall be reasonably proportioned to the measurable ~~((financial))~~ benefits to property resulting from the ~~((fire protection))~~ services afforded by the district. It ~~((shall be deemed))~~ is acceptable to ~~((proportion))~~ apportion 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))~~ the services. Any other method that reasonably apportions the service charges to the actual ~~((financial))~~ benefits resulting from the degree of protection, ~~((such as))~~ which may include but is not limited to the distance from regularly maintained fire protection equipment, the level of fire prevention services provided to the properties, or the need of the properties for specialized services, may be specified in the resolution and shall be subject to contest ~~((only))~~ on the ground of unreasonable or capricious action or action in excess of the measurable benefits to the property resulting from services afforded by the district; 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))~~ a service charge authorized by ~~((the provisions of))~~ this chapter shall not 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))~~ a 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, but such property may be protected by the fire protection district under a contractual agreement.

Sec. 2. Section 2, chapter 126, Laws of 1974 ex. sess. as amended by section 123, chapter 7, Laws of 1985 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))~~ under Title 84 RCW, and all property subject to ~~((the provisions of))~~ RCW 52.30.020 and chapter 54.28 RCW, or all property that is subject to a contract for services with a fire protection district, shall be exempt from the service charge imposed under this chapter: PROVIDED FURTHER, That the term "personal property" shall not include any personal property used for farming, field crops, farm equipment, livestock, or other tangible personal ~~((farm))~~ property, not ordinarily housed or stored within a building structure: AND 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.

Sec. 3. Section 3, chapter 126, Laws of 1974 ex. sess. as amended by section 53, chapter 100, Laws of 1986 and RCW 52.18.030 are each amended to read as follows:

The resolution establishing service charges as specified in RCW 52.18.010(;) shall specify, by legal geographical areas or other specific designations, the ((rate)) charge to apply to each property by location, type, or other designation, ((and such)) or other information ((as)) that is ((deemed)) necessary to the proper computation of the service charge to be charged to each property owner subject to the resolution. The county assessor shall determine and identify the personal properties and improvements to real property which are subject to a service charge in each fire protection district and shall furnish and deliver to the county treasurer a listing of ((such)) the properties with information describing the location, legal description, and address of the person to whom the statement of service charges is to be mailed, the name of the owner, and the value of the property and improvements, together with the service charge to apply to each. These service charges ((levied hereunder)) shall be certified to the county treasurer for collection in the same manner that is used for the collection of fire protection charges for forest lands protected by the department of natural resources ((as prescribed by)) under RCW 76.04.610 and the same penalties and provisions for collection shall apply.

Sec. 4. Section 4, chapter 126, Laws of 1974 ex. sess. and RCW 52.18.040 are each amended to read as follows:

Each fire protection district shall contract, prior to the effective date of a resolution imposing a service charge, for the administration and collection of ((such)) the service charge((s)) by the county treasurer, who shall deduct a ((percentage amount)) percent, as provided by contract ((as reimbursement of)) to reimburse the county for expenses incurred by the county assessor and county treasurer in the administration of ((the provisions of)) the resolution and this chapter. The county treasurer shall make distributions each year, as the charges are collected, in the amount of the service charges imposed on behalf of each district, less the deduction provided for in the contract.

Sec. 5. Section 5, chapter 126, Laws of 1974 ex. sess. and RCW 52.18.050 are each amended to read as follows:

(1) Any service charge authorized by this chapter shall not be effective unless a proposition to impose ((such)) the service charge is approved by a sixty percent majority of the voters of the district voting at a general election or at a special election called by the district for that purpose, held within the fire protection district. ((Any)) An election held pursuant to this section shall be held not more than twelve months prior to the date on which the first such charge is to be assessed: PROVIDED, That ((such)) a service charge approved at an election shall not remain in effect for a period of more than three years unless subsequently reapproved by the voters.



(2) The ballot shall be submitted so as to enable the voters favoring the authorization of a fire protection district service charge to vote "Yes" and those opposed thereto to vote "No," and ~~((such))~~ the ballot shall be ~~((in substantially the following form))~~:

"Shall . . . . . county fire protection district No. . . . . be authorized to impose ~~((a fire protection district))~~ service charges each year ~~((hereafter in an aggregate amount each year))~~ for up to a three-year period, not to exceed an amount equal to sixty percent of ~~((the))~~ its operating budget ~~((for the year in which the service charge is to be collected))~~, and be prohibited from imposing an additional property tax under RCW 52.16.160?"

YES

NO

Sec. 6. Section 7, chapter 126, Laws of 1974 ex. sess. and RCW 52-18.060 are each amended to read as follows:

(1) Not less than ten days nor more than six months before the election at which the proposition to impose the service charge is submitted as provided in this chapter, the board of fire commissioners of the district shall hold a public hearing specifically setting forth its proposal to impose service charges for the support of its legally authorized activities which will ~~((substantially))~~ maintain or improve the ~~((fire protection))~~ services afforded in the district. A report of the public hearing shall be filed with the county treasurer and be available for public inspection.

(2) Prior to October 15 of each year the board of fire commissioners shall hold a public hearing to review and establish the fire district service charges for the subsequent year.

All resolutions imposing or changing ~~((such))~~ the service charges shall be filed with the county treasurer, together with the record of each public hearing, before October 31 immediately preceding the year in which the service charges are to be collected on behalf of the district.

Sec. 7. Section 7, chapter 126, Laws of 1974 ex. sess. and RCW 52-18.070 are each amended to read as follows:

From the fifteenth to the thirtieth day of November of each year, the board of fire commissioners of ~~((any))~~ a fire protection district imposing a service charge ~~((pursuant to the provisions of))~~ under this chapter shall form a review board and shall, upon complaint in writing of ~~((any))~~ a party aggrieved owning property in ~~((such))~~ the district, reduce the charge of ~~((such))~~ a person who, in their opinion, has been charged too large a sum, to ~~((such))~~ a sum or amount as they believe to be the true, fair, and just amount.

Sec. 8. Section 8, chapter 126, Laws of 1974 ex. sess. and RCW 52-18.080 are each amended to read as follows:

The Washington fire commissioners association, as soon as practicable, ~~((and with the assistance of the appropriate association of county prosecutors,))~~ shall draft a model resolution ~~((for the imposition of))~~ to impose the fire protection district service charge authorized by this chapter and may provide assistance to fire protection districts in the establishment of a program to develop service charges.

**NEW SECTION.** Sec. 9. A new section is added to chapter 52.18 RCW to read as follows:

A fire protection district that imposes a service charge under this chapter shall not impose all or part of the property tax authorized under RCW 52.16.160.

Passed the House April 21, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 326

[Substitute Senate Bill No. 5511]

### RETIREMENT BENEFITS—MANDATORY ASSIGNMENT OF DIVIDED BENEFITS

AN ACT Relating to the divided payment of public retirement benefits; amending RCW 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.40.380, and 43.43.310; adding new sections to chapter 41.50 RCW; adding a new section to chapter 26.09 RCW; adding a new section to chapter 41.24 RCW; adding a new section to chapter 41.28 RCW; creating a new section; repealing RCW 41.04.310, 41.04.320, and 41.04.330; 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 otherwise, the definitions in this section apply throughout sections 1 through 16 and 26 of this act.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to section 8 of this act to

withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member. The term does not include any lump sum amount paid upon the death of the member.

**NEW SECTION.** Sec. 2. (1) The remedies provided in sections 4 through 16 and 26 of this act are in addition to, and not in substitution for, any other remedies provided by law to enforce a dissolution order against an obligor.

(2) Except for the remedies provided in chapters 26.18 and 74.20A RCW, the remedies provided in sections 4 through 14 of this act shall be the exclusive remedies enforceable against the department of retirement systems or the retirement systems listed in RCW 41.50.030 in connection with any action or as a result of a judgment, decree, or order of dissolution, divorce, or legal separation.

(3) Sections 1 through 16 and 26 of this act apply to all dissolution orders incident to a decree of divorce, dissolution, or legal separation whether entered before or after the effective date of this act.

**NEW SECTION.** Sec. 3. Nothing in sections 1 through 16 of this act limits the use of any and all civil and criminal remedies against an obligor to enforce the obligations of a dissolution order.

**NEW SECTION.** Sec. 4. (1) A proceeding to enforce a duty of spousal maintenance or a property division obligation by means of a mandatory benefits assignment order may be commenced by an obligee:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county of the state of Washington where the obligee resides or is present, where the obligor resides, or where the prior dissolution order was entered.

(3) The court retains continuing jurisdiction under sections 1 through 16 and 26 of this act until all duties of spousal maintenance and all property settlement obligations of the obligor, including arrearages, with respect to the obligee have been satisfied.

**NEW SECTION.** Sec. 5. (1) Every court order or decree establishing a spousal maintenance obligation or property division obligation may state that if any such payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without prior notice to the obligor. Failure to include this provision does not affect the validity of the dissolution order.

(2) If the dissolution order under which the obligor owes the duty of spousal maintenance or a property division obligation is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days before the obligee seeks a mandatory benefits assignment order. The notice shall state that, if a spousal maintenance or property division payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional.

**NEW SECTION.** Sec. 6. (1) An obligee who wishes to be notified by the department of retirement systems if the obligor seeks a withdrawal of accumulated contributions shall submit such a request to the department in writing on a form supplied by the department. The request shall be filed by certified or registered mail and shall include the obligee's address and a copy of the dissolution order requiring the spousal maintenance or property division obligation owed.

(2) The department shall thereafter promptly send notice to the obligee at the address provided in subsection (1) of this section when the obligor applies for a withdrawal of accumulated contributions. The department shall not process the obligor's request for a withdrawal of accumulated contributions sooner than seventy-five days after sending the notice to the obligee.

(3) The department may pay directly to an obligee who has not obtained a mandatory benefits assignment order all or part of the accumulated contributions withdrawn by an obligor if, and only if the dissolution order

filed with the department pursuant to subsection (1) of this section includes a provision that states in substantially the following form:

"At such time as . . . . . (the obligor) requests a withdrawal of accumulated contributions as defined in section 1 of this act, the department of retirement systems shall pay to . . . . . (the obligee) . . . . . dollars from such accumulated contributions or . . . . . percentage of such accumulated contributions (whichever is provided by the court)."

**NEW SECTION.** Sec. 7. (1) A petition or motion seeking a mandatory benefits assignment order in an action under section 4 of this act may be filed by an obligee if the obligor is more than fifteen days past due in spousal maintenance or property division obligation payments and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the mandatory benefits assignment order, including:

(a) That the obligor, stating his or her name, residence, and social security number, (i) is more than fifteen days past due in spousal maintenance payments or property division obligation payments and that the total of such past due payments is equal to or greater than one hundred dollars, or (ii) has requested a withdrawal of accumulated contributions from the department of retirement systems;

(b) A description of the terms of the dissolution order requiring payment of spousal maintenance or a property division obligation and the amount, if any, past due;

(c) The name of the public retirement system or systems from which the obligor is currently receiving periodic retirement benefits or from which the obligor has requested a withdrawal of accumulated contributions; and

(d) That notice has been provided to the obligor as required by section 5 of this act.

(2) If the court in which a mandatory benefits assignment order is sought does not already have a copy of the dissolution order in the court file, then the obligee shall attach a copy of the dissolution order to the petition or motion seeking the mandatory benefits assignment order.

**NEW SECTION.** Sec. 8. Upon receipt of a petition or motion seeking a mandatory benefits assignment order that complies with section 7 of this act, the court shall issue a mandatory benefits assignment order in as provided in section 10 of this act, including the information required in section 9 (1)(a) or (2)(a) of this act, directed to the department of retirement systems, and commanding the department to answer the order on the forms served with the order that comply with section 12 of this act within twenty days after service of the order upon the department.

**NEW SECTION.** Sec. 9. (1) (a) The mandatory benefits assignment order in section 8 of this act directed at periodic retirement benefits shall include:

(i) The maximum amount of current spousal maintenance or property division obligation, if any, to be withheld from the obligor's periodic retirement benefits each month;

(ii) The total amount of the arrearage judgments previously entered by the court, if any, together with interest, if any; and

(iii) The maximum amount to be withheld from the obligor's periodic retirement payments each month to satisfy the arrearage judgments specified in (a)(ii) of this subsection.

(b) With respect to such a mandatory benefits assignment order, the total amount to be withheld from the obligor's periodic retirement payments each month shall not exceed fifty percent of the disposable benefits of the obligor or the maximum amount allowed by 15 U.S.C. Sec. 1673, whichever is less.

(c) Except as otherwise required by federal law, fifty percent of the disposable benefits of the obligor are exempt, and may be disbursed by the department to the obligor.

(2)(a) A mandatory benefits assignment order in section 8 of this act directed at a withdrawal of accumulated contributions shall include:

(i) The property division interest, if any, of the obligee in the obligor's accumulated contributions, established by the dissolution order, which interest shall be stated as either a dollar amount or a percentage amount in the mandatory benefits assignment order;

(ii) The total amount of the arrearage judgments for spousal maintenance payments or property division payments entered by the court, if any, together with interest, if any; and

(iii) The amount to be withheld from the obligor's withdrawal of accumulated contributions to satisfy the property division interest and the arrearage judgments specified in (a) (i) and (ii) of this subsection;

(b) With respect to such a mandatory benefits assignment order, the total amount to be withheld from the obligor's withdrawal of accumulated contributions may be up to one hundred percent of the disposable benefits of the obligor.

(3) If an obligor is subject to two or more mandatory benefits assignment orders on account of different obligees and if the nonexempt portion of the obligor's benefits is not sufficient to respond fully to all the mandatory benefits assignment orders, the department shall apportion the obligor's nonexempt disposable benefits among the various obligees in equal shares to the extent permitted by federal law.

**NEW SECTION.** Sec. 10. The mandatory benefits assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

.....

.....,

Obligee

No. ....

vs.

.....,

Obligor

MANDATORY BENEFITS ASSIGNMENT ORDER

.....,

The Department of Retirement Systems of the State of Washington

THE STATE OF WASHINGTON TO: The Department of Retirement Systems

AND TO: ..... Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in spousal maintenance or property division obligation payments and that the total amount of such past due payments is equal to or greater than one hundred dollars or that the obligor has requested a withdrawal of accumulated contributions from the department of retirement systems. The amount of the accrued past due spousal maintenance or property division obligation debt as of this date is ..... dollars. If the obligor is receiving periodic retirement payments from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance or property division obligation is ..... dollars per month and the amount to be withheld from the obligor's benefits to satisfy current and continuing spousal maintenance or property division obligation is ..... per month. If the obligor has requested a withdrawal of accumulated contributions from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance or property division obligation is ..... dollars and the amount to be withheld from the obligor's benefits to satisfy the obligee's property division interest in the obligor's accumulated contributions is ... percent of the disposable benefits or is ..... dollars.

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this benefits assignment order upon you.

(1) If you are currently paying periodic retirement payments to the obligor, then you shall do as follows:

(a) Withhold from the obligor's retirement payments each month the lesser of:

(i) The sum of the specified arrearage payment amount plus the specified current spousal maintenance or property division obligation amount; or

(ii) Fifty percent of the disposable benefits of the obligor or the maximum amount allowed by federal law, whichever is less.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt benefits of the obligor until notified by a court order that the mandatory benefits assignment order has been modified or terminated. You shall promptly notify the court if and when the obligor is no longer receiving periodic retirement payments from the department of retirement systems.

You shall deliver the withheld benefits to the clerk of the court that issued this mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after your receipt of this mandatory benefits assignment order.

(2) If you are not currently paying periodic retirement payments to the obligor but the obligor has requested a withdrawal of accumulated contributions, then you shall do as follows:

(a) Withhold from the obligor's benefits the sum of the specified arrearage payment amount plus the specified property division interest amount, up to one hundred percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall mail a copy of this order and a copy of your answer to the obligor at the mailing address in the department's files as soon as is reasonably possible. This mandatory benefits assignment order has priority over any assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized by Washington law, except for a wage assignment order for child support under chapter 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

**NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY BENEFITS ASSIGNMENT ORDER.**

DATED THIS ... day of ..., 19 ....

.....  
Obligee,  
or obligee's attorney

.....  
Judge/Court Commissioner



**NEW SECTION.** Sec. 11. (1) The director or the director's designee shall answer an order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor receives periodic payments from the department of retirement systems, whether the obligor has requested a withdrawal of accumulated contributions from the department, whether the department will honor the mandatory benefits assignment order and if not, the reasons why, and whether there are other current court or administrative orders on file with the department directing the department to withhold all or a portion of the obligor's benefits.

(2) (a) If any periodic retirement payments are currently payable to the obligor, the funds subject to the mandatory benefits assignment order shall be withheld from the next periodic retirement payment due twenty days or more after receipt of the mandatory benefits assignment order. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after receipt of the mandatory benefits assignment order.

(b) The department shall continue to withhold the ordered amount from nonexempt benefits of the obligor until notified by the court that the mandatory benefits assignment order has been modified or terminated. If the department is initially unable to comply, or able to comply only partially, with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible at the earliest possible date. The department shall notify the court of changes in withholding amounts and the reason for the change. When the obligor is no longer eligible to receive funds from one or more public retirement systems the department shall promptly notify the court.

(3)(a) If no periodic retirement payments are currently payable to the obligor but the obligor has requested a withdrawal of accumulated contributions, the funds subject to the mandatory benefits assignment order shall be withheld from the withdrawal payment. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order.

(b) If the department is unable to comply fully with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible.

(4) The department may deduct a processing fee from the remainder of the obligor's funds after withholding under the mandatory benefits assignment order, unless the remainder is exempt under section 9 of this act. The processing fee may not exceed (a) twenty-five dollars for the first disbursement made by the department to the superior court clerk; and (b) six dollars for each subsequent disbursement to the clerk.

(5) A court order for spousal maintenance or a property division obligation governed by sections 1 through 16 or 26 of this act shall have priority over any other assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized under Washington law, except for a mandatory wage assignment for child support under chapter 26.18 RCW, or an order to withhold and deliver under chapter 74.20A RCW.

(6) If the department, without good cause, fails to withhold funds as required by a mandatory benefits assignment order issued under section 8 of this act, the department may be held liable to the obligee for any amounts wrongfully disbursed to the obligor in violation of the mandatory benefits assignment order. However, the department shall under no circumstances be held liable for failing to withhold funds from a withdrawal of accumulated contributions unless the mandatory benefits assignment order was properly served on the department at least thirty days before the department made the withdrawal payment to the obligor. If the department is held liable to an obligee for failing to withhold funds as required by a mandatory benefits assignment order, the department may recover such amounts paid to an obligee by thereafter either withholding such amounts from the available non-exempt benefits of the obligor or filing a legal action against the obligor.

(7) If the department complies with a court order pursuant to sections 1 through 16 of this act, neither the department, its officers, its employees, nor any of the retirement systems listed in RCW 41.50.030 may be liable to the obligor for wrongful withholding.

(8) The department may combine amounts withheld from various obligors into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each obligor and other information as required by the clerk.

(9) The department shall mail to the obligor at the obligor's last known mailing address appearing in the department's files copies of the mandatory benefits assignment order and the department's answer within twenty days after receiving the mandatory benefits assignment order.

NEW SECTION. Sec. 12. The answer of the department shall be made on forms, served on the director with the mandatory benefits assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON IN AND FOR THE COUNTY OF

.....

.....

Obligee

vs.

.....

No. ....

ANSWER  
TO MANDATORY BENEFITS

Obligor

ASSIGNMENT ORDER

.....

Department of Retirement Systems of  
the State of Washington

1. At the time of the service of the mandatory benefits assignment order on the department, was the above-named obligor receiving periodic retirement payments from the department of retirement systems?

Yes ..... No ..... (check one).

2. At the time of the service of the mandatory benefits assignment order on the department, had the above-named obligor requested a withdrawal of accumulated contributions from the department?

Yes ..... No ..... (check one).

3. Are there any other court or administrative orders on file with the department currently in effect directing the department to withhold all or a portion of the obligor's benefits?

Yes ..... No ..... (check one).

4. If the answer to question one or two is yes and the department cannot comply fully with the mandatory benefits assignment order, provide an explanation.

I declare under the laws of the state of Washington that the foregoing is true and correct to the best of my knowledge.

.....  
Signature of director

.....  
Date and place

or

.....

.....  
Signature of person  
answering for director

.....  
Place

.....  
Connection with director

**NEW SECTION.** Sec. 13. (1) Service of the mandatory benefits assignment order on the department is invalid unless it is served with four answer forms in substantial conformance with section 12 of this act, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the obligee's attorney or the obligee, and the obligor at the last mailing address known to the obligee. The obligee shall also include an extra copy of the mandatory benefits assignment order for the department to mail to the obligor. Service on the department shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the mandatory benefits assignment order on the department, the obligee shall mail or cause to be mailed

by certified or registered mail a copy of the mandatory benefits assignment order to the obligor at the obligor's last mailing address known to the obligee; or, in the alternative, a copy of the mandatory benefits assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the department. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection requires, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the mandatory benefits assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has been prejudiced due to the failure to mail or serve the copy.

**NEW SECTION.** Sec. 14. In a hearing to quash, modify, or terminate the mandatory benefits assignment order, the court may grant relief only upon a showing that the mandatory benefits assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the mandatory benefits assignment order is not grounds to quash, modify, or terminate the mandatory benefits assignment order. If a mandatory benefits assignment order has been in operation for twelve consecutive months and the obligor's spousal maintenance or property division obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the mandatory benefits assignment order should remain in effect.

**NEW SECTION.** Sec. 15. In any action to enforce a dissolution order by means of a mandatory benefits assignment order pursuant to sections 4 through 14 and 26 of this act, the court may award costs to the prevailing party, including an award for reasonable attorneys' fees consistent with RCW 26.09.140. An obligor shall not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. This section does not authorize an award of attorneys' fees against the department of retirement systems or any of the retirement systems listed in RCW 41.50.030.

**NEW SECTION.** Sec. 16. Notwithstanding RCW 2.10.180(1), 2.12.090(1), 41.26.180(1), 41.32.590(1), 41.40.380(1), and 43.43.310(1), the department of retirement systems may make direct payments of benefits to a spouse or ex spouse pursuant to court orders or decrees entered before the effective date of this act that complied with all the requirements in RCW 2.10.180(1), 2.12.090(2), 41.26.180(3), 41.32.590(3), 41.40.380(3), 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements existed before the effective date of this section.

Sec. 17. Section 18, chapter 267, Laws of 1971 ex. sess. as last amended by section 1, chapter 52, Laws of 1982 1st ex. sess. and RCW 2.10.180 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever~~((PROVIDED, That benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~.

(2) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

(4) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 18. Section 32, chapter 52, Laws of 1982 1st ex. sess. and RCW 2.12.090 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for

child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

**NEW SECTION.** Sec. 19. A new section is added to chapter 41.24 RCW to read as follows:

(1) If the state board or the secretary makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the state board, the secretary, or the fund for the state board or secretary to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.24.240 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the state board and the secretary shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.24.240 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their contributions to the fund: **PROVIDED**, That the state board or secretary shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the state board at least thirty days before the withdrawal payment date.

**NEW SECTION.** Sec. 20. A new section is added to chapter 41.28 RCW to read as follows:

(1) If the board of administration makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the board of administration or the retirement system for the board of administration to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.28.205 shall cease upon the death of such a nonmember spouse

or ex spouse. Upon such a death, the board of administration shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.28.205 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their accumulated contributions: PROVIDED, That the board of administration shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the board at least thirty days before the withdrawal payment date.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 205, Laws of 1979 ex. sess. and RCW 41.04-.310;

(2) Section 11, chapter 205, Laws of 1979 ex. sess. and RCW 41.04-.320; and

(3) Section 12, chapter 205, Laws of 1979 ex. sess., section 10, chapter 317, Laws of 1986 and RCW 41.04.330.

Sec. 22. Section 23, chapter 209, Laws of 1969 ex. sess. as last amended by section 4, chapter 205, Laws of 1979 ex. sess. and RCW 41-.26.180 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department of retirement systems may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department of retirement systems may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for

child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 23. Section 59, chapter 80, Laws of 1947 as last amended by section 1, chapter 135, Laws of 1982 and RCW 41.32.590 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.58.420 or 41.05.025 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under the Washington state teachers' retirement system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules and regulations that may be promulgated by the director of retirement systems.

(3) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory



benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 24. Section 39, chapter 274, Laws 1947 as last amended by section 2, chapter 135, Laws of 1982 and RCW 41.40.380 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules and regulations that may be promulgated by the state employees' insurance board and/or the department of retirement systems, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 25. Section 43.43.310, chapter 8, Laws of 1965 as last amended by section 31, chapter 52, Laws of 1982 1st ex. sess. and RCW 43.43.310 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local

tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.))~~ Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington.

**NEW SECTION.** Sec. 26. A new section is added to chapter 26.09 RCW to read as follows:

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

(2) Any court order or decree establishing a spousal maintenance obligation or a property division obligation may state that, if any spousal maintenance payment or property division obligation payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order under chapter 41.50 RCW without prior notice to the obligor. Any such court order or decree may also, or in the alternative, contain a provision that would allow the department to make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to section 6(3) of this act. Failure to include this provision does not affect the validity of the court order or decree establishing the spousal maintenance or property division obligations, nor does such failure affect the general applicability of sections 1 through 16 of this act to such obligations.

(3) The remedies in sections 4 through 14 of this act are the exclusive provisions of law enforceable against the department of retirement systems in connection with any action for divorce, dissolution, or legal separation, and no other remedy ordered by a court under this chapter shall be enforceable against the department of retirement systems.

NEW SECTION. Sec. 27. The director shall adopt such rules under RCW 41.50.050 as the director may find necessary to carry out the purposes of sections 1 through 16 of this act and to avoid conflicts with any applicable federal or state laws.

NEW SECTION. Sec. 28. Sections 1 through 16 and 27 of this act are each added to chapter 41.50 RCW.

NEW SECTION. Sec. 29. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 327

[Engrossed House Bill No. 396]

### TRANSPORTATION BENEFIT DISTRICTS

AN ACT Relating to transportation benefit districts; amending RCW 82.02.020; adding a new section to chapter 35.21 RCW; and creating a new chapter in Title 36 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that the citizens of the state can benefit by cooperation of the public and private sectors in addressing transportation needs. This cooperation can be fostered through enhanced capability for cities, towns, and counties to make and fund transportation improvements necessitated by economic development.

It is the intent of the legislature to encourage joint efforts by the state, local governments, and the private sector to respond to the need for those transportation improvements on state highways, county roads, and city streets. This goal can be better achieved by allowing cities, towns, and counties to establish transportation benefit districts in order to respond to the special transportation needs and economic opportunities resulting from private sector development for the public good. The legislature also seeks to facilitate the equitable participation of private developers whose developments may generate the need for those improvements in the improvement costs.

**NEW SECTION.** Sec. 2. The legislative authority of a county may establish one or more transportation benefit districts within the county for the purpose of providing and funding capital costs for any city street, county road, or state highway improvement within the district that is (1) consistent with state, regional, and local transportation plans, (2) necessitated by existing or reasonably foreseeable congestion levels attributable to economic growth, and (3) partially funded by local government or private developer contributions, or a combination of such contributions. The district may not include any area within the corporate limits of a city unless the city legislative authority has agreed to the inclusion pursuant to chapter 39.34 RCW. The agreement shall specify the area and such powers as may be granted to the benefit district.

The county legislative authority shall be the governing body of the district. The county treasurer shall act as the ex officio treasurer of the district. The electors of the district shall all be registered voters residing within the district.

**NEW SECTION.** Sec. 3. The legislative authority of a city may establish one or more transportation benefit districts within a city for the purpose of providing and funding capital costs for any city street, county road, or state highway improvement that is (1) consistent with state, regional, and local transportation plans, (2) necessitated by existing or reasonably foreseeable congestion levels attributable to economic growth, and (3) partially funded by local government or private developer contributions, or a combination of such contributions. The district may include any area within the corporate limits of another city if that city has agreed to the inclusion pursuant to chapter 39.34 RCW. The district may include any unincorporated area if the county legislative authority has agreed to the inclusion pursuant to chapter 39.34 RCW. The agreement shall specify the area and such other powers as may be granted to the benefit district.

The city legislative authority shall be the governing body of the district. The city treasurer shall act as the ex officio treasurer of the district. The electors of the district shall all be registered voters residing within the district. For the purposes of this section, the term "city" means both cities and towns.

**NEW SECTION.** Sec. 4. A transportation benefit 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 transportation benefit district constitutes a body corporate and possesses 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, and to sue and be sued. Public works contract

limits applicable to the jurisdiction that established the district shall apply to the district.

**NEW SECTION.** Sec. 5. (1) A city or county legislative authority proposing to establish a transportation benefit district, or to modify the boundaries of an existing district, or to dissolve an existing district, shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days before the hearing, in a newspaper of general circulation within the proposed district. The legislative authority shall make provision for a district to be automatically dissolved when all indebtedness of the district has been retired and anticipated responsibilities have been satisfied. This notice shall be in addition to any other notice required by law to be published. The notice shall, where applicable, specify the functions or activities proposed to be provided or funded, or the additional functions or activities proposed to be provided or funded, by the district. Additional notice of the hearing may be given by mail, by posting within the proposed district, or in any manner the city or county legislative authority deems necessary to notify affected persons. All hearings shall be public and the city or county legislative authority shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the district.

(2) Following the hearing held pursuant to subsection (1) of this section, the city or county legislative authority may establish a transportation benefit district, modify the boundaries or functions of an existing district, or dissolve an existing district, if the city or county legislative authority finds the action to be in the public interest and adopts an ordinance providing for the action. The ordinance establishing a district shall specify the functions or activities to be exercised or funded and establish the boundaries of the district. A district shall include only those areas which can reasonably be expected to benefit from improvements to be funded by the district. Functions or activities proposed to be provided or funded by the district may not be expanded beyond those specified in the notice of hearing, unless additional notices are made, further hearings on the expansion are held, and further determinations are made that it is in the public interest to so expand the functions or activities proposed to be provided or funded.

(3) At any time before the city or county legislative authority establishes a transportation benefit district pursuant to this section, all further proceedings shall be terminated upon the filing of a verified declaration of termination signed by the owners of real property consisting of at least sixty percent of the assessed valuation in the proposed district.

**NEW SECTION.** Sec. 6. (1) A transportation benefit district may levy an ad valorem property tax in excess of the one percent limitation upon the property within the district for a one-year period whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) A district may provide for the retirement of voter-approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies in excess of the one percent limitation whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

**NEW SECTION.** Sec. 7. (1) To carry out the purpose of this chapter, a transportation benefit district may issue general obligation bonds, not to exceed an amount, together with any other outstanding nonvoter-approved general obligation indebtedness, equal to three-eighths of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A district may additionally issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in section 6(2) of this act. The district may submit a single proposition to the voters that, if approved, authorizes both the issuance of the bonds and the bond retirement property tax levies.

(2) General obligation bonds with a maturity in excess of forty years shall not be issued. The governing body of the transportation benefit district shall by resolution determine for each general obligation bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. Refunding general obligation bonds may be issued in the same manner as general obligation bonds are issued.

(3) Whenever general obligation bonds are issued to fund specific projects or enterprises that generate revenues, charges, user fees, or special assessments, the transportation benefit district which issues the bonds may specifically pledge all or a portion of the revenues, charges, user fees, or special assessments to refund the general obligation bonds. The district may also pledge any other revenues that may be available to the district.

**NEW SECTION.** Sec. 8. (1) A transportation benefit district may form a local improvement district to provide any transportation improvement it has the authority to provide, impose special assessments on all property specially benefited by the transportation improvements, and issue special assessment bonds or revenue bonds to fund the costs of the transportation improvement. Local improvement districts shall be created and assessments shall be made and collected pursuant to chapters 35.43, 35.44, 35.49, 35.50, 35.51, 35.53, and 35.54 RCW.

(2) The governing body of a transportation benefit district shall by resolution establish for each special assessment bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. The maximum term of any special assessment bonds shall not exceed thirty years beyond the date of issue. Special assessment bonds issued pursuant to this section shall not be an indebtedness of the transportation benefit district issuing the bonds, and the interest and principal on the bonds shall only be payable from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund that the transportation benefit district has created. The owner or bearer of a special assessment bond or any interest coupon issued pursuant to this section shall not have any claim against the transportation benefit district arising from the bond or coupon except for the payment from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund the transportation benefit district has created. The district issuing the special assessment bonds is not liable to the owner or bearer of any special assessment bond or any interest coupon issued pursuant to this section for any loss occurring in the lawful operation of its local improvement guaranty fund. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each special assessment bond issued pursuant to this section.

(3) Assessments shall reflect any credits given by a transportation benefit district for real property or property right donations made pursuant to section 3, chapter \_\_\_ (SB 5732), Laws of 1987.

(4) The governing body may establish and pay moneys into a local improvement guaranty fund to guarantee special assessment bonds issued by the transportation benefit district.

**NEW SECTION.** Sec. 9. Where physical bonds are issued pursuant to section 7 or 8 of this act, the bonds shall be printed, engraved, or lithographed on good bond paper and the manual or facsimile signatures of both the treasurer and chairperson of the governing body shall be included on each bond.

**NEW SECTION.** Sec. 10. (1) The proceeds of any bond issued pursuant to section 7 or 8 of this act may be used to pay costs incurred on such bond issue related to the sale and issuance of the bonds. Such costs include payments for fiscal and legal expenses, obtaining bond ratings, printing, engraving, advertising, and other similar activities.

(2) In addition, proceeds of bonds used to fund capital projects may be used to pay the necessary and related engineering, architectural, planning, and inspection costs.

**NEW SECTION.** Sec. 11. A transportation benefit district may accept and expend or use gifts, grants, and donations.

**NEW SECTION.** Sec. 12. (1) A transportation benefit district may impose a fee or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land.

(2) Any fee or charge imposed under this section shall be used exclusively for transportation improvements constructed by a transportation benefit district. The fees or charges so imposed must be reasonably necessary as a result of the impact of collective development, construction, or classification or reclassification of land on identified transportation needs.

(3) When fees or charges are imposed by a district within which there is more than one city or both incorporated and unincorporated areas, the legislative authority for each city in the district and the county legislative authority for the unincorporated area must approve the imposition of such fees or charges before they take effect.

**NEW SECTION.** Sec. 13. A transportation benefit district may exercise the power of eminent domain to obtain property for its authorized purposes in the manner as the city or county legislative authority that established the district.

**NEW SECTION.** Sec. 14. A transportation benefit district has the same powers as a county or city to contract for street, road, or state highway improvement projects and to enter into reimbursement contracts provided for in chapter 35.72 RCW.

**NEW SECTION.** Sec. 15. The department of transportation, counties, and cities may give funds to transportation benefit districts for the purposes of financing street, road, or highway improvement projects.



**NEW SECTION.** Sec. 16. The rule of strict construction does not apply to this chapter, and this chapter shall be liberally construed to permit the accomplishment of its purposes.

Sec. 17. Section 82.02.020, chapter 15, Laws of 1961 as last amended by section 5, chapter 49, Laws of 1982 1st ex. sess. and RCW 82.02.020 are each amended to read as follows:

Except only as expressly provided in RCW 67.28.180 and 67.28.190 and the provisions of chapter 82.14 RCW, the state preempts the field of imposing taxes upon retail sales of tangible personal property, the use of tangible personal property, parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. No county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements pursuant to RCW 58.17.110 within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat: PROVIDED, That any such voluntary agreement shall be subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a

permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefitted thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges: PROVIDED, That no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged: PROVIDED FURTHER, That these provisions shall not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in section 12 of this act nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

This section does not apply to special purpose districts formed and acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the authority conferred by these titles affected.

NEW SECTION. Sec. 18. Sections 1, 2, and 4 through 16 of this act shall constitute a new chapter in Title 36 RCW. Section 3 of this act shall be added to chapter 35.21 RCW.

Passed the House April 21, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 328

[Engrossed Senate Bill No. 5529]

### MINORITY AND WOMEN-OWNED AND CONTROLLED BUSINESSES

AN ACT Relating to certification of minority and women business enterprises; amending RCW 39.19.010, 39.19.020, 39.19.030, 39.19.070, 39.19.080, and 39.19.090; adding new sections to chapter 39.19 RCW; adding new sections to chapter 43.131 RCW; repealing RCW 39.19.900, 39.19.010, 39.19.020, 39.19.030, 39.19.040, 39.19.050, 39.19.060, 39.19.070, 39.19.080, and 39.19.090; prescribing penalties; and declaring an emergency.

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

Sec. 1. Section 1, chapter 120, Laws of 1983 and RCW 39.19.010 are each amended to read as follows:

The legislature finds that minority and women-owned businesses are significantly under-represented and have been denied equitable competitive

opportunities in contracting. It is the intent of this chapter to mitigate societal discrimination and other factors in participating in public works and in providing goods and services and to delineate a policy that an increased level of participation by minority and women-owned and controlled businesses is desirable at all levels of state government. The purpose and intent of this chapter are to provide the maximum practicable opportunity for increased participation by minority and women-owned and controlled businesses in participating in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector.

Sec. 2. Section 2, chapter 120, Laws of 1983 and RCW 39.19.020 are each amended to read as follows:

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

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Director" means the director of the office of minority and women's business enterprises.

(3) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(4) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this chapter that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

(5) "Goods and/or services" includes professional services and all other goods and services.

(6) "Office" means the office of minority and women's business enterprises.

(7) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(8) "Procurement" means the purchase, lease, or rental of any goods or services.

~~((9))~~ (9) "Public works" means all work, construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

~~((9))~~ (10) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

Sec. 3. Section 3, chapter 120, Laws of 1983 and RCW 39.19.030 are each amended to read as follows:

There is hereby created the office of minority and women's business enterprises. The governor shall appoint a director for the office, subject to confirmation by the senate. The director may employ a deputy director and a confidential secretary, both of which shall be exempt under chapter 41.06 RCW, and such staff as are necessary to carry out the purposes of this chapter.

~~((The office, with the advice and counsel of the advisory committee on minority and women's business enterprises, shall))~~ The office shall consult with the minority and women's business enterprises advisory committee to:

(1) Develop, plan, and implement programs to provide an opportunity for participation by qualified minority and women-owned and controlled businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(2) Develop a comprehensive plan insuring that qualified minority and women-owned and controlled businesses are provided an opportunity to participate in public contracts for public works and goods and services;

(3) Identify barriers to equal participation by qualified minority and women-owned and controlled businesses in all state agency and educational institution contracts;

(4) Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis;

(5) Develop and maintain a central minority and women's business enterprise certification list for all state agencies and educational institutions. ~~((Size of business or length of time in business shall not be considered a prerequisite for the certification list))~~ No business is entitled to certification under this chapter unless it meets the definition of small business concern as established by the office. All applications for certification under this chapter shall be sworn under oath;

(6) Develop, implement, and operate a system of monitoring compliance with this chapter;

(7) Adopt rules under chapter 34.04 or 28B.19 RCW, as appropriate, governing: (a) Establishment of agency goals; (b) development and maintenance of a central minority and women's business enterprise certification program, including a definition of "small business concern" which shall be consistent with the small business requirements defined under section 3 of the small business act, 15 U.S.C. Sec. 632, and its implementing regulations as guidance; (c) procedures for monitoring and enforcing compliance with goals, regulations, contract provisions, and this chapter; and (d) utilization of standard clauses by state agencies and educational institutions, as specified in RCW 39.19.050; ~~((and))~~

(8) Submit an annual report to the governor and the legislature outlining the progress ~~((and economic impact on the public and private sectors of))~~ in implementing this chapter;

(9) Investigate complaints of violations of this chapter with the assistance of the involved agency or educational institution; and

(10) 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 minority, socially and economically disadvantaged and women business enterprise programs to carry out the purposes of this chapter. However, the power which may be exercised by the office under this subsection permits investigation and imposition of sanctions only if the investigation relates to a possible violation of chapter 39.19 RCW, and not to violation of local ordinances, rules, regulations, however denominated, adopted by political subdivisions of the state.

Sec. 4. Section 7, chapter 120, Laws of 1983 and RCW 39.19.070 are each amended to read as follows:

It is the intent of this chapter that the goals established under this chapter for participation by minority and women-owned and controlled businesses be achievable. If necessary to accomplish this intent, contracts shall be awarded to the next lowest bidder, or all bids may be rejected and new bids obtained, if the lowest bidder does not meet the goals established for a particular contract under this chapter. The dollar value of the total contract used for the calculation of the specific contract goal may be increased or decreased to reflect executed change orders. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

Sec. 5. Section 8, chapter 120, Laws of 1983 and RCW 39.19.080 are each amended to read as follows:

~~((f))~~ (1) A person, firm, corporation, business, union, or other organization shall not:

(a) Prevent((s)) or interfere((s)) with a contractor's or subcontractor's compliance with this chapter, or any rule adopted under this chapter((, or));

(b) Submit((s)) false or fraudulent information to the state concerning compliance with this chapter or any such rule((, or violates this chapter or any rule adopted under this chapter, the person or entity shall be subject to a fine not to exceed one thousand dollars, in addition to any other penalty or sanction prescribed by law.

~~After an administrative hearing and findings of fact by the state agency or educational institution and after the exhaustion of administrative remedies, any adverse decision under this section may be appealed to Thurston county superior court or to any superior court in any county where the alleged violation occurred.));~~

(c) Fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a minority or women's business enterprise for the purpose of this chapter;

(d) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or women's business enterprise;

(e) Knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualification of a business entity that has requested certification as a minority or women's business enterprise;

(f) Fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public moneys to which the person is not entitled under this chapter; or

(g) Knowingly make false statements that any entity is or is not certified as a minority or women's business enterprise for purposes of obtaining a contract governed by this chapter.

(2) Any person or entity violating this chapter or any rule adopted under this chapter shall be subject to the penalties in RCW 39.19.090. Nothing in this section prevents the state agency or educational institution from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

Sec. 6. Section 9, chapter 120, Laws of 1983 and RCW 39.19.090 are each amended to read as follows:

If a person, firm, corporation, or business does not comply with any provision of this chapter or with a contract ((required)) requirement established under this chapter, the state may withhold payment, debar the contractor, suspend, or terminate the contract and subject the contractor to civil penalties of up to ten percent of the amount of the contract or up to five thousand dollars((, whichever is less)) for each violation. The office shall adopt, by rule, criteria for the imposition of penalties under this section. Wilful repeated violations, exceeding a single violation, may disqualify the contractor from further participation in state contracts for a period of ((one year)) up to three years. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

~~((After an administrative hearing and findings of fact by the state agency or educational institution and after the exhaustion of administrative remedies, any adverse decision under this section may be appealed to Thurston county superior court or to any superior court in any county where the alleged violation occurred:))~~

The office shall follow administrative procedures under chapter 34.04 RCW in determining a violation and imposing penalties under this chapter.

The procedures and sanctions in this section are not exclusive; nothing in this section prevents the state agency or educational institution administering the contracts from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

NEW SECTION. Sec. 7. A new section is added to chapter 39.19 RCW to read as follows:

The office shall be the sole authority to perform certification of minority business enterprises, socially and economically disadvantaged business enterprises, and women's business enterprises throughout the state of Washington. Certification by the state office will allow these firms to participate in programs for these enterprises administered by the state of Washington, any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington.

This state-wide certification process will prevent duplication of effort, achieve efficiency, and permit local jurisdictions to further develop, implement, and/or enhance comprehensive systems of monitoring and compliance for contracts issued by their agencies.

NEW SECTION. Sec. 8. A new section is added to chapter 39.19 RCW to read as follows:

There is created an organization to be known as the council of minority and women's business enterprises.

(1) The members of the council shall consist of one representative of each of the following entities:

(a) The municipality of metropolitan Seattle contract compliance office;

(b) The King County affirmative action program;

(c) The city of Seattle human rights department;

(d) The port of Seattle equal employment opportunity office;

(e) The city of Spokane affirmative action office; and

(f) The state office of minority and women's business enterprises.

(2) Any program performing certification functions prior to January 1, 1988, which are similar in purpose to the certification program of the office and which are operated by any state agency, public corporation created by the state, city, county, town, special purpose district, municipal corporation, or quasi-municipal corporation may petition the office for participation on the council and for the acceptance of its list of certified businesses.

(3) The role of the council shall be:

(a) To assist the office in the development of certification procedures;

(b) To provide the office with information on certification issues relating to their jurisdiction;

(c) To ensure that requirements relative to the needs of minority and women's business enterprises are considered in the certification process; and

(d) To ensure that requirements relative to the needs of local programs are considered in the certification process.

(4) Members of the council have the right:

(a) To submit petitions for reconsideration of certification decisions made by the office; and

(b) To make recommendations with regards to the certification process.

(5) The council shall conduct regularly scheduled meetings. The number of council members participating in such meetings shall not exceed fifteen. If the number of entities represented on the council exceeds fifteen in number, the council shall elect from its members a maximum of fifteen persons to act as representatives at council meetings. Council members shall not be entitled to compensation beyond the customary reimbursement or allowance for expenses for attendance at meetings of such groups, in accordance with RCW 43.03.220.

This section shall expire June 30, 1991.

NEW SECTION. Sec. 9. A new section is added to chapter 39.19 RCW to read as follows:

Implementation of state-wide certification shall be effective January 1, 1988, following consultation by the office with appropriate state and local officials who currently administer similar certification programs. Any business having been certified under any of the programs identified pursuant to section 8 of this act as a minority and women's business enterprise shall be deemed certified by the office as of January 1, 1988.

NEW SECTION. Sec. 10. A new section is added to chapter 39.19 RCW to read as follows:

(1) Any city, county, town, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation having reason to believe that a particular minority and women's business enterprise should not have been certified under section 9 of this act may petition the office for reconsideration. The basis for the petition may be one or more of the following:

(a) The office's rules or regulations were improperly applied; or

(b) Material facts relating to the minority and women's business enterprise's certification application to the office are untrue.

(2) The petitioner shall carry the burden of persuasion. The affected minority or women's business enterprise shall receive notice of the petition and an opportunity to respond.

(3) After reviewing the information presented in support of and in opposition to the petition, the office shall issue a written decision, granting or denying the petition. If the office grants the petition, it may revoke, suspend, or refuse to renew the certification or impose sanctions under this chapter as appropriate.



(4) The office's decision on a petition is administratively final and the rights of appeal set out in the office regulations shall apply. A certification shall remain in effect while a petition is pending.

**NEW SECTION.** Sec. 11. A new section is added to chapter 39.19 RCW to read as follows:

Any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington utilizing the certification by the office retains the responsibility for monitoring compliance with the programs under its jurisdiction. The office shall not be responsible for enforcement of local ordinances, rules, or regulations, however titled.

**NEW SECTION.** Sec. 12. A new section is added to chapter 39.19 RCW to read as follows:

The attorney general may bring an action in the name of the state against any person to restrain and prevent the doing of any act prohibited or declared to be unlawful in this chapter. The attorney general may, in the discretion of the court, recover the costs of the action including reasonable attorneys' fees and the costs of investigation.

**NEW SECTION.** Sec. 13. A new section is added to chapter 39.19 RCW to read as follows:

(1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated, that the attorney general believes to be relevant to the subject matter of an investigation, the attorney general may require such person to answer written interrogatories or give oral testimony regarding a possible violation of this chapter, or of any provision of a contract as required by this chapter, or (b) may have knowledge of any information that the attorney general believes relevant to the subject matter of such an investigation, the attorney general may, before instituting a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of demands pertaining to the documentary material or information. Documents and information obtained under this section shall not be admissible in criminal prosecutions.

(2) Each such demand shall:

(a) State the statute, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) State with reasonable specificity what documentary material is required, if the demand is for the production of documentary material;

(c) Prescribe a return date governed by the court rules within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand may:

(a) Contain any requirement that would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a notice of deposition upon oral examination issued under the court rules of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if that person is not a natural person, to any officer or managing agent of the person to be served;

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if that person has no place of business in this state, to the person's principal office or place of business.

(5)(a) Documentary material demanded under this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken from the place where the examination is held;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, may, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor may the contents thereof be disclosed to, anyone other than an authorized employee or agent of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony: **PROVIDED**, That under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced the material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of that person. The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he or she determines necessary to enforce this chapter, including presentation before any court: **PROVIDED FURTHER**, That any such material, answers to written interrogatories, or transcripts of oral testimony that contain material designated by the declarant to be trade secrets shall not be presented except with the approval of the court in which the action is pending after adequate notice to the person furnishing the material, answers to written interrogatories, or oral testimony.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the superior court for Thurston county, or in any other county where the parties reside or are found. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon that person under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender such material, the attorney general may

file, in the trial court of general jurisdiction in the county in which the person resides, is found, or transacts business, and serve upon that person a petition for an order of the court for the enforcement of this section, except that if such person transacts business in more than one county, the petition shall be filed in the county in which the person maintains his or her principal place of business or in such other county as may be agreed upon by the parties to the petition. Whenever any petition is filed under this section in the trial court of general jurisdiction in any county, the court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

NEW SECTION. Sec. 14. Section 19, chapter 120, Laws of 1983 and RCW 39.19.900 are each repealed.

NEW SECTION. Sec. 15. A new section is added to chapter 43.131 RCW to read as follows:

The powers and duties of the office of minority and women's business enterprises shall be terminated on June 30, 1995, as provided in section 16 of this act.

NEW SECTION. Sec. 16. 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, 1996:

- (1) Section 1, chapter 120, Laws of 1983, section 1 of this 1987 act and RCW 39.19.010;
- (2) Section 2, chapter 120, Laws of 1983, section 2 of this 1987 act and RCW 39.19.020;
- (3) Section 3, chapter 120, Laws of 1983, section 3 of this 1987 act and RCW 39.19.030;
- (4) Section 4, chapter 120, Laws of 1983, section 45, chapter 466, Laws of 1985 and RCW 39.19.040;
- (5) Section 5, chapter 120, Laws of 1983 and RCW 39.19.050;
- (6) Section 6, chapter 120, Laws of 1983 and RCW 39.19.060;
- (7) Section 7, chapter 120, Laws of 1983, section 4 of this 1987 act and RCW 39.19.070;
- (8) Section 8, chapter 120, Laws of 1983, section 5 of this 1987 act and RCW 39.19.080;
- (9) Section 9, chapter 120, Laws of 1983, section 6 of this 1987 act and RCW 39.19.090;
- (10) Section 7 of this 1987 act;
- (11) Section 8 of this 1987 act;
- (12) Section 9 of this 1987 act;
- (13) Section 10 of this 1987 act;

- (14) Section 11 of this 1987 act;
- (15) Section 12 of this 1987 act; and
- (16) Section 13 of this 1987 act.

**NEW SECTION.** Sec. 17. 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. 18. 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 21, 1987.

Passed the House April 13, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 329

[Engrossed Substitute Senate Bill No. 6013]

### CHILD CARE RESOURCE COORDINATOR WITHIN SOCIAL AND HEALTH SERVICES DEPARTMENT

AN ACT Relating to child care; 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 secretary of social and health services shall appoint a child care resource coordinator who shall within appropriated funds:

(1) Actively seek public or private moneys and administer funding of available grants to local governments, private industry, and community-based nonprofit corporations for the purpose of:

(a) Creating and operating child care information and referral systems; and

(b) Creating and conducting a business outreach program to assess and fulfill the child care needs of businesses and families.

(2) Create a state-wide child care referral data bank and provide information to local information and referral systems about all licensed child care providers in the state. The data bank shall include information about the existence of providers by locality and the status of the providers' licenses, including whether the license has been issued, denied, revoked, or suspended or whether a letter of intent to deny, suspend, or revoke has been issued by the department of social and health services. The licensing division of the department shall make such information readily available to the child care resource coordinator.

(3) Coordinate the provision of training and technical assistance to child care providers.

(4) Collect, develop, and disseminate information to assist employers and to foster a public-private partnership to increase and improve available child care.

(5) Collect and assemble information regarding the availability of insurance and of federal and other child-care funding to assist the department, industry, and other providers in offering child care related services.

(6) Recommend statutory and administrative changes to the legislature and the department of trade and economic development to encourage employer-provided assistance for child care, recommendations for state economic development programs which encourage employer participation in child care.

NEW SECTION. Sec. 2. Section 1 of this act shall expire June 30, 1989, unless extended by law for an additional fixed period of time.

Passed the Senate April 21, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 330

[Engrossed Substitute House Bill No. 454]

### BOARDS AND COMMISSIONS—CERTAIN ABOLISHED, REORGANIZED, OR REVISED

AN ACT Relating to state boards and commissions; amending RCW 28B.12.050, 28B.12.060, 28B.80.430, 27.04.030, 43.21F.025, 43.21F.065, 43.22.420, 46.04.040, 46.04.304, 46.04.710, 46.16.240, 46.32.060, 46.37.005, 46.37.010, 46.37.160, 46.37.185, 46.37.190, 46.37.194, 46.37.210, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.320, 46.37.330, 46.37.365, 46.37.380, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.470, 46.37.490, 46.37.505, 46.37.510, 46.37.520, 46.37.529, 46.37.530, 46.37.535, 46.37.610, 46.38.020, 46.38.030, 46.38.040, 46.38.060, 46.55.010, 46.55.050, 46.55.170, 46.55.180, 46.61.563, 46.61.567, 46.61.687, 46.61.780, 47.36.250, 47.52.120, 70.107.070, 28B.50.100, 43.51.340, and 76.09.030; reenacting and amending RCW 46.10.220; creating a new section; repealing RCW 27.08.010, 27.08.045, 43.21F.085, 43.22.475, and 76.09.200; and declaring an emergency.

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

### PART I

#### WORK-STUDY ADVISORY COMMITTEE

Sec. 201. Section 5, chapter 177, Laws of 1974 ex. sess. as amended by section 59, chapter 370, Laws of 1985 and RCW 28B.12.050 are each amended to read as follows:

The higher education coordinating board shall disburse college work-study funds (~~after consideration of recommendations of a panel convened~~

~~by the higher education coordinating board, and composed of representatives of~~). In performing its duties under this section, the board shall consult eligible institutions and post-secondary education advisory and governing bodies. ~~((Said commission))~~ The board shall establish criteria ~~((for the panel))~~ designed to achieve such distribution of assistance under this chapter among students attending eligible institutions as will most effectively carry out the purposes of this chapter.

Sec. 202. Section 6, chapter 177, Laws of 1974 ex. sess. as amended by section 60, chapter 370, Laws of 1985 and RCW 28B.12.060 are each amended to read as follows:

The higher education coordinating board shall adopt rules and regulations as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 28B.19 RCW, the state higher education administrative procedure act. Such rules and regulations shall ~~((be promulgated upon consideration of advice from a panel composed of representatives of institutional financial aid officers, a representative of employee organizations having membership in the classified service of the state's institutions of higher education, and will))~~ include provisions designed to make employment under such work-study program reasonably available, to the extent of available funds, to all eligible students in eligible post-secondary institutions in need thereof. Such rules and regulations shall include:

(1) Providing work under the college work-study program which will not result in the displacement of employed workers or impair existing contracts for services.

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology.

(3) Placing priority on the securing of work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.011 through 28B.15.014.

(4) Provisions to assure that in the state institutions of higher education utilization of this student work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 28B.16 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the higher education personnel board's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service.

## PART II HIGHER EDUCATION COORDINATING BOARD

Sec. 301. Section 14, chapter 370, Laws of 1985 and RCW 28B.80.430 are each amended to read as follows:

The board shall employ a director and may delegate agency management to the director. The director shall serve at the pleasure of the board, shall be the executive officer of the board, and shall, under the board's supervision, administer the provisions of this chapter. The executive director shall, with the approval of the board: (1) Employ necessary deputy and assistant directors and other exempt staff under chapter 28B.16 RCW who shall serve at his or her pleasure on such terms and conditions as he or she determines and (2) subject to the provisions of chapter 28B.16 RCW, appoint and employ such other employees as may be required for the proper discharge of the functions of the board. The executive director shall exercise such additional powers, other than rulemaking, as may be delegated by the board by resolution. In fulfilling the duties under this chapter, the board shall make extensive use of those state agencies with responsibility for implementing and supporting postsecondary education plans and policies including but not limited to appropriate legislative groups, the postsecondary education institutions, the office of financial management, the commission for vocational education, and the state board for community college education. Outside consulting and service agencies may also be employed. The board may compensate these groups and consultants in appropriate ways.

## PART III STATE BOARD FOR THE CERTIFICATION OF LIBRARIANS

Sec. 401. Section 2, chapter 5, Laws of 1941 as last amended by section 1, chapter 79, Laws of 1986 and RCW 27.04.030 are each amended to read as follows:

The state library commission:

(1) May make such rules under chapter 34.04 RCW as may be deemed necessary and proper to carry out the purposes of this chapter;

(2) Shall set general policy direction pursuant to the provisions of this chapter;



(3) Shall appoint a state librarian who shall serve at the pleasure of the commission;

(4) Shall adopt a recommended budget and submit it to the governor;

(5) Shall have authority to contract with any agency of the state of Washington for the purpose of providing library materials, supplies, and equipment and employing assistants as needed for the development, growth, and operation of any library facilities or services of such agency;

(6) Shall have authority to contract with any public library in the state for that library to render library service to the blind and/or physically handicapped throughout the state. The state library commission shall have authority to compensate such public library for the cost of the service it renders under such contract;

(7) May adopt rules under chapter 34.04 RCW for the allocation of any grants of state, federal, or private funds for library purposes;

(8) Shall have authority to accept and to expend in accordance with the terms thereof any grant of federal or private funds which may become available to the state for library purposes. For the purpose of qualifying to receive such grants, the state library commission is authorized to make such applications and reports as may be required by the federal government or appropriate private entity as a condition thereto;

(9) Shall have the authority to provide for the sale of library material in accordance with RCW 27.12.305; and

(10) Shall (~~pay expenses of the state board for certification of librarians under RCW 27.08.045~~) have authority to establish rules and regulations for, and prescribe and hold examinations to test, the qualifications of those seeking certificates as librarians.

(a) The commission shall grant librarians' certificates without examination to applicants who are graduates of library schools accredited by the American library association for general library training, and shall grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities equivalent to those of a library school graduate and is qualified to carry on library work ably and efficiently.

(b) The commission shall require a fee of not less than one dollar nor greater than that required to recover the costs associated with the application to be paid by each applicant for a librarian's certificate. Money paid as fees shall be deposited with the state treasurer.

(c) A library serving a community having over four thousand population shall not have in its employ, in the position of librarian or in any other full-time professional library position, a person who does not hold a librarian's certificate issued by the commission or its predecessor.

(d) A full-time professional library position, as intended by this subsection, is one that requires, in the opinion of the commission, a knowledge

of books and of library technique equivalent to that required for graduation from an accredited library school.

(e) The provisions of this subsection apply to every library serving a community having over four thousand population and to every library operated by the state or under its authority, including libraries of institutions of higher learning: PROVIDED, That nothing in this subsection applies to the state law library or to county law libraries.

NEW SECTION. Sec. 402. The following acts or parts of acts are each repealed:

- (1) Section 11, chapter 119, Laws of 1935, section 12, chapter 106, Laws of 1973, section 59, chapter 287, Laws of 1984 and RCW 27.08.010; and
- (2) Section 1, chapter 295, Laws of 1955 and RCW 27.08.045.

#### PART IV ENERGY ADVISORY COUNCIL

Sec. 501. Section 2, chapter 295, Laws of 1981 and RCW 43.21F.025 are each amended to read as follows:

(1) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(2) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized;

(3) "Director" means the director of the state energy office;

(4) "Office" means the Washington state energy office; and

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state(~~;~~ and

~~(6) "Council" means the energy advisory council created in RCW 43.21F.085)).~~

Sec. 502. Section 8, chapter 295, Laws of 1981 and RCW 43.21F.065 are each amended to read as follows:

In addition to the duties and functions assigned by RCW 43.21F.045 and 43.21F.060, the director shall:

(1) Manage, plan, direct, and administer the activities and staff of the office;

(2) Assign, reassign, and coordinate personnel of the office and prescribe their duties subject to chapter 41.06 RCW; and

(3) ~~((Provide staff support to the energy advisory council))~~ Establish advisory committees as may be necessary to carry out the purposes of this chapter. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 503. Section 7, chapter 295, Laws of 1981 and RCW 43.21F.085 are each repealed.

#### PART V MOBILE HOME, RECREATIONAL VEHICLE, AND FACTORY BUILT HOUSING ADVISORY BOARDS

Sec. 601. Section 3, chapter 229, Laws of 1969 ex. sess. as last amended by section 103, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.22.420 are each amended to read as follows:

There is hereby created a ~~((mobile home and recreational vehicle))~~ factory assembled structures advisory board consisting of ~~((eight))~~ nine members to be appointed by the ~~((governor with the advice of the))~~ director of labor and industries ~~((as herein provided))~~. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules and regulations pertaining to the manufacture of factory assembled structures, mobile homes, commercial coaches and recreational vehicles. The advisory board shall periodically review the rules promulgated under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the ~~((mobile home and recreational vehicle))~~ advisory board shall be ~~((selected and appointed as follows: One member shall be an employee or officer of a mobile home manufacturing company; one member shall be an employee or officer of a travel trailer manufacturing company; one member shall be an employee, officer or distributor of a company engaged in the manufacture of component parts affecting the plumbing apparatus and equipment; one member shall be an employee, officer or distributor of a company engaged in the manufacture of electrical material, equipment or appliances; one member shall be a distributor or manufacturer of heating equipment, material or devices; one member shall be an employee, officer, owner, or operator of a mobile home park; and one member shall represent that segment of the general public owning or leasing mobile~~

~~homes, commercial coaches and/or recreational vehicles. The chief supervisor for the mobile home, commercial coach and recreational vehicle section within the department of labor and industries shall be a member of the advisory board and shall act as secretary)) representative of consumers, the regulated industries, and allied professionals. The ((regular)) term of each member shall be four years((: PROVIDED, HOWEVER, The original board shall be appointed for the following terms: The first term of the member representing a manufacturer of mobile homes and of the member representing the general public shall be four years; the member representing the manufacturer of travel trailers shall serve three years; the member representing the manufacturer or distributor of plumbing component parts shall serve three years; the member representing the manufacturer or distributor of electrical apparatus and equipment shall serve two years; the manufacturer or distributor of heating equipment and appliances shall serve one year. The governor shall fill vacancies caused by death, resignation, or otherwise for the unexpired term of such members by appointing their successors from the same business classification. The same procedure shall be followed in making such subsequent appointments as is provided for the original appointments. The board, at this first meeting shall elect one of its members to serve as chairman)). However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.~~

The chief ((supervisor)) inspector or any person acting as chief ((supervisor)) inspector for the factory assembled structures, mobile home, commercial coach and recreational vehicle section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee.

NEW SECTION. Sec. 602. Section 6, chapter 44, Laws of 1970 ex. sess., section 4, chapter 22, Laws of 1973 1st ex. sess., section 104, chapter 34, Laws of 1975-'76 2nd ex. sess., section 77, chapter 287, Laws of 1984 and RCW 43.22.475 are each repealed.

## PART VI COMMISSION ON EQUIPMENT

Sec. 701. Section 46.04.040, chapter 12, Laws of 1961 and RCW 46.04.040 are each amended to read as follows:

"Authorized emergency vehicle" means any vehicle of any fire department, police department, sheriff's office, coroner, prosecuting attorney, Washington state patrol, ambulance service, public or private, which need

not be classified, registered or authorized by the state (~~(commission on equipment)~~) patrol, or any other vehicle authorized in writing by the state (~~(commission on equipment)~~) patrol.

Sec. 702. Section 1, chapter 213, Laws of 1979 ex. sess. and RCW 46.04.304 are each amended to read as follows:

"Moped" means any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power and a motor with a cylinder displacement not exceeding fifty cubic centimeters which produces no more than two gross brake horsepower (developed by a prime mover, as measured by a brake applied to the driving shaft) and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground, and the wheels of which are at least sixteen inches in diameter.

The state (~~(commission on equipment)~~) patrol may approve of and define as a "moped" a vehicle which fails to meet these specific criteria, but which is essentially similar in performance and application to vehicles which do meet these specific criteria.

Sec. 703. Section 1, chapter 200, Laws of 1983 and RCW 46.04.710 are each amended to read as follows:

"Wheelchair conveyance" means any vehicle specially manufactured or designed for the transportation of a physically or medically impaired wheelchair-bound person. The vehicle may be a separate vehicle used in lieu of a wheelchair or a separate vehicle used for transporting the impaired person while occupying a wheelchair. The vehicle shall be equipped with a propulsion device capable of propelling the vehicle within a speed range established by the (~~(commission on equipment)~~) state patrol. The (~~(commission)~~) state patrol may approve and define as a wheelchair conveyance, a vehicle that fails to meet these specific criteria but is essentially similar in performance and application to vehicles that do meet these specific criteria.

Sec. 704. Section 46.16.240, chapter 12, Laws of 1961 as last amended by section 10, chapter 170, Laws of 1969 ex. sess. and RCW 46.16.240 are each amended to read as follows:

The vehicle license number plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued and in such a manner that they can be plainly seen and read at all times: **PROVIDED**, That if only one license number plate is legally issued for any vehicle such plate shall be conspicuously attached to the rear of such vehicle. Each vehicle license number plate shall be placed or hung in a horizontal position at a distance of not less than one foot nor more than four feet from the ground and shall be kept clean so as to be plainly seen and read at all times: **PROVIDED, HOWEVER**, That in cases where the body construction of the vehicle is such that compliance with this section is impossible, permission to

deviate therefrom may be granted by the state (~~(commission on equipment)~~) patrol. It shall be unlawful to display upon the front or rear of any vehicle, vehicle license number plate or plates other than those furnished by the director for such vehicle or to display upon any vehicle any vehicle license number plate or plates which have been in any manner changed, altered, disfigured or have become illegible. It shall be unlawful for any person to operate any vehicle unless there shall be displayed thereon valid vehicle license number plates attached as herein provided.

Sec. 705. Section 46.32.060, chapter 12, Laws of 1961 as amended by section 5, chapter 123, Laws of 1986 and RCW 46.32.060 are each amended to read as follows:

It shall be unlawful for any person to operate or move, or for any owner to cause or permit to be operated or moved upon any public highway, any vehicle or combination of vehicles, which is not at all times equipped in the manner required by this title, or the equipment of which is not in a proper condition and adjustment as required by this title or rules adopted by the chief of the Washington state patrol.

Any vehicle operating upon the public highways of this state and at any time found to be defective in equipment in such a manner that it may be considered unsafe shall be an unlawful vehicle and may be prevented from further operation until such equipment defect is corrected and any peace officer is empowered to impound such vehicle until the same has been placed in a condition satisfactory to vehicle inspection. The necessary cost of impounding any such unlawful vehicle and any cost for the storage and keeping thereof shall be paid by the owner thereof. The impounding of any such vehicle shall be in addition to any penalties for such unlawful operation.

The provisions of this section shall not be construed to prevent the operation of any such defective vehicle to a place for correction of equipment defect in the manner directed by any peace officer or representative of the state (~~(commission on equipment)~~) patrol.

Sec. 706. Section 46.37.005, chapter 12, Laws of 1961 as last amended by section 1, chapter 165, Laws of 1985 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. 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~~), the chief of the Washington state patrol 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~~) chief of the Washington state patrol 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.

Sec. 707. Section 46.37.010, chapter 12, Laws of 1961 as last amended by section 69, chapter 136, Laws of 1979 ex. sess. and RCW 46.37.010 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter or in regulations issued by the (~~state commission on equipment~~) chief of the Washington state patrol, or which is equipped in any manner in violation of this chapter or the (~~commission's~~) state patrol's regulations, or for any person to do any act forbidden or fail to perform any act required under this chapter or the (~~commission's~~) state patrol's regulations.

(2) Nothing contained in this chapter or the (~~commission's~~) state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the (~~commission's~~) state patrol's regulations.

(3) The provisions of the chapter and the (~~commission's~~) state patrol's regulations with respect to equipment on vehicles shall not apply to

implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(4) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(5) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the (~~commission on equipment~~) state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state (~~commission on equipment~~) patrol.

(6) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

Sec. 708. Section 46.37.160, chapter 12, Laws of 1961 as last amended by section 14, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.160 are each amended to read as follows:

(1) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1970, shall be equipped with vehicular hazard warning lights of the type described in RCW 46.37.215 visible from a distance of not less than one thousand feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(2) Every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1970, shall at all times, and every other motor vehicle shall at times mentioned in RCW 46.37.020, be equipped with lamps and reflectors as follows:

(a) At least two headlamps meeting the requirements of RCW 46.37-.220, 46.37.240, or 46.37.260;

(b) At least one red lamp visible when lighted from a distance of not less than one thousand feet to the rear mounted as far to the left of center of vehicle as practicable;

(c) At least two red reflectors visible from all distances within six hundred to one hundred feet to the rear when directly in front of lawful lower beams of headlamps.

(3) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in RCW 46.37-.020 be equipped with lamps and reflectors as follows:

(a) The farm tractor element of every such combination shall be equipped as required in subsections (1) and (2) of this section;

(b) The towed unit of farm equipment or implement of husbandry element of such combination shall be equipped on the rear with two red lamps visible when lighted from a distance of not less than one thousand feet to the rear, and two red reflectors visible to the rear from all distances within six hundred feet to one hundred feet to the rear when directly in front of



lawful upper beams of head lamps. One reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit;

(c) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in subsection (1) of this section.

(4) The two red lamps and the two red reflectors required in the foregoing subsections of this section on a self-propelled unit of farm equipment or implement of husbandry or combination of farm tractor and towed farm equipment shall be so positioned as to show from the rear as nearly as practicable the extreme width of the vehicle or combination carrying them: PROVIDED, That if all other requirements are met, reflective tape or paint may be used in lieu of reflectors required by subsection (3) of this section.

(5) After January 1, 1970, every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of twenty-five miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear except as provided in subsection (6) of this section.

(6) After January 1, 1970, every combination of farm tractor and towed farm equipment or towed implement of husbandry normally operating at speeds not in excess of twenty-five miles per hour shall at all times be equipped with a slow moving vehicle emblem as follows:

(a) Where the towed unit is sufficiently large to obscure the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem;

(b) Where the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit, then either or both may be equipped with the required emblem but it shall be sufficient if either has it.

(7) The emblem required by subsections (5) and (6) of this section shall comply with current standards and specifications as promulgated by the ~~((state commission on equipment))~~ Washington state patrol.

Sec. 709. Section 46.37.185, chapter 12, Laws of 1961 as amended by section 3, chapter 92, Laws of 1971 ex. sess. and RCW 46.37.185 are each amended to read as follows:

Firemen, when approved by the chief of their respective service, shall be authorized to use a green light on the front of their private cars when on emergency duty only. Such green light shall be visible for a distance of two hundred feet under normal atmospheric conditions and shall be of a type and mounting approved by the ~~((commission on equipment))~~ Washington state patrol. The use of the green light shall only be for the purpose of identification and the operator of a vehicle so equipped shall not be entitled to any of the privileges provided in RCW 46.61.035 for the operators of authorized emergency vehicles.

Sec. 710. Section 46.37.190, chapter 12, Laws of 1961 as last amended by section 1, chapter 331, Laws of 1985 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~~) state patrol for that purpose. The (~~commission~~) state patrol 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~~) state patrol 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. 711. Section 46.37.194, chapter 12, Laws of 1961 and RCW 46.37.194 are each amended to read as follows:

The state (~~commission on equipment~~) patrol may make rules and regulations relating to authorized emergency vehicles and shall test and approve sirens and emergency vehicle lamps to be used on such vehicles.

Sec. 712. Section 46.37.210, chapter 12, Laws of 1961 as last amended by section 18, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.210 are each amended to read as follows:

(1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle may be equipped with one or more side marker lamps, and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber, and side marker lamps located toward the rear shall be red.

(5) Any vehicle eighty inches or more in over-all width, if not otherwise required by RCW 46.37.090, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in RCW 46.37.090(~~((6))~~~~-(7))~~) (7).

(6) (a) Every motor vehicle, trailer, semitrailer, truck tractor, and pole trailer used in the state of Washington may be equipped with an auxiliary lighting system consisting of:

(i) One green light to be activated when the accelerator of the motor vehicle is depressed;

(ii) Not more than two amber lights to be activated when the motor vehicle is moving forward, or standing and idling, but is not under the power of the engine.

(b) Such auxiliary system shall not interfere with the operation of vehicle stop lamps or turn signals, as required by RCW 46.37.070. Such system, however, may operate in conjunction with such stop lamps or turn signals.

(c) Only one color of the system may be illuminated at any one time, and at all times either the green light, or amber light or lights shall be illuminated when the stop lamps of the vehicle are not illuminated.

(d) The green light, and the amber light or lights, when illuminated shall be plainly visible at a distance of one thousand feet to the rear.

(e) Only one such system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer; and such system shall be rear

mounted in a horizontal fashion, at a height of not more than seventy-two inches, nor less than twenty inches, as provided by RCW 46.37.050.

(f) On a combination of vehicles, only the lights of the rearmost vehicle need actually be seen and distinguished as provided in subparagraph (d) of this subsection.

(g) Each manufacturer's model of such a system as described in this subsection shall be approved by the ~~((commission on equipment))~~ state patrol as provided for in RCW 46.37.005 and 46.37.320, before it may be sold or offered for sale in the state of Washington.

Sec. 713. Section 46.37.280, chapter 12, Laws of 1961 as last amended by section 24, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.280 are each amended to read as follows:

(1) During the times specified in RCW 46.37.020, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, warning lamps authorized by the state ~~((commission on equipment))~~ patrol and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(2) Except as required in RCW 46.37.190 no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

(3) Flashing lights are prohibited except as required in RCW 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, and warning lamps authorized by the state ~~((commission on equipment))~~ patrol.

Sec. 714. Section 46.37.290, chapter 12, Laws of 1961 as last amended by section 1, chapter 45, Laws of 1977 and RCW 46.37.290 are each amended to read as follows:

The ~~((state commission on equipment))~~ chief of the Washington state patrol is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses and private carrier buses consistent with the provisions of this chapter, but supplemental thereto. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

Sec. 715. Section 46.37.300, chapter 12, Laws of 1961 as amended by section 20, chapter 154, Laws of 1963 and RCW 46.37.300 are each amended to read as follows:

(1) The state (~~(commission on equipment)~~) patrol shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow-removal and other highway maintenance and service equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow-removal and other highway maintenance and service equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials.

(2) It shall be unlawful to operate any snow-removal and other highway maintenance and service equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

Sec. 716. Section 46.37.310, chapter 12, Laws of 1961 as amended by section 1, chapter 113, Laws of 1986 and RCW 46.37.310 are each amended to read as follows:

(1) No person may have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required under this chapter, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the state (~~(commission on equipment)~~) patrol and conforming to rules adopted by it.

(2) No person may have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section conforming to rules adopted by the state (~~(commission on equipment)~~) patrol unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(3) No person may use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless the lamps are mounted, adjusted, and aimed in accordance with instructions of the state (~~(commission on equipment)~~) patrol.

Sec. 717. Section 2, chapter 113, Laws of 1986 and RCW 46.37.320 are each amended to read as follows:

(1) The (~~(state commission on equipment)~~) chief of the state patrol is hereby authorized to adopt and enforce rules establishing standards and specifications governing the performance of lighting devices and their installation, adjustment, and aiming, when in use on motor vehicles, and other safety equipment, components, or assemblies of a type for which regulation is required in this chapter or in rules adopted by the (~~(commission)~~) state patrol. Such rules shall correlate with and, so far as practicable, conform to

federal motor vehicle safety standards adopted pursuant to the national traffic and motor vehicle safety act of 1966 (15 U.S.C. Sec. 1381 et seq.) covering the same aspect of performance, or in the absence of such federal standards, to the then current standards and specifications of the society of automotive engineers applicable to such equipment: PROVIDED, That the sale, installation, and use of any headlamp meeting the standards of either the society of automotive engineers or the United Nations agreement concerning motor vehicle equipment and parts done at Geneva on March 20, 1958, or as amended and adopted by the Canadian standards association (CSA standard D106.2), as amended, shall be lawful in this state.

(2) Every manufacturer who sells or offers for sale lighting devices or other safety equipment subject to requirements established by the ((~~commission~~)) state patrol shall, if the lighting device or safety equipment is not in conformance with applicable federal motor vehicle safety standards, provide for submission of such lighting device or safety equipment to any recognized organization or agency such as, but not limited to, the American national standards institute, the society of automotive engineers, or the American association of motor vehicle administrators, as the agent of the ((~~commission~~)) state patrol. Issuance of a certificate of compliance for any lighting device or item of safety equipment by that agent is deemed to comply with the standards set forth by the ((~~commission on equipment~~)) state patrol. Such certificate shall be issued by the agent of the state before sale of the product within the state.

(3) The ((~~commission~~)) state patrol may at any time request from the manufacturer a copy of the test data showing proof of compliance of any device with the requirements established by the ((~~commission~~)) state patrol and additional evidence that due care was exercised in maintaining compliance during production. If the manufacturer fails to provide such proof of compliance within sixty days of notice from the ((~~commission~~)) state patrol, the ((~~commission~~)) state patrol may prohibit the sale of the device in this state until acceptable proof of compliance is received by the ((~~commission~~)) state patrol.

(4) The ((~~commission~~)) state patrol or its agent may purchase any lighting device or other safety equipment, component, or assembly subject to this chapter or rules adopted by the ((~~commission~~)) state patrol under this chapter, for purposes of testing or retesting the equipment as to its compliance with applicable standards or specifications.

Sec. 718. Section 46.37.330, chapter 12, Laws of 1961 as amended by section 26, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.330 are each amended to read as follows:

(1) When the state ((~~commission on equipment~~)) patrol has reason to believe that an approved device does not comply with the requirements of this chapter or regulations issued by the state ((~~commission on equipment~~)) patrol, it may, after giving thirty days' previous notice to the person holding

the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the state (~~((commission on equipment))~~) patrol shall determine whether said approved device meets the requirements of this chapter and regulations issued by the (~~((commission))~~) state patrol. If said device does not meet the requirements of this chapter or the (~~((commission's))~~) state patrol's regulations it shall give notice to the one to whom the certificate of approval has been issued of the (~~((commission's))~~) state patrol's intention to suspend or revoke the certificate of approval for such device in this state.

(2) If at the expiration of ninety days after such notice the person holding the certificate of approval for such device has failed to satisfy the state (~~((commission on equipment))~~) patrol that said approved device as thereafter to be sold or offered for sale meets the requirements of this chapter or the (~~((commission's))~~) state patrol's regulations, the state (~~((commission on equipment))~~) patrol shall suspend or revoke the approval issued therefor and shall require the withdrawal of all such devices from the market and may require that all said devices sold since the notification be replaced with devices that do comply.

(3) When a certificate of approval has been suspended or revoked pursuant to this chapter or regulations by the state (~~((commission on equipment))~~) patrol, the device shall not be again approved unless and until it has been submitted for reapproval and it has been demonstrated, in the same manner as in an application for an original approval, that the device fully meets the requirements of this chapter or regulations issued by the state (~~((commission on equipment))~~) patrol. The state (~~((commission on equipment))~~) patrol may require that all previously approved items are being effectively recalled and removed from the market as a condition of reapproval.

Sec. 719. Section 24, chapter 154, Laws of 1963 as amended by section 29, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.365 are each amended to read as follows:

(1) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

(2) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

(3) The (~~((state commission on equipment))~~) chief of the Washington state patrol shall, in compliance with the provisions of chapter 34.04 RCW, the administrative procedure act, which govern the adoption of rules, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the society of automotive engineers applicable to such fluid.

(4) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section and the standard specifications adopted by the state (~~(commission on equipment))~~ patrol. No person shall service any vehicle with brake fluid unless it complies with the requirements of this section and the standards and specifications adopted by the state (~~(commission on equipment))~~ patrol.

(5) Subsections (3) and (4) of this section shall not apply to petroleum base fluids in vehicles with brake systems designed to use them.

Sec. 720. Section 46.37.380, chapter 12, Laws of 1961 as last amended by section 3, chapter 113, Laws of 1986 and RCW 46.37.380 are each amended to read as follows:

(1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device may emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle may be equipped with nor may any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(3) It is permissible for any vehicle to be equipped with a theft alarm signal device so long as it is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn, or other audible signal but shall not use a siren.

(4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type conforming to rules adopted by the state (~~(commission on equipment))~~ patrol, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of its approach.

Sec. 721. Section 46.37.420, chapter 12, Laws of 1961 as last amended by section 4, chapter 113, Laws of 1986 and RCW 46.37.420 are each amended to read as follows:

(1) It is unlawful to operate a vehicle upon the public highways of this state unless it is completely equipped with pneumatic rubber tires.

(2) No tire on a vehicle moved on a highway may have on its periphery any block, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway, and except also that it is



permissible to use tire chains or metal studs imbedded within the tire of reasonable proportions and of a type conforming to rules adopted by the state (~~(commission on equipment)~~) patrol, upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. It is unlawful to use metal studs imbedded within the tire between April 1st and November 1st. The state department of transportation may, from time to time, determine additional periods in which the use of tires with metal studs imbedded therein is lawful.

(3) The state department of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(4) Tires with metal studs imbedded therein may be used between November 1st and April 1st upon school buses and fire department vehicles, any law or regulation to the contrary notwithstanding.

Sec. 722. Section 3, chapter 77, Laws of 1971 as last amended by section 73, chapter 136, Laws of 1979 ex. sess. and RCW 46.37.425 are each amended to read as follows:

No person shall drive or move or cause to be driven or moved any vehicle, the tires of which have contact with the driving surface of the road, subject to registration in this state, upon the public highways of this state unless such vehicle is equipped with tires in safe operating condition in accordance with requirements established by this section or by the state (~~(commission on equipment)~~) patrol.

The state (~~(commission on equipment)~~) patrol shall promulgate rules and regulations setting forth requirements of safe operating condition of tires capable of being employed by a law enforcement officer by visual inspection of tires mounted on vehicles including visual comparison with simple measuring gauges. These rules shall include effects of tread wear and depth of tread.

A tire shall be considered unsafe if it has:

- (1) Any ply or cord exposed either to the naked eye or when cuts or abrasions on the tire are probed; or
- (2) Any bump, bulge, or knot, affecting the tire structure; or
- (3) Any break repaired with a boot; or
- (4) A tread depth of less than 2/32 of an inch measured in any two major tread grooves at three locations equally spaced around the circumference of the tire, or for those tires with tread wear indicators, a tire shall be considered unsafe if it is worn to the point that the tread wear indicators contact the road in any two major tread grooves at three locations equally spaced around the circumference of the tire; or

(5) A legend which indicates the tire is not intended for use on public highways such as, "not for highway use" or "for racing purposes only"; or

(6) Such condition as may be reasonably demonstrated to render it unsafe; or

(7) If not matched in tire size designation, construction, and profile to the other tire and/or tires on the same axle.

No person, firm, or corporation shall sell any vehicle for use on the public highways of this state unless the vehicle is equipped with tires that are in compliance with the provisions of this section. If the tires are found to be in violation of the provisions of this section, the person, firm, or corporation selling the vehicle shall cause such tires to be removed from the vehicle and shall equip the vehicle with tires that are in compliance with the provisions of this section.

It is a traffic infraction for any person to operate a vehicle on the public highways of this state, or to sell a vehicle for use on the public highways of this state, which is equipped with a tire or tires in violation of the provisions of this section or the rules and regulations promulgated by the state (~~(commission on equipment)~~) patrol hereunder: PROVIDED, HOWEVER, That if the violation relates to items (1) to (7) inclusive of this section then the condition or defect must be such that it can be detected by a visual inspection of tires mounted on vehicles, including visual comparison with simple measuring gauges.

Sec. 723. Section 46.37.430, chapter 12, Laws of 1961 as last amended by section 5, chapter 113, Laws of 1986 and RCW 46.37.430 are each amended to read as follows:

(1) No person may sell any new motor vehicle as specified in this title, nor may any new motor vehicle as specified in this title be registered unless such vehicle is equipped with safety glazing material of a type approved by the state (~~(commission on equipment)~~) patrol wherever glazing material is used in doors, windows, and windshields. The foregoing provisions 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 (~~(applies [apply])~~) apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles except as provided by 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 director of licensing shall not register 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 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 may sell or offer for sale, nor may 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 conforming to rules adopted by the state (~~((commission on equipment))~~) patrol wherever glazing materials are used in outside windows and doors.

(5) No tinting or coloring material that reduces light transmittance to any degree, unless it meets standards for such material adopted by the state (~~((commission on equipment))~~) patrol, may 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))~~) state patrol 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 prohibits 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))~~) patrol for such safety glazing materials.

(6) The standards used for approval of safety glazing materials by the state (~~((commission on equipment))~~) patrol 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.

Sec. 724. Section 46.37.440, chapter 12, Laws of 1961 as last amended by section 6, chapter 113, Laws of 1986 and RCW 46.37.440 are each amended to read as follows:

(1) No person may operate any motor truck, passenger bus, truck tractor, motor home, or travel trailer over eighty inches in overall width upon any highway outside the corporate limits of municipalities at any time unless there is carried in such vehicle the following equipment except as provided in subsection (2) of this section:

(a) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern, or cloth warning flag may be used for the purpose of compliance with this section unless such equipment is of a type which has been submitted to the state (~~(commission on equipment))~~ patrol and conforms to rules adopted by it. No portable reflector unit may be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the state (~~(commission on equipment))~~ patrol and conforms to rules adopted by it;

(b) At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried;

(c) At least two red-cloth flags, not less than twelve inches square, with standards to support such flags.

(2) No person may operate at the time and under conditions stated in subsection (1) of this section any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases or liquefied gases, or any motor vehicle using compressed gas as a fuel unless there is carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (1) of this section, and there shall not be carried in any said vehicle any flares, fusees, or signal produced by flame.

Sec. 725. Section 46.37.450, chapter 12, Laws of 1961 as amended by section 1, chapter 119, Laws of 1984 and RCW 46.37.450 are each amended to read as follows:

(1) Whenever any motor truck, passenger bus, truck tractor over eighty inches in overall width, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside any municipality at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (2) of this section:

(a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(b) As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), three lighted red electric lanterns, or three portable red emergency reflectors on the traveled portion of the highway in the following order:

(i) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.

(ii) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(iii) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with subdivision (a) of this subsection, it may be used for this purpose.

(2) Whenever any vehicle referred to in this section is disabled within five hundred feet of a curve, hillcrest, or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than five hundred feet from the disabled vehicle.

(3) Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections (1) and (5) of this section shall be placed as follows:

One at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

(4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside any municipality at any time when the display of fusees, flares, red electric lanterns, or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

(5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in subsection (1) of this section, the driver of such vehicle shall immediately display the following warning devices: One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle, and two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of this disabled vehicle in the center of the traffic lane occupied by such vehicle. Flares, fusees, or signals produced

by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

(6) Whenever any vehicle, other than those described in subsection (1) of this section, is disabled upon the traveled portion of any highway or shoulder thereof outside any municipality at any time when lights are required on vehicles, the state patrol or the county sheriff shall, upon discovery of the disabled vehicle, place a reflectorized warning device on or near the vehicle. The warning device and its placement shall be in accordance with rules adopted by the (~~commission on equipment~~) state patrol. Neither the standards for, placement or use of, nor the lack of placement or use of a warning device under this subsection gives rise to any civil liability on the part of the state of Washington, the state patrol, any county, or any law enforcement agency or officer.

(7) The flares, fusees, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the requirements of RCW 46.37.440 applicable thereto.

Sec. 726. Section 46.37.470, chapter 12, Laws of 1961 and RCW 46.37.470 are each amended to read as follows:

(1) The term "air-conditioning equipment" as used or referred to in this section shall mean mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(2) Such equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable.

(3) The state (~~commission on equipment~~) patrol may adopt and enforce safety requirements, regulations and specifications consistent with the requirements of this section applicable to such equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to such equipment approved by the society of automotive engineers.

(4) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any such equipment unless it complies with the requirements of this section.

(5) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless said equipment complies with the requirements of this section.

Sec. 727. Section 46.37.490, chapter 12, Laws of 1961 and RCW 46.37.490 are each amended to read as follows:

It shall be unlawful to operate any vehicle upon the public highways of this state without having the load thereon securely fastened and protected by safety chains or other device. The (~~state commission on equipment~~)

chief of the Washington state patrol is hereby authorized to adopt and enforce reasonable rules and regulations as to what shall constitute adequate and safe chains or other devices for the fastening and protection of loads upon vehicles.

Sec. 728. Section 1, chapter 215, Laws of 1983 and RCW 46.37.505 are each amended to read as follows:

~~((By October 1, 1983;))~~ The state ~~((commission on equipment))~~ patrol shall adopt standards for the performance, design, and installation of passenger restraint systems for children less than five years old and shall approve those systems which meet its standards.

Sec. 729. Section 1, chapter 117, Laws of 1963 as last amended by section 7, chapter 113, Laws of 1986 and RCW 46.37.510 are each amended to read as follows:

(1) No person may sell any automobile manufactured or assembled after January 1, 1964, nor may any owner cause such vehicle to be registered thereafter under the provisions of chapter 46.12 RCW unless such motor car or automobile is equipped with automobile seat belts installed for use on the front seats thereof which are of a type and installed in a manner conforming to rules adopted by the state ~~((commission on equipment))~~ patrol. Where registration is for transfer from an out-of-state license, the applicant shall be informed of this section by the issuing agent and has thirty days to comply. The state ~~((commission on equipment))~~ patrol shall adopt and enforce standards as to what constitutes adequate and safe seat belts and for the fastening and installation of them. Such standards shall not be below those specified as minimum requirements by the Society of Automotive Engineers on June 13, 1963.

(2) Every passenger car manufactured or assembled after January 1, 1965, shall be equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

(3) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with a lap-type safety belt assembly for each permanent passenger seating position. This requirement shall not apply to police vehicles.

(4) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with at least two shoulder harness-type safety belt assemblies for use in the front seating positions.

(5) The ~~((commission on equipment))~~ state patrol shall excuse specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections (1), (2), and (3) of this section when compliance would be impractical.

(6) No person may distribute, have for sale, offer for sale, or sell any safety belt or shoulder harness for use in motor vehicles unless it meets current minimum standards and specifications conforming to rules adopted

by the ~~((commission))~~ state patrol or the United States department of transportation.

Sec. 730. Section 61, chapter 170, Laws of 1965 ex. sess. as amended by section 4, chapter 91, Laws of 1971 ex. sess. and RCW 46.37.520 are each amended to read as follows:

It shall be unlawful for any person to lease for hire or permit the use of any vehicle with soft tires commonly used upon the beach and referred to as a dune buggy unless such vehicle has been inspected by and approved by the state ~~((commission on equipment))~~ patrol, which ~~((commission))~~ may charge a reasonable fee therefor to go into the motor vehicle fund.

Sec. 731. Section 51, chapter 355, Laws of 1977 ex. sess. as amended by section 158, chapter 158, Laws of 1979 and RCW 46.37.529 are each amended to read as follows:

(1) The state ~~((commission on equipment))~~ patrol is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which it finds will not comply with the performance ability standard set forth in RCW 46.37.351, or which in its opinion is equipped with a braking system that is not so designed or constructed as to ensure reasonable and reliable performance in actual use.

(2) The director of licensing may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when the state ~~((commission on equipment))~~ patrol determines that the braking system thereon does not comply with the provisions of this section.

(3) No person shall operate on any highway any vehicle referred to in this section in the event the state ~~((commission on equipment))~~ patrol has disapproved the braking system upon such vehicle.

Sec. 732. Section 4, chapter 232, Laws of 1967 as last amended by section 8, chapter 113, Laws of 1986 and RCW 46.37.530 are each amended to read as follows:

(1) It is unlawful:

(a) For any person to operate a motorcycle or motor-driven cycle not equipped with mirrors on the left and right sides of the motorcycle which shall be so located as to give the driver a complete view of the highway for a distance of at least two hundred feet to the rear of the motorcycle or motor-driven cycle: PROVIDED, That mirrors shall not be required on any motorcycle or motor-driven cycle over twenty-five years old originally manufactured without mirrors and which has been restored to its original condition and which is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show, or other such assemblage: PROVIDED FURTHER, That no mirror is required on any motorcycle manufactured prior to January 1, 1931;



(b) For any person to operate a motorcycle or motor-driven cycle which does not have a windshield unless wearing glasses, goggles, or a face shield of a type conforming to rules adopted by the state (~~(commission on equipment)~~) patrol;

(c) For any person to sell or offer for sale a motorcycle helmet which does not meet the requirements established by the state (~~(commission on equipment)~~) patrol.

(2) The state (~~(commission on equipment)~~) patrol is hereby authorized and empowered to adopt and amend rules, pursuant to the administrative procedure act, concerning the standards and procedures for conformance of rules adopted for glasses, goggles, face shields, and protective helmets.

Sec. 733. Section 10, chapter 232, Laws of 1967 as last amended by section 9, chapter 113, Laws of 1986 and RCW 46.37.535 are each amended to read as follows:

It is unlawful for any person to rent out motorcycles unless he also has on hand for rent helmets of a type conforming to rules adopted by the (~~(commission on equipment)~~) state patrol.

Sec. 734. Section 4, chapter 200, Laws of 1983 and RCW 46.37.610 are each amended to read as follows:

The (~~(commission on equipment)~~) state patrol shall adopt rules for wheelchair conveyance safety standards. Operation of a wheelchair conveyance that is in violation of these standards is a traffic infraction.

Sec. 735. Section 2, chapter 204, Laws of 1963 and RCW 46.38.020 are each amended to read as follows:

The legislature finds that:

(1) The public safety necessitates the continuous development, modernization and implementation of standards and requirements of law relating to vehicle equipment, in accordance with expert knowledge and opinion.

(2) The public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation.

(3) The state (~~(commission on equipment)~~) patrol, acting upon recommendations of the vehicle equipment safety commission and pursuant to the vehicle equipment safety compact provides a just, equitable and orderly means of promoting the public safety in the manner and within the scope contemplated by this chapter.

Sec. 736. Section 3, chapter 204, Laws of 1963 as amended by section 57, chapter 145, Laws of 1967 ex. sess. and RCW 46.38.030 are each amended to read as follows:

Pursuant to Article V(e) of the vehicle equipment safety compact it is the intention of this state and it is hereby provided that any rule, regulation, or code issued by the vehicle equipment safety commission in accordance with Article V of the compact shall take effect when issued in accordance

with the administrative procedure act by the state (~~(commission on equipment))~~ patrol.

Sec. 737. Section 4, chapter 204, Laws of 1963 and RCW 46.38.040 are each amended to read as follows:

The commissioner of this state on the vehicle equipment safety commission shall be appointed by the (~~(members of the state commission on equipment))~~ chief of the state patrol to serve at (~~(their))~~ the chief's pleasure. The (~~(members of the state commission on equipment))~~ chief of the state patrol may also designate an alternate commissioner to serve whenever the commissioner of this state is unable to participate on the vehicle equipment safety commission. Subject to the provisions of the compact and by-laws of the vehicle equipment safety commission, the authority and responsibilities of such alternate shall be as determined by the (~~(state commission on equipment))~~ chief of the state patrol.

Sec. 738. Section 6, chapter 204, Laws of 1963 and RCW 46.38.060 are each amended to read as follows:

Filing of documents as required by Article III(j) of the compact shall be with the (~~(secretary of the state commission on equipment))~~ chief of the state patrol. Any and all notices required by commission bylaws to be given pursuant to Article III(j) of the compact shall be given to the commissioner of this state, his alternate, if any, and the (~~(secretary of the state commission on equipment))~~ chief of the state patrol.

Sec. 739. Section 1, chapter 377, Laws of 1985 and RCW 46.55.010 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in his possession for ninety-six consecutive hours.

(2) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(3) (~~"Commission" means the state commission on equipment established under RCW 46.37.005;~~

~~(4))~~ "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or other public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

~~((5))~~ (4) "Junk vehicle" means a motor vehicle certified under RCW 46.55.230 as meeting all the following requirements:

- (a) Is three years old or older;
- (b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;
- (c) Is apparently inoperable;
- (d) Is without a valid, current registration plate;
- (e) Has a fair market value equal only to the value of the scrap in it.

~~((6))~~ (5) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

~~((7))~~ (6) "Residential property" means property that has no more than four living units located on it.

~~((8))~~ (7) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the ~~((commission))~~ state patrol.

~~((9))~~ (8) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

~~((10))~~ (9) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

~~((11))~~ (10) "Tow truck service" means the transporting upon the public streets and highways of this state of unauthorized vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

~~((12))~~ (11) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

- (a) Public locations:
  - (i) Constituting a traffic hazard as defined in RCW 46.61.565 . . . . . Immediately
  - (ii) On a highway and tagged as described in RCW 46.52.170 . . . . . 24 hours
  - (iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 . . . . . Immediately
- (b) Private locations:
  - (i) On residential property . . . . . Immediately
  - (ii) On private, nonresidential property, properly posted under RCW 46.55.070 . . . . . Immediately
  - (iii) On private, nonresidential property, not posted . . . . . 24 hours

Sec. 740. Section 5, chapter 377, Laws of 1985 and RCW 46.55.050 are each amended to read as follows:

(1) Tow trucks shall be classified by towing capabilities, and shall meet or exceed all equipment standards set by the ~~((commission on equipment))~~ state patrol for the type of tow trucks to be used by an operator.

(2) All tow trucks shall display the firm's name, city of address, and telephone number. This information shall be painted on or permanently affixed to both sides of the vehicle in accordance with rules adopted by the department.

(3) Before a tow truck is put into tow truck service, or when the reinspection of a tow truck is necessary, the district commander of the state patrol shall designate a location and time for the inspection to be conducted. When practicable, the inspection or reinspection shall be made within three business days following the request by the operator.

(4) Failure to comply with any requirement of this section or rules adopted under it is a traffic infraction.

Sec. 741. Section 17, chapter 377, Laws of 1985 and RCW 46.55.170 are each amended to read as follows:

(1) All law enforcement agencies or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with any supporting documents including all results from local investigations, to the department.

(2) Complaints involving deficiencies of equipment shall be forwarded by the department to the state ~~((commission on equipment))~~ patrol.

Sec. 742. Section 18, chapter 377, Laws of 1985 and RCW 46.55.180 are each amended to read as follows:

The director or the ~~((commission))~~ chief of the state patrol may use a hearing officer or administrative law judge for presiding over a hearing regarding infractions by registered tow truck operators of this chapter, chapter 46.37 RCW, or rules adopted thereunder.

Sec. 743. Section 2, chapter 167, Laws of 1977 ex. sess. and RCW 46.61.563 are each amended to read as follows:

As used in this chapter, the following terms shall have the following meanings unless the context clearly requires otherwise:

(1) ~~((<sup>a</sup>Commission<sup>n</sup> means the state commission on equipment as defined in RCW 46.37.005;~~

~~((2)))~~ (2) "Person" means an individual, firm, partnership, corporation, company, association, or their lessees, trustees, or receivers;

~~((3)))~~ (2) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

~~((4)))~~ (3) "Towing operator" means every person who engages in the towing of vehicles and motor vehicles on a highway by means of equipment affixed to a specially constructed tow truck complying with the equipment

specifications and standards promulgated by the ~~((commission))~~ state patrol; and

~~((5))~~ (4) "Tow truck" means a specially constructed and equipped motor vehicle for towing vehicles and not otherwise used in transporting goods for compensation.

Sec. 744. Section 5, chapter 167, Laws of 1977 ex. sess. as amended by section 22, chapter 178, Laws of 1979 ex. sess. and RCW 46.61.567 are each amended to read as follows:

The Washington state patrol, under its authority to remove vehicles from the highway, may remove the vehicles directly, through towing operators appointed by the ~~((commission))~~ state patrol and called on a rotational or other basis, through contracts with towing operators, or by a combination of these methods. When removal is to be accomplished through a towing operator on a noncontractual basis, the ~~((commission))~~ state patrol may appoint any towing operator for this purpose upon the application of the operator. Each appointment shall be contingent upon the submission of an application to the ~~((commission))~~ state patrol and the making of subsequent reports in such form and frequency and compliance with such standards of equipment, performance, pricing, and practices as may be required by rule of the ~~((commission))~~ state patrol.

An appointment may be rescinded by the ~~((commission at the request of the Washington))~~ state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway. The costs of removal and storage of vehicles under this section shall be paid by the owner or driver of the vehicle and shall be a lien upon the vehicle until paid, unless the removal is determined to be invalid.

Rules promulgated under this section shall be binding only upon those towing operators appointed by the ~~((commission))~~ state patrol for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the ~~((commission))~~ state patrol made under this section may appeal the decision under chapter 34.04 RCW.

Sec. 745. Section 2, chapter 215, Laws of 1983 and RCW 46.61.687 are each amended to read as follows:

(1) After December 31, 1983, the parent or legal guardian of a child less than five years old, when the parent or legal guardian is operating anywhere in the state his or her own motor vehicle registered under chapter 46.16 RCW, in which the child is a passenger, shall have the child properly secured in a manner approved by the state ~~((commission on equipment))~~ patrol. Even though a separate child passenger restraint device is considered the ideal method of protection, a properly adjusted and fastened, federally approved seat belt is deemed sufficient to meet the requirements of this section for children one through four years of age.

(2) During the period from January 1, 1984, to July 1, 1984, a person violating subsection (1) of this section may be issued a written warning of the violation. After July 1, 1984, a person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system within seven days to the jurisdiction issuing the notice, the jurisdiction shall dismiss the notice of traffic infraction. If the person fails to present proof of acquisition within the time required, he or she is subject to a penalty assessment of not less than thirty dollars.

(3) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian; nor shall failure to use a child restraint system be admissible as evidence of negligence in any civil action.

Sec. 746. Section 85, chapter 155, Laws of 1965 ex. sess. as amended by section 39, chapter 62, Laws of 1975 and RCW 46.61.780 are each amended to read as follows:

(1) Every bicycle when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the state (~~(commission on equipment)~~) patrol which shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Sec. 747. Section 2, chapter 7, Laws of 1969 ex. sess. as last amended by section 203, chapter 7, Laws of 1984 and RCW 47.36.250 are each amended to read as follows:

If the department or its delegate determines at any time for any part of the public highway system that the unsafe conditions of the roadway require particular tires, tire chains, or traction equipment in addition to or beyond the ordinary pneumatic rubber tires, the department may establish the following recommendations or requirements with respect to the use of such equipment for all persons using such public highway:

(1) Dangerous road conditions, chains or other approved traction devices recommended.

(2) Dangerous road conditions, chains or other approved traction devices required.

(3) Dangerous road conditions, chains required.

Any equipment that may be required by this section shall be approved by the state (~~(commission on equipment)~~) patrol as authorized under RCW 46.37.420.

The department shall place and maintain signs and other traffic control devices on the public highways that indicate the tire, tire chain, or traction equipment recommendation or requirement determined under this section. Such signs or traffic control devices shall in no event prohibit the use of studded tires from November 1st to April 1st, but when the department determines that chains are required and that no other traction equipment will suffice, the requirement is applicable to all types of tires including studded tires. The signs or traffic control devices may specify different recommendations or requirements for four wheel drive vehicles in gear.

Failure to obey a requirement indicated by a sign or other traffic control device placed or maintained under this section is a misdemeanor.

Sec. 748. Section 47.52.120, chapter 13, Laws of 1961 as amended by section 1, chapter 149, Laws of 1985 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, 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 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)~~) state patrol 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 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 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.

Sec. 749. Section 7, chapter 183, Laws of 1974 ex. sess. and RCW 70.107.070 are each amended to read as follows:

Any rule adopted under this chapter relating to the operation of motor vehicles on public highways shall be administered according to testing and inspection procedures adopted by rule by the state (~~(commission on equipment)~~) patrol. Violation of any motor vehicle performance standard adopted pursuant to this chapter shall be a misdemeanor, enforced by such authorities and in such manner as violations of chapter 46.37 RCW. Violations subject to the provisions of this section shall be exempt from the provisions of RCW 70.107.050.

#### PART VII FOREST PRACTICES ADVISORY COMMITTEE

NEW SECTION. Sec. 901. Section 20, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.200 are each repealed.

#### PART VIII COMMUNITY COLLEGE BOARDS OF TRUSTEES

Sec. 1001. Section 28B.50.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 224, Laws of 1983 and RCW 28B.50.100 are each amended to read as follows:

There is hereby created a community college board of trustees for each community college district as set forth in this chapter. Each community college board of trustees shall be composed of five trustees, who shall be appointed by the governor for terms commencing October 1st of the year in which appointed. In making such appointments the governor shall give consideration to geographical exigencies, and the interests of labor, industry, agriculture, the professions and ethnic groups.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term. Each member shall serve until a successor is appointed and qualified.

Every trustee shall be a resident and qualified elector of the community college district. No trustee may be an employee of the community college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution(~~(, or an elected officer or member of the legislative authority of any municipal corporation)~~).



Each board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the community college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Members of the boards of trustees may be removed for misconduct or malfeasance in office in the manner provided by RCW 28B.10.500.

NEW SECTION. Sec. 1002. Section 1001 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.

#### PART IX WINTER RECREATION ADVISORY COMMITTEE

Sec. 1101. Section 8, chapter 209, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 47, Laws of 1986 and RCW 43.51.340 are each amended to read as follows:

(1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of game, and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on October 1 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 for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members

shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee (~~(appointed under subsection (2) (a) and (b) of this section)~~) shall be reimbursed from the winter recreational program account created by RCW 43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. The chairman of the committee shall be chosen under rules adopted by the committee. The committee shall adopt any other rules necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(7) The winter recreation advisory committee and its powers and duties shall terminate on June 30, 1991.

#### PART X SNOWMOBILE ADVISORY COMMITTEE

Sec. 1201. Section 2, chapter 182, Laws of 1979 ex. sess. as last amended by section 3, chapter 16, Laws of 1986 and by section 9, chapter 270, Laws of 1986 and RCW 46.10.220 are each reenacted and amended to read as follows:

(1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of game, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under (3)(a) and (b) of this section shall commence on October 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, That the first such members shall be appointed

for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee (~~((appointed under (3)(a) and (b) of this section))~~) shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.10.075.

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chairman of the committee shall be chosen under rules adopted by the committee from those members appointed under (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee. The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt rules to govern its proceedings.

#### PART XI FOREST PRACTICES BOARD

Sec. 1301. Section 3, chapter 137, Laws of 1974 ex. sess. as last amended by section 70, chapter 466, Laws of 1985 and RCW 76.09.030 are each amended to read as follows:

(1) There is hereby created the forest practices board of the state of Washington as an agency of state government consisting of members as follows:

- (a) The commissioner of public lands or his designee;
- (b) The director of the department of trade and economic development or his designee;
- (c) The director of the department of agriculture or his designee;
- (d) The director of the department of ecology or his designee;
- (e) An elected member of a county legislative authority appointed by the governor: PROVIDED, That such member's service on the board shall be conditioned on his continued service as an elected county official; and
- (f) Six members of the general public appointed by the governor, one of whom shall be an owner of not more than five hundred acres of forest land, and one of whom shall be an independent logging contractor.

(2) The members of the initial board appointed by the governor shall be appointed so that the term of one member shall expire December 31, 1975, the term of one member shall expire December 31, 1976, the term of one member shall expire December 31, 1977, the terms of two members shall expire December 31, 1978, and the terms of two members shall expire December 31, 1979. Thereafter, each member shall be appointed for a term of four years. Vacancies on the board shall be filled in the same manner as the original appointments. Each member of the board shall continue in office until his successor is appointed and qualified. The commissioner of public lands or his designee shall be the chairman of the board.

(3) The board shall meet at such times and places as shall be designated by the chairman or upon the written request of the majority of the board. The principal office of the board shall be at the state capital.

(4) Members of the board, except public employees and elected officials, shall be compensated in accordance with RCW 43.03.240 (~~and in addition they~~). Each member shall be entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

(5) The board may employ such clerical help and staff pursuant to chapter 41.06 RCW as is necessary to carry out its duties.

## PART XII

NEW SECTION. Sec. 1401. This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections. The rules of the agencies abolished by this act shall continue in force until acted upon by the succeeding agency and shall be enforced by the succeeding agency. If there is no succeeding agency, the rules shall terminate.

NEW SECTION. Sec. 1402. 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 25, 1987.

Passed the Senate April 17, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 331

[Substitute House Bill No. 450]  
CEMETERY BOARD—MAJOR REVISIONS

AN ACT Relating to the cemetery board; amending RCW 68.04.110, 68.05.030, 68.05-.040, 68.05.080, 68.05.090, 68.05.070, 68.05.100, 68.05.255, 68.46.140, 68.05.257, 68.48.050, 68.05.230, 68.05.220, 68.46.180, 68.46.095, 68.05.130, 68.05.140, 68.05.170, 68.05.250, 68.46-.190, 68.46.200, 68.46.210, 68.46.230, 68.46.240, 68.46.250, 68.46.260, 68.24.090, 68.40.010, 68.40.040, 68.40.060, 68.40.090, 68.44.010, 68.44.020, 68.44.110, 68.44.120, 68.44.130, 68.44-.140, 68.44.150, 68.46.040, 68.46.060, 68.46.070, 68.46.100, 68.08.020, 68.08.090, 68.08.101, 68.08.105, 68.08.106, 68.08.110, 68.08.185, 68.08.220, 68.08.245, 68.08.300, 68.08.350, 68.08-.510, 68.08.530, 68.08.560, 68.08.600, 68.08.610, 68.08.650, 68.08.660, 68.16.113, 68.18.010, 68.18.120, 18.39.215, 35A.40.050, 35A.42.010, 35A.56.010, 35A.68.010, and 46.20.113; adding new sections to chapter 68.05 RCW; adding a new section to chapter 68.20 RCW; adding new sections to chapter 68.40 RCW; adding new sections to chapter 68.44 RCW; adding new sections to chapter 68.46 RCW; creating new sections; recodifying RCW 68.05.070, 68.05.130, 68.05.140, 68.05.220, 68.05.230, 68.05.250, 68.05.255, 68.05.257, 68.05.260, 68.05.270, 68.05.380, 68.08.010, 68.08.020, 68.08.030, 68.08.040, 68.08.050, 68.08.060, 68.08.070, 68.08-.080, 68.08.090, 68.08.100, 68.08.101, 68.08.102, 68.08.103, 68.08.104, 68.08.105, 68.08.106, 68.08.107, 68.08.108, 68.08.110, 68.08.120, 68.08.130, 68.08.135, 68.08.140, 68.08.145, 68.08-.150, 68.08.160, 68.08.165, 68.08.170, 68.08.180, 68.08.185, 68.08.190, 68.08.200, 68.08.210, 68.08.220, 68.08.232, 68.08.240, 68.08.245, 68.08.300, 68.08.305, 68.08.320, 68.08.350, 68.08-.355, 68.08.360, 68.08.500, 68.08.510, 68.08.520, 68.08.530, 68.08.540, 68.08.550, 68.08.560, 68.08.600, 68.08.610, 68.08.650, 68.08.660, 68.12.010, 68.12.020, 68.12.030, 68.12.040, 68.12-.045, 68.12.050, 68.12.060, 68.12.065, 68.12.070, 68.12.080, 68.16.010, 68.16.020, 68.16.030, 68.16.040, 68.16.050, 68.16.060, 68.16.070, 68.16.080, 68.16.090, 68.16.100, 68.16.110, 68.16-.111, 68.16.112, 68.16.113, 68.16.120, 68.16.130, 68.16.140, 68.16.150, 68.16.160, 68.16.170, 68.16.180, 68.16.190, 68.16.200, 68.16.210, 68.16.220, 68.16.230, 68.16.240, 68.16.250, 68.16-.900, 68.18.010, 68.18.020, 68.18.030, 68.18.040, 68.18.050, 68.18.060, 68.18.070, 68.18.080, 68.18.090, 68.18.100, 68.18.110, 68.18.120, 68.20.100, 68.20.105, 68.46.095, 68.46.140, 68.46-.180, 68.46.200, 68.46.210, 68.46.220, 68.46.230, 68.46.240, 68.46.250, 68.46.260, 68.46.290, 68.48.010, 68.48.020, 68.48.030, 68.48.040, 68.48.050, 68.48.060, 68.48.080, and 68.48.090; repealing RCW 43.131.187, 43.131.188, 68.05.110, 68.05.200, 68.40.020, 68.40.030, 68.40-.050, 68.40.070, 68.40.080, 68.46.120, and 68.48.070; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 11, chapter 247, Laws of 1943 as amended by section 3, chapter 47, Laws of 1977 and RCW 68.04.110 are each amended to read as follows:

"Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters: PROVIDED, That if a person entitled to possession of such remains under the provisions of RCW ((68.08.245)) 68.50.270 is going to place the cremated remains in a cemetery, mausoleum, columbarium, or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply.

NEW SECTION. Sec. 2. A new section is added to chapter 68.05 RCW, to be codified as RCW 68.05.024, to read as follows:

"Department" used in this chapter means the department of licensing.

NEW SECTION. Sec. 3. A new section is added to chapter 68.05 RCW, to be codified as RCW 68.05.028, to read as follows:

"Director" used in this chapter means the director of licensing.

Sec. 4. Section 28, chapter 290, Laws of 1953 and RCW 68.05.030 are each amended to read as follows:

The terms "endowment care" or "endowed care" used in this chapter shall include ((both general and)) special care, care, or maintenance and all funds held for or represented as maintenance funds.

Sec. 5. Section 31, chapter 290, Laws of 1953 as amended by section 1, chapter 351, Laws of 1977 ex. sess. and RCW 68.05.040 are each amended to read as follows:

A cemetery board is created to consist of six members to be appointed by the governor. ~~((The first five members shall be appointed within thirty days after June 11, 1953. The terms of the five members first appointed shall expire: One, January 15, 1954; one, January 15, 1955; one, January 15, 1956; and two, January 15, 1957. Thereafter))~~ Appointments shall be for ((a) four-year terms. ((The sixth member shall be appointed within thirty days of the effective date of this 1977 amendatory act, and shall serve a four-year term:)) Each member shall hold office until the expiration of the term for which the member is appointed or until a successor has been appointed and qualified.

Sec. 6. Section 35, chapter 290, Laws of 1953 and RCW 68.05.080 are each amended to read as follows:

The board shall meet at least twice a year in order to conduct its business and may meet at such other times as it may designate. The chair, the director, or a majority of board members may call a meeting. The board may meet at any place within this state.

Sec. 7. Section 39, chapter 290, Laws of 1953 as amended by section 6, chapter 21, Laws of 1979 and RCW 68.05.090 are each amended to read as follows:

The board shall enforce and administer the provisions of chapters 68.04 through ~~((68.46))~~ 68.50 RCW, subject to provisions of RCW 68.05.280 ~~((and shall have standing to seek enforcement of said provisions in the superior court of the state of Washington for the county in which the principal office of the cemetery authority is located))~~. The board may adopt and amend bylaws establishing its organization and method of operation. In addition to enforcement of this chapter the board shall enforce chapters 68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, 68.46, and 68.50 RCW. The board may refer such evidence as may be available concerning violations of ~~((chapters 68.04 through 68.46 RCW or of any rule or order promulgated by the board))~~ chapters 68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, 68.46, and 68.50 RCW to the attorney general or the proper prosecuting attorney, who may in his or her discretion, with or without such a reference,

in addition to any other action the board might commence, bring an action in the name of the board against any person to restrain and prevent the doing of any act or practice prohibited or declared unlawful in ~~((chapters 68-04 through 68.46 RCW))~~ chapters 68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, 68.46, or 68.50 RCW and shall have standing to seek enforcement of said provisions in the superior court of the state of Washington for the county in which the principal office of the cemetery authority is located.

Sec. 8. Section 34, chapter 290, Laws of 1953 and RCW 68.05.070 are each amended to read as follows:

The board shall elect annually a chairman and vice chairman and such other officers as it shall determine from among its members. ~~((Subject to the provisions of law the board may))~~ The director, in consultation with the board, may employ~~((; fix the salaries of))~~ and prescribe the duties of~~((; one administrative assistant and such clerical, technical and other employees as are necessary in the carrying out of its duties))~~ the executive secretary. The executive secretary shall have a minimum of five years' experience in cemetery management unless this requirement is waived by the board.

Sec. 9. Section 36, chapter 290, Laws of 1953 as amended by section 8, chapter 402, Laws of 1985 and RCW 68.05.100 are each amended to read as follows:

The board may establish necessary rules and regulations for the ~~((ad-  
ministration and))~~ enforcement of this title and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this title~~((; PROVIDED, HOWEVER, The board shall have no jurisdiction with regard to the provisions of chapter 68.48 RCW))~~. Rules regulating the cremation of human remains and establishing fees and permit requirements shall be adopted in consultation with the state board of funeral directors and embalmers.

NEW SECTION. Sec. 10. A new section is added to chapter 68.05 RCW, to be codified as RCW 68.05.105, to read as follows:

The board has the following authority:

- (1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this title;
- (2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings;
- (3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this title;
- (4) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this title;
- (5) To compel attendance of witnesses at hearings;
- (6) In the course of investigating a complaint, to conduct practice reviews;

(7) To take emergency action pending proceedings by the board;

(8) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the board shall make the final decision;

(9) To use consultants or individual members of the board to assist in the direction of investigations and issuance of statements of charges. However, those board members shall not subsequently participate in the hearing of the case;

(10) To enter into contracts for professional services determined to be necessary for adequate enforcement of this title;

(11) To contract with persons or organizations to provide services necessary for the monitoring and supervision of licensees, or authorities who are for any authorized purpose subject to monitoring by the board;

(12) To adopt standards of professional conduct or practice;

(13) To grant or deny authorities or license applications, and in the event of a finding of unprofessional conduct by an applicant, authority, or license holder, to impose any sanction against a license applicant, authority, or license holder provided by this title;

(14) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant, holder of an authority to operate, or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(15) To revoke the license or authority;

(16) To suspend the license or authority for a fixed or indefinite term;

(17) To restrict or limit the license or authority;

(18) To censure or reprimand;

(19) To cause compliance with conditions of probation for a designated period of time;

(20) To fine for each violation of this title, not to exceed one thousand dollars per violation. Funds received shall be placed in the cemetery account;

(21) To order corrective action.

Any of the actions under this section may be totally or partly stayed by the board. In determining what action is appropriate, the board must first consider what sanctions are necessary to protect or compensate the public. All costs associated with compliance with orders issued under this section are the obligation of the license or authority holder or applicant.

Sec. 11. Section 5, chapter 99, Laws of 1969 ex. sess. as last amended by section 11, chapter 21, Laws of 1979 and RCW 68.05.255 are each amended to read as follows:



Prior to the sale or transfer of ownership or control of any cemetery authority or the creation of a new cemetery, any person, corporation or other legal entity desiring to acquire such ownership or control or desiring to create a new cemetery shall apply in writing to the board for a new certificate of authority to operate a cemetery and shall comply with all provisions of Title 68 RCW relating to applications for, and the basis for granting, an original certificate of authority. The board shall, in addition, enter any order deemed necessary for the protection of all endowment care funds and/or prearrangement trust fund during such transfer. As a condition of applying for a new certificate of authority, the entity desiring to acquire such ownership or control must agree to be bound by all then existing prearrangement contracts and the board shall enter that agreement as a condition of the transfer. Persons and business entities selling and persons and business entities purchasing ownership or control of a cemetery authority shall each ~~((file))~~ verify and attest to an endowment care fund report and/or a prearrangement trust fund report showing the status of such funds ((immediately before and immediately after such transfer)) on the date of the sale on a written report form prescribed by the board. Such reports shall be considered part of the application for authority to operate. Failure to comply with this section shall be a gross misdemeanor and any sale or transfer in violation of this section shall be void.

Sec. 12. Section 28, chapter 21, Laws of 1979 and RCW 68.46.140 are each amended to read as follows:

To enter into prearrangement contracts as defined in RCW 68.46.010, a cemetery authority shall have a valid prearrangement sales license. To apply for a prearrangement sales license, a cemetery authority shall:

(1) File with the board its request showing:

(a) Its name, location, and organization date;

(b) The kinds of cemetery business or merchandise it proposes to transact;

(c) A statement of its current financial condition, management, and affairs on a form satisfactory to or furnished by the board; and

(d) Such other documents, stipulations, or information as the board may reasonably require to evidence compliance with the provisions of this chapter; and

(2) Deposit with the ~~((board))~~ department the fees required by this chapter to be paid for filing the accompanying documents, and for the prearrangement sales license, if granted.

Sec. 13. Section 4, chapter 402, Laws of 1985 and RCW 68.05.257 are each amended to read as follows:

A permit or endorsement issued by the cemetery board or under chapter 18.39 RCW is required in order to operate a crematory or conduct a cremation. ~~((Conducting a cremation without a permit or endorsement is a misdemeanor. Each such cremation is a separate violation.))~~ Crematories

owned or operated by or located on property licensed as a funeral establishment shall be regulated by the board of funeral directors and embalmers. Crematories not affiliated with a funeral establishment shall be regulated by the cemetery board.

Sec. 14. Section 56, chapter 247, Laws of 1943 and RCW 68.48.050 are each amended to read as follows:

No crematory shall hereafter be constructed or established unless the crematory is of fireproof construction and there is in connection therewith a fireproof columbarium, a fireproof mausoleum, a fireproof room for temporary care of cremated remains or a burial park amply equipped at all times for the interment of remains of bodies cremated at the crematory. No crematorium may be operated without a valid permit or endorsement issued in accordance with RCW 68.05.257 or chapter 18.39 RCW. Nothing herein contained shall prevent existing crematories from being repaired, altered, or reconstructed. Nothing in this ((act)) title shall prohibit the cremation of human remains in existing crematories, nor the temporary storage of cremated remains.

NEW SECTION. Sec. 15. A new section is added to chapter 68.05 RCW, to be codified as RCW 68.05.195, to read as follows:

Any person other than persons defined in RCW 68.08.160 who buries or otherwise disposes of cremated remains by land, by air, or by sea shall have a permit or endorsement issued in accordance with RCW 68.05.100 and shall be subject to that section.

Sec. 16. Section 51, chapter 290, Laws of 1953 as last amended by section 1, chapter 5, Laws of 1983 1st ex. sess. and RCW 68.05.230 are each amended to read as follows:

Every cemetery authority shall pay for each cemetery operated by it, an annual regulatory charge to be fixed by the ((board)) director of not more than ((four)) three dollars per interment, entombment, and inurnment made during the preceding full calendar year, which charges shall be deposited in the cemetery account. Upon payment of said charges and compliance with the provisions of Title 68 RCW and the lawful orders, rules, and regulations of the board, the board will issue a certificate of authority.

Sec. 17. Section 50, chapter 290, Laws of 1953 as amended by section 3, chapter 99, Laws of 1969 ex. sess. and RCW 68.05.220 are each amended to read as follows:

The regulatory charges for cemetery certificates at all periods of the year are the same as provided in this chapter. All regulatory charges are payable at the time of the filing of the application and in advance of the issuance of the certificates. All certificates shall be issued for the year and shall expire at midnight, the ((thirtieth)) thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold. Cemetery certificates shall not be

transferable. Failure to pay the regulatory charge fixed by the ~~((board))~~ director prior to the first day of February for any year automatically shall suspend the certificate of authority. Such certificate may be restored upon payment to the ~~((board))~~ department of the prescribed charges.

Sec. 18. Section 29, chapter 21, Laws of 1979 and RCW 68.46.180 are each amended to read as follows:

All prearrangement sales licenses issued under this chapter shall be ~~((valid for one year unless extended by the board or its authorized representative for a maximum of thirty days, or such larger extension as the board shall allow for good cause shown))~~ issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold.

The ~~((board))~~ director, in accordance with RCW 43.24.086, shall set and the department shall collect in advance the fees required for licensing.

~~((All fees so collected shall be remitted by the board to the state treasurer and the funds shall be credited to the cemetery board fund))~~ Failure to pay the regulatory charge fixed by the director before the first day of February for any year shall automatically suspend the license. Such license may be restored upon payment to the department of the prescribed charges.

Sec. 19. Section 37, chapter 21, Laws of 1979 and RCW 68.46.095 are each amended to read as follows:

(1) Each authorized cemetery authority shall within ninety days after the close of its accounting year file with the board upon the board's request a true and accurate statement of its financial condition, transactions, and affairs for the preceding year. The statement shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The board shall suspend or revoke the prearrangement sales license of any cemetery authority which fails to ~~((file such a statement when due or after any extension of time which the board has, for good cause, granted))~~ comply with the request.

NEW SECTION. Sec. 20. A new section is added to chapter 68.05 RCW, to be codified as RCW 68.05.245, to read as follows:

All crematory permits or endorsements issued under this chapter shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority which operates such crematory is transferred or sold.

The director shall set and the department shall collect in advance the fees required for licensing.

Failure to pay the regulatory charge fixed by the director before the first day of February for any year shall automatically suspend the permit or

endorsement. Such permit or endorsement may be restored upon payment to the department of the prescribed charges.

Sec. 21. Section 42, chapter 290, Laws of 1953 as last amended by section 7, chapter 21, Laws of 1979 and RCW 68.05.130 are each amended to read as follows:

(1) The board shall examine the endowment care and prearrangement trust fund or funds of a cemetery authority:

~~((1))~~ (a) Whenever it deems necessary, but at least once every three years after the original examination except where the cemetery authority is either required by the board to, or voluntarily files an annual financial report for the fund certified by a certified public accountant or a licensed public accountant in accordance with generally accepted auditing standards;

(b) One year following the issuance of a new certificate of authority;

~~((2))~~ (c) Whenever the cemetery authority in charge of endowment care or prearrangement trust fund or funds fails after reasonable notice from the board to file the reports required by this chapter; or

~~((3))~~ (d) Whenever it is requested by verified petition signed by twenty-five lot owners alleging that the endowment care funds are not in compliance with this title, or whenever it is requested by verified petition signed by twenty-five purchasers or beneficiaries of prearrangement merchandise or services alleging that the prearrangement trust funds are not in compliance with this title, in either of which cases, the examination shall be at the expense of the petitioners.

~~((4))~~ (2) The expense of the endowment care and prearrangement trust fund examination as provided in ~~((subdivisions (1) and (2)))~~ subsection (1) (a) and (b) of this section shall be paid by the cemetery authority. Such examination shall be privately conducted in the principal office of the cemetery authority.

(3) The requirements that examinations be conducted once every three years and that they be conducted in the principal office of the cemetery authority do not apply to any endowment care or prearrangement fund that is less than twenty-five thousand dollars. The board shall, at its discretion, decide when and where the examinations shall take place.

Sec. 22. Section 43, chapter 290, Laws of 1953 as amended by section 13, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.05.140 are each amended to read as follows:

If any cemetery authority refuses to pay any examination expenses ~~((in advance))~~ within thirty days of completion of the examination or refuses to pay certain examination expenses in advance as required by the department for cause, the board ~~((shall refuse it a certificate of authority and))~~ shall revoke any existing certificate of authority. Examination expenses incurred in conjunction with a transfer of ownership of a cemetery shall be paid by the selling entity. All examination expense moneys collected by the

~~((board)) department shall be paid ((into the state treasury to the credit of the cemetery fund))~~ to the department.

Sec. 23. Section 46, chapter 290, Laws of 1953 as amended by section 1, chapter 99, Laws of 1969 ex. sess. and RCW 68.05.170 are each amended to read as follows:

(1) Whenever the board finds, after notice and hearing, that any endowment care funds have been invested in violation of this title, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity with this title within the period specified by it which shall be not more than six months. Such period may be extended by the board in its discretion.

(2) The board may bring actions for the preservation and protection of endowment care funds in the superior court of the county in which the cemetery is located and the court shall appoint substitute trustees and make any other order which may be necessary for the preservation, protection and recovery of endowment care funds, whenever a cemetery authority or the trustees of its fund have:

(a) transferred or attempted to transfer any property to, or made any loan from, the endowment care funds for the benefit of the cemetery authority or any director, officer, agent or employee of the cemetery authority or trustee of any endowment care funds; or,

(b) failed to reinvest endowment care funds in accordance with a board order issued under subsection one of this section; or,

(c) invested endowment care funds in violation of this title; or,

(d) taken action or failed to take action to preserve and protect the endowment care funds, evidencing a lack of concern therefor; or,

(e) become financially irresponsible or transferred control of the cemetery authority to any person who, or business entity which, is financially irresponsible; or,

(f) is in danger of becoming insolvent or has gone into bankruptcy or receivership; or,

(g) taken any action in violation of Title 68 RCW or failed to take action required by Title 68 RCW or has failed to comply with lawful rules, regulations and orders of the board.

(3) Whenever the board or its representative has reason to believe that endowment care funds or prearrangement trust funds are in danger of being lost or dissipated during the time required for notice and hearing, it may immediately ~~((apply to the superior court of the county in which the cemetery is located for any order which appears necessary))~~ impound or seize documents, financial instruments, or other trust fund assets, or take other actions deemed necessary under the circumstances for the preservation and protection of endowment care funds or prearrangement trust funds, including, but not limited to, immediate substitutions of trustees.

Sec. 24. Section 49, chapter 290, Laws of 1953 and RCW 68.05.250 are each amended to read as follows:

Upon violation of any of the provisions of this title, the board may revoke or suspend the certificate of authority and may revoke, suspend, or terminate the prearrangement sales license of any cemetery authority.

Sec. 25. Section 30, chapter 21, Laws of 1979 and RCW 68.46.190 are each amended to read as follows:

The board ~~((or its authorized representative may refuse to renew or may revoke or suspend a cemetery authority's prearrangement sales license, if the))~~ may revoke, suspend, or terminate a certificate of authority or prearrangement sales license if a cemetery authority:

(1) Fails to comply with any provision of this chapter or any proper order or regulation of the board;

(2) Is found by the board to be in such condition that further execution of prearrangement contracts would be hazardous to purchasers or beneficiaries and the people of this state;

(3) Refuses to be examined, or refuses to submit to examination or to produce its accounts, records, and files for examination by the board when required;

(4) Is found by the board after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued operation hazardous to purchasers, beneficiaries, or the public; or

(5) Is found by the board to use false, misleading, or deceptive advertisements or sales methods.

Sec. 26. Section 31, chapter 21, Laws of 1979 and RCW 68.46.200 are each amended to read as follows:

The board or its authorized representative shall give a cemetery authority notice of its intention to suspend, revoke, or refuse to renew a certificate of authority or a prearrangement sales license, and shall grant the cemetery authority a hearing, in the manner required for contested cases under chapter 34.04 RCW, before the order of suspension, revocation, or refusal may become effective.

No cemetery authority whose prearrangement sales license has been suspended, revoked, or refused shall ~~((subsequently))~~ be authorized to enter into prearrangement contracts ~~((unless the grounds for such suspension, revocation, or refusal in the opinion of the board no longer exist and the cemetery authority is otherwise fully qualified))~~. Any prearrangement sale by an unlicensed cemetery authority shall be voidable by the purchaser who shall be entitled to a full refund.

Sec. 27. Section 39, chapter 21, Laws of 1979 as amended by section 6, chapter 53, Laws of 1984 and RCW 68.46.210 are each amended to read as follows:

Unless specified otherwise in this title, any person who violates or aids or abets any person in the violation of any of the provisions of this ((chapter)) title shall be guilty of a class C felony punishable under chapter 9A.20 RCW. A violation shall constitute an unfair practice under chapter 19.86 RCW and shall be grounds for revocation of the certificate of authority under this chapter ((68.05-RCW)) or revocation of the prearrangement sales license under this chapter. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy available at law.

Sec. 28. Section 33, chapter 21, Laws of 1979 and RCW 68.46.230 are each amended to read as follows:

Whenever the board or its authorized representative determines that a cemetery authority is in violation of this ((chapter)) title or that the continuation of acts or practices of the cemetery authority is likely to cause insolvency or substantial dissipation of assets or earnings of the cemetery authority's endowment care or prearrangement trust fund or to otherwise seriously prejudice the interests of the purchasers or beneficiaries of prearrangement contracts, the board, or its authorized representative, may issue a temporary order requiring the cemetery authority to cease and desist from the violation or practice. The order shall become effective upon service on the cemetery authority and shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW ((68.46.240)) 68.05.350 or until the board dismisses the charges specified in the notice under RCW ((68.46.220)) 68.05.320 or until the effective date of a cease and desist order issued against the cemetery authority under RCW ((68.46.220)) 68.05.320.

Sec. 29. Section 34, chapter 21, Laws of 1979 and RCW 68.46.240 are each amended to read as follows:

Within ten days after a cemetery authority has been served with a temporary cease and desist order, the cemetery authority may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending completion of the administrative proceedings under RCW ((68.46.220)) 68.05.320.

Sec. 30. Section 35, chapter 21, Laws of 1979 and RCW 68.46.250 are each amended to read as follows:

Any administrative hearing under RCW ((68.46.220)) 68.05.320 may be held at such place as is designated by the board and shall be conducted in accordance with chapter 34.04 RCW.

Within sixty days after the hearing the board shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with RCW ((68.46.220)) 68.05.320.

Review of the decision shall be as provided in chapter 34.04 RCW.

Sec. 31. Section 36, chapter 21, Laws of 1979 and RCW 68.46.260 are each amended to read as follows:

The board may apply to the superior court of the county of the principal place of business of the cemetery authority affected for enforcement of any effective and outstanding order issued under RCW (~~(68.46.220)~~) 68.05.320 or (~~(68.46.230)~~) 68.05.340, and the court shall have jurisdiction to order compliance with the order.

**NEW SECTION.** Sec. 32. A new section is added to chapter 68.05 RCW, to be codified as RCW 68.05.390, to read as follows:

Conducting a cremation without a permit or endorsement is a misdemeanor. Each such cremation is a violation.

**NEW SECTION.** Sec. 33. A new section is added to chapter 68.20 RCW, to be codified as RCW 68.20.140, to read as follows:

This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

Sec. 34. Section 76, chapter 247, Laws of 1943 and RCW 68.24.090 are each amended to read as follows:

Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes, unless and until the dedication is removed from all or any part of it by an order and decree of the superior court of the county in which the property is situated, in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing and proof satisfactory to the court:

(1) That no interments were made in or that all interments have been removed from that portion of the property from which dedication is sought to be removed.

(2) That the portion of the property from which dedication is sought to be removed is not being used for interment of human remains.

(3) That notice of the proposed removal of dedication has been given the cemetery board in writing at least sixty days before filing the proceedings in superior court.

Sec. 35. Section 118, chapter 247, Laws of 1943 as last amended by section 1, chapter 53, Laws of 1984 and RCW 68.40.010 are each amended to read as follows:

((An endowment care cemetery is one which deposits in its)) After the effective date of this section, a cemetery authority not exempt under this chapter shall deposit in an endowment care fund not less than the following amounts for plots sold: Ten percent of the gross sales price, with a minimum of ten dollars for each adult grave; ten percent of the gross sales price, with a minimum of five dollars for each niche; and ten percent of the gross sales price, with a minimum of thirty dollars for each crypt.



In the event that a cemetery authority sells a lot, crypt, or niche at a price that is less than its current list price, or gives away, bequeaths, or otherwise gives title to a lot, crypt, or niche, such lot, crypt, or niche shall be endowed at the rate at which it would normally be endowed: A minimum of ten percent of normal sales price or ten dollars per lot, whichever is greater; ten percent of normal sales price or five dollars per niche, whichever is greater; and ten percent of normal sales price or thirty dollars per crypt, whichever is greater.

The deposits shall be made not later than the twentieth day of the month following the final payment on the sale price. If a contract for crypts, niches, or graves is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the endowment care fund ten percent of the gross sales price with a minimum of ten dollars for each adult grave, five dollars for each niche, and thirty dollars for each crypt within twenty days of receipt of payment of the proceeds from such sale or loan.

Any ~~((endowment care))~~ cemetery hereafter established shall ~~((also))~~ have deposited in ~~((its))~~ an endowment care fund the ~~((additional))~~ sum of twenty-five thousand dollars before disposing of any plot or making any sale thereof ~~((: PROVIDED, That the requirement of an additional deposit of twenty-five thousand dollars shall not apply to any cemetery in existence on January 1, 1961, having an area not exceeding ten acres))~~.

NEW SECTION. Sec. 36. A new section is added to chapter 68.40 RCW, to be codified as RCW 68.40.025, to read as follows:

Cemeteries with nonendowed sections opened before the effective date of this section shall only be required to endow sections opened after the effective date of this section. On the face of any contract, receipt, or deed used for sales of nonendowed lots shall be prominently displayed the words "Nonendowment section." All nonendowed sections shall be identified as such by posting of a legible sign containing the following phrase: "Nonendowment section."

Sec. 37. Section 122, chapter 247, Laws of 1943 as amended by section 7, chapter 290, Laws of 1953 and RCW 68.40.040 are each amended to read as follows:

~~((An endowment care cemetery))~~ A cemetery authority not exempt under this chapter shall file in its principal office ((a written report which shall be available to any plot owner, and which shall state the amount of the principal of the endowment care fund and the total amount invested in lawful investments, and the amount of cash on hand, which shall show the true financial condition of the trust)) for review by plot owners the previous seven fiscal years' endowment care reports as filed with the cemetery board in accordance with RCW 68.44.150.

Sec. 38. Section 129, chapter 247, Laws of 1943 as amended by section 8, chapter 290, Laws of 1953 and RCW 68.40.060 are each amended to read as follows:

The cemetery authority of an endowment care cemetery may accept any property bequeathed, granted, or given to it in trust and may apply the ~~((principal, or proceeds, or))~~ income from such property bequeathed, granted, or given to in trust to any or all of the following purposes:

- (1) Improvement or embellishment of all or any part of the cemetery or any lot in it;
- (2) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery;
- (3) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery;
- (4) Special care or ornamenting of any part of any plot, section, or building in the cemetery; and
- (5) Any purpose or use consistent with the purpose for which the cemetery was established or is maintained.

Sec. 39. Section 125, chapter 247, Laws of 1943 and RCW 68.40.090 are each amended to read as follows:

Any person, partnership, corporation, association, or his or its agents or representatives who shall violate any of the provisions of ~~((RCW 68.40.010 through 68.40.050, 68.40.070, and 68.40.080;))~~ this chapter or make any false statement appearing on ~~((said))~~ any sign, contract, agreement, receipt, statement, literature or other publication shall be guilty of a misdemeanor.

NEW SECTION. Sec. 40. A new section is added to chapter 68.40 RCW, to be codified as RCW 68.40.095, to read as follows:

This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

Sec. 41. Section 105, chapter 247, Laws of 1943 as amended by section 11, chapter 290, Laws of 1953 and RCW 68.44.010 are each amended to read as follows:

Any cemetery authority ~~((may place its cemetery under endowment care, and))~~ not exempt under chapter 68.40 RCW shall establish, maintain, and operate an ~~((irreducible))~~ inviolable endowment care fund. Endowment care ~~((and)),~~ special care, and other cemetery authorities' endowment care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds ~~((may))~~ shall be held in the name of the ~~((cemetery authority or its directors or in the name of the))~~ trustees appointed by the cemetery authority with the words "endowment care fund" being a part of the name.

Sec. 42. Section 12, chapter 290, Laws of 1953 and RCW 68.44.020 are each amended to read as follows:

Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established, and shall be kept separate and distinct from all ~~((other funds))~~ assets of the cemetery authority. The principal shall forever remain ~~((irreducible and))~~ inviolable and may not be reduced in any way not found within RCW 11.100.020.

Sec. 43. Section 111, chapter 247, Laws of 1943 as amended by section 20, chapter 290, Laws of 1953 and RCW 68.44.110 are each amended to read as follows:

Unless an association of lot owners has been created for the purpose of appointing trustees, the cemetery authority ~~((may))~~ shall appoint a board of not less than three members as trustees for its endowment care fund, who shall hold office subject to the direction of the cemetery authority.

NEW SECTION. Sec. 44. A new section is added to chapter 68.44 RCW, to be codified as RCW 68.44.115, to read as follows:

To be considered qualified as a trustee, each trustee of an endowment care fund appointed in accordance with this chapter shall file with the board a statement of acceptance of fiduciary responsibility, on a form approved by the board, before assuming the duties of trustee. The trustee shall remain in the trustee's fiduciary capacity until such time as the trustee advises the cemetery board in writing of the trustee's resignation of trusteeship.

Sec. 45. Section 112, chapter 247, Laws of 1943 as amended by section 21, chapter 290, Laws of 1953 and RCW 68.44.120 are each amended to read as follows:

The directors of a cemetery authority may be the trustees of its endowment care fund. When the fund is in the care of the directors as a board of trustees the secretary of the cemetery authority shall act as its secretary and keep a true record of all of its proceedings. ~~((The investments of the endowment care fund may be held in the name of the cemetery authority.))~~

Sec. 46. Section 113, chapter 247, Laws of 1943 and RCW 68.44.130 are each amended to read as follows:

In lieu of the appointment of a board of trustees of its ~~((perpetual))~~ endowment care fund, any cemetery authority may appoint as sole trustee of its ~~((perpetual))~~ endowment care fund any bank or trust company qualified to engage in the trust business, and said bank or trust company shall be authorized to receive and accept said fund, including any accumulated ~~((perpetual))~~ endowment care fund in existence at the time of its appointment.

Sec. 47. Section 114, chapter 247, Laws of 1943 as amended by section 20, chapter 21, Laws of 1979 and RCW 68.44.140 are each amended to read as follows:

Compensation to the board of trustees or trustee for services as trustee and other compensation for administration of trust funds shall not exceed in

the aggregate the customary fees charged by banks and trust companies for like services. Such fees may not be paid from the fund principal.

Sec. 48. Section 115, chapter 247, Laws of 1943 as amended by section 21, chapter 21, Laws of 1979 and RCW 68.44.150 are each amended to read as follows:

The cemetery authority or the ((persons)) trustees in whose names the funds are held shall, annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, make and keep on file for seven years a true and correct written report, verified on oath by an officer of the cemetery authority or by the oath of one or more of the trustees, showing the actual financial condition of the funds.

NEW SECTION. Sec. 49. A new section is added to chapter 68.44 RCW, to be codified as RCW 68.44.180, to read as follows:

This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

Sec. 50. Section 4, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.46.040 are each amended to read as follows:

All prearrangement trust funds shall be deposited in a qualified public depository as defined by RCW 68.46.010 or in instruments insured by any agency of the federal government, if these securities are held in public depository. Such savings accounts shall be designated as the "prearrangement trust fund" ((of)) by name and the particular cemetery authority for the benefit of the beneficiaries named in any prearrangement contract.

Sec. 51. Section 6, chapter 68, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 53, Laws of 1984 and RCW 68.46.060 are each amended to read as follows:

Any purchaser or beneficiary or beneficiaries may, upon written demand of any cemetery authority, demand that any prearrangement contract with such cemetery authority be terminated. In such event, the cemetery authority shall within thirty days refund to such purchaser or beneficiary or beneficiaries fifty percent of the moneys received less the ((cost)) contractual price of any merchandise delivered or services performed before the termination plus interest earned. In any case, where, under a prearrangement contract there is more than one beneficiary, no written demand as provided in this section shall be honored by any cemetery authority unless the written demand provided for in this section shall bear the signatures of all of such beneficiaries.

Sec. 52. Section 7, chapter 68, Laws of 1973 1st ex. sess. as amended by section 26, chapter 21, Laws of 1979 and RCW 68.46.070 are each amended to read as follows:

Prearrangement contracts shall terminate upon demand of the purchaser of the contract if the cemetery authority shall go out of business,

become insolvent or bankrupt, make an assignment for the benefit of creditors, or for any other reason be unable to fulfill the obligations under the contract ~~((, in which event, and))~~. Upon demand by the purchaser or beneficiary or beneficiaries of any prearrangement contract, the ~~((depository of the prearrangement funds shall refund to purchasers of prearrangement contracts all funds deposited in accordance with said contracts))~~ cemetery authority shall refund one hundred percent of the original contract, less delivered services and merchandise, including funds held in deposit and interest earned thereon, unless otherwise ordered by a court of competent jurisdiction.

Sec. 53. Section 10, chapter 68, Laws of 1973 1st ex. sess. as amended by section 5, chapter 53, Laws of 1984 and RCW 68.46.100 are each amended to read as follows:

Every prearrangement contract shall contain language which informs the purchaser of the prearrangement trust fund and the amount to be deposited in the prearrangement trust fund, which shall not be less than fifty percent of the cash purchase price of the merchandise and services in the contract and shall not include charges for endowment care when included in the purchase price.

Every prearrangement contract shall contain language prominently featured on the face of the contract disclosing to the purchaser what items will be delivered before need, either stored or installed, and thus not subject to funding or refund.

Every prearrangement contract for the sale of unconstructed crypts or niches or undeveloped graves and every conveyance instrument shall contain language which informs the purchaser that if the purchaser dies before the unconstructed crypt or niche or undeveloped grave is constructed or developed the cemetery authority must provide, without additional cost or charge, a constructed crypt or niche or developed grave of equal or better quality than the unconstructed crypt or niche or undeveloped grave would have been if it were constructed or developed.

NEW SECTION. Sec. 54. A new section is added to chapter 68.46 RCW, to be codified as RCW 68.46.125, to read as follows:

This chapter does not apply to any cemetery controlled and operated by a coroner, county, city, town, or cemetery district.

Sec. 55. Section 4, chapter 90, Laws of 1917 and RCW 68.08.020 are each amended to read as follows:

It shall be the duty of every person who knows of the existence and location of a dead body coming under the jurisdiction of the coroner as set forth in RCW ~~((68.08.010))~~ 68.50.010, to notify the coroner thereof in the most expeditious manner possible, unless such person shall have good reason to believe that such notice has already been given. Any person knowing of the existence of such dead body and not having good reason to believe that

the coroner has notice thereof and who shall fail to give notice to the coroner as aforesaid, shall be guilty of a misdemeanor.

Sec. 56. Section 4, chapter 123, Laws of 1891 and RCW 68.08.090 are each amended to read as follows:

Any person violating any provision of RCW (~~68.08.060~~) 68.50.060 through (~~68.08.080~~) 68.50.080 shall upon conviction thereof be fined in any sum not exceeding five hundred dollars.

Sec. 57. Section 11, chapter 188, Laws of 1953 as amended by section 1, chapter 79, Laws of 1977 and RCW 68.08.101 are each amended to read as follows:

Autopsy or post mortem may be performed in any case where authorization has been given by a member of one of the following classes of persons in the following order of priority:

- (1) The surviving spouse;
- (2) Any child of the decedent who is eighteen years of age or older;
- (3) One of the parents of the decedent;
- (4) Any adult brother or sister of the decedent;
- (5) A person who was guardian of the decedent at the time of death;
- (6) Any other person or agency authorized or under an obligation to dispose of the remains of the decedent. The chief official of any such agency shall designate one or more persons to execute authorizations pursuant to the provisions of this section.

If the person seeking authority to perform an autopsy or post mortem makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class, in the order of descending priority. However, no person under this section shall have the power to authorize an autopsy or post mortem if a person of higher priority under this section has refused such authorization: PROVIDED, That this section shall not affect autopsies performed pursuant to RCW (~~68.08.100~~) 68.50.010 or (~~68.08.103~~) 68.50.103.

Sec. 58. Section 9, chapter 188, Laws of 1953 as last amended by section 1, chapter 300, Laws of 1985 and RCW 68.08.105 are each amended to read as follows:

Reports and records of autopsies or post mortems shall be confidential, except 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~~) 68.50.103.

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.

Sec. 59. Section 10, chapter 188, Laws of 1953 as amended by section 1, chapter 28, Laws of 1975-'76 2nd ex. sess. and RCW 68.08.106 are each amended to read as follows:

In any case in which an autopsy or post mortem is performed, the coroner or medical examiner, upon his own authority or upon the request of the prosecuting attorney or other law enforcement agency having jurisdiction, may make or cause to be made an analysis of the stomach contents, blood, or organs, or tissues of a deceased person and secure professional opinions thereon and retain or dispose of any specimens or organs of the deceased which in his discretion are desirable or needful for anatomic, bacteriological, chemical, or toxicological examination or upon lawful request are needed or desired for evidence to be presented in court. When the autopsy or post mortem requires examination in the region of the pituitary gland, that gland may be removed and utilized for any desirable or needful purpose: PROVIDED, That a reasonable effort to obtain consent as required under RCW ((68.08.510)) 68.50.350 shall be made if that organ is to be so utilized. Costs shall be borne by the county.

Sec. 60. Section 238, chapter 249, Laws of 1909 and RCW 68.08.110 are each amended to read as follows:

Except in cases of dissection provided for in RCW ((68.08.100)) 68.50.100, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body, after dissection, shall be decently buried, or cremated within a reasonable time after death.

Sec. 61. Section 3, chapter 402, Laws of 1985 and RCW 68.08.185 are each amended to read as follows:

(1) A person authorized to dispose of human remains shall not cremate or cause to be cremated more than one body at a time unless written permission, after full and adequate disclosure regarding the manner of cremation, has been received from the person or persons under RCW ((68.08.160)) 68.50.160 having the authority to order cremation. This restriction shall not apply when equipment, techniques, or devices are employed that keep human remains separate and distinct before, during, and after the cremation process.

(2) Violation of this section is a gross misdemeanor.

Sec. 62. Section 35, chapter 247, Laws of 1943 and RCW 68.08.220 are each amended to read as follows:

RCW ((68-08-200)) 68.50.200 and ((68-08-210)) 68.50.210 do not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor do they apply to the disinterment of remains upon order of court or coroner.

Sec. 63. Section 4, chapter 47, Laws of 1977 and RCW 68.08.245 are each amended to read as follows:

The person or persons determined under RCW ((68-08-160)) 68.50.160 as having authority to order cremation shall be entitled to possession of the cremated remains without further intervention by the state or its political subdivisions.

Sec. 64. Section 1, chapter 60, Laws of 1975-'76 2nd ex. sess. and RCW 68.08.300 are each amended to read as follows:

In any case where a patient is in need of corneal tissue for a transplantation, the county coroner, or county medical examiner or designee, may provide corneal tissue, from decedents under his/her jurisdiction, upon the request of an eye bank approved and authorized to make such requests by the secretary of the department of social and health services, subject to the following conditions:

- (1) Ready identification of the decedent is impossible, or
- (2) A reasonable effort to obtain such consent as is required under RCW ((68-08-510)) 68.50.350 is made, within the time period during which corneal tissue is a viable transplant, and no objection by the next of kin is known, and
- (3) Removal of the cornea for transplantation will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance of the decedent.

Sec. 65. Section 15, chapter 16, Laws of 1983 1st ex. sess. and RCW 68.08.350 are each amended to read as follows:

A dental identification system is established in the identification section of the Washington state patrol. The dental identification system shall act as a repository or computer center or both for dental examination records and it shall be responsible for comparing such records with dental records filed under RCW ((68-08-360)) 68.50.330. It shall also determine which scoring probabilities are the highest for purposes of identification and shall submit such information to the coroner or medical examiner who prepared and forwarded the dental examination records. Once the dental identification system is established, operating funds shall come from the state general fund.

Sec. 66. Section 3, chapter 80, Laws of 1969 and RCW 68.08.510 are each amended to read as follows:



(1) Any individual of sound mind and eighteen years of age or more may give all or any part of his body for any purpose specified in RCW ((68-08-520)) 68.50.360, the gift to take effect upon death.

(2) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in RCW ((68-08-520)) 68.50.360:

- (a) the spouse,
- (b) an adult son or daughter,
- (c) either parent,
- (d) an adult brother or sister,
- (e) a guardian of the person of the decedent at the time of his death,
- (f) any other person authorized or under obligation to dispose of the

body.

(3) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (2) may make the gift after death or during the terminal illness.

(4) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(5) The rights of the donee created by the gift are paramount to the rights of others except as provided by RCW ((68-08-560(4))) 68.50.400(4).

Sec. 67. Section 5, chapter 80, Laws of 1969 as amended by section 2, chapter 54, Laws of 1975 and RCW 68.08.530 are each amended to read as follows:

(1) A gift of all or part of the body under RCW ((68-08-510(+))) 68.50.350(1), may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under RCW ((68-08-510(+))) 68.50.350(1), may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(3) A gift of all or part of the body under RCW ((68-08-510(+))) 68.50.350(1) may also be made by a statement provided for on Washington

state driver's licenses. The gift becomes effective upon the death of the licensee. The statement must be signed by the licensee in the presence of two witnesses, who must sign the statement in the presence of the donor. Delivery of the license during the donor's lifetime is not necessary to make the gift valid. The gift shall become invalidated upon expiration, cancellation, revocation, or suspension of the license, and the gift must be renewed upon renewal of each license: PROVIDED, That the statement of gift herein provided for shall contain a provision, including a clear instruction to the donor, providing for a means by which the donor may at his will revoke such gift: PROVIDED FURTHER, That nothing in this chapter shall be construed to invalidate a donor card located elsewhere.

(4) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(5) Notwithstanding RCW (~~(68.08.560(2))~~) 68.50.400(2), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(6) Any gift by a person designated in RCW (~~(68.08.510(2))~~) 68.50.350(2), shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

Sec. 68. Section 8, chapter 80, Laws of 1969 and RCW 68.08.560 are each amended to read as follows:

(1) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(2) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(3) A person who acts in good faith in accord with the terms of RCW ~~((68-08-500))~~ 68.50.340 through ~~((68-08-610))~~ 68.50.420 or with the anatomical gift laws of another state (or a foreign country) is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(4) The provisions of RCW ~~((68-08-500))~~ 68.50.340 through ~~((68-08-610))~~ 68.50.420 are subject to the laws of this state prescribing powers and duties with respect to autopsies.

Sec. 69. Section 9, chapter 80, Laws of 1969 and RCW 68.08.600 are each amended to read as follows:

RCW ~~((68-08-500))~~ 68.50.340 through ~~((68-08-610))~~ 68.50.420 shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 70. Section 11, chapter 80, Laws of 1969 and RCW 68.08.610 are each amended to read as follows:

RCW ~~((68-08-500))~~ 68.50.340 through ~~((68-08-610))~~ 68.50.420 may be cited as the "Uniform Anatomical Gift Act".

Sec. 71. Section 1, chapter 129, Laws of 1986 and RCW 68.08.650 are each amended to read as follows:

Each hospital shall develop procedures for identifying potential organ and tissue donors. The procedures shall require that any deceased individual's next of kin or other individual, as set forth in RCW ~~((68-08-510))~~ 68.50.350, at or near the time of notification of death be asked whether the deceased was an organ donor. If not, the family shall be informed of the option to donate organs and tissues pursuant to the uniform anatomical gift act. With the approval of the designated next of kin or other individual, as set forth in RCW ~~((68-08-510))~~ 68.50.350, the hospital shall then notify an established eye bank, tissue bank, or organ procurement agency including those organ procurement agencies associated with a national organ procurement transportation network or other eligible donee, as specified in RCW ~~((68-08-520))~~ 68.50.360, and cooperate in the procurement of the anatomical gift or gifts. The procedures shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The procedures may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. Laws pertaining to the jurisdiction of the coroner shall be complied with in all cases of reportable deaths pursuant to RCW ~~((68-08-010))~~ 68.50.010.

Sec. 72. Section 2, chapter 129, Laws of 1986 and RCW 68.08.660 are each amended to read as follows:

No act or omission of a hospital in developing or implementing the provisions of RCW ~~((68-08-650))~~ 68.50.500, when performed in good faith, shall be a basis for the imposition of any liability upon the hospital.

This section shall not apply to any act or omission of the hospital that constitutes gross negligence or wilful and wanton conduct.

Sec. 73. Section 2, chapter 112, Laws of 1963 and RCW 68.16.113 are each amended to read as follows:

As used in RCW (~~68.16.112~~) 68.52.192, "public agency" means counties, cities and towns, special districts, or quasi municipal corporations.

Sec. 74. Section 1, chapter 78, Laws of 1969 ex. sess. and RCW 68.18.010 are each amended to read as follows:

Any territory contiguous to a cemetery district and not within the boundaries of a city or town other than as set forth in RCW (~~68.16.130~~) 68.52.210 or other cemetery district may be annexed to such cemetery district by petition of fifteen percent of the qualified registered electors residing within the territory proposed to be annexed. Such petition shall be filed with the cemetery commissioners of the cemetery district and if the said cemetery commissioners shall concur in the said petition they shall then file such petition with the county auditor who shall within thirty days from the date of filing such petition examine the signatures thereof and certify to the sufficiency or insufficiency thereof. After the county auditor shall have certified to the sufficiency of the petition, the proceedings thereafter by the board of county commissioners, and the rights and powers and duties of the board of county commissioners, petitioners and objectors and the election and canvass thereof shall be the same as in the original proceedings to form a cemetery district: PROVIDED, That the board of county commissioners shall have authority and it shall be its duty to determine on an equitable basis, the amount of obligation which the territory to be annexed to the district shall assume, if any, to place the taxpayers of the existing district on a fair and equitable relationship with the taxpayers of the territory to be annexed by reason of the benefits of coming into a going district previously supported by the taxpayers of the existing district, and such obligation may be paid to the district in yearly installments to be fixed by the county board if within the limits as outlined in RCW (~~68.16.230~~) 68.52.310 and included in the annual tax levies against the property in such annexed territory until fully paid. The amount of the obligation and the plan of payment thereof filed by the county board shall be set out in general terms in the notice of election for annexation: PROVIDED, That the special election shall be held only within the boundaries of the territory proposed to be annexed to said cemetery district. Upon the entry of the order of the board of county commissioners incorporating such contiguous territory within such existing cemetery district, said territory shall become subject to the indebtedness, bonded or otherwise, of said existing district in like manner as the territory of said district. Should such petition be signed by sixty percent of the qualified registered electors residing within the territory proposed to be annexed, and should the cemetery commissioners concur therein, an election in such territory and a hearing on such petition shall be dispensed with and the

board of county commissioners shall enter its order incorporating such territory within the said existing cemetery district.

Sec. 75. Section 12, chapter 78, Laws of 1969 ex. sess. and RCW 68.18.120 are each amended to read as follows:

When a part of one cemetery district is transferred to another as provided by RCW (~~(68.18.100)~~) 68.54.100 and (~~(68.18.110)~~) 68.54.110, said part shall be relieved of all liability for any indebtedness of the district from which it is withdrawn. However, the acquiring district shall pay to the losing district that portion of the latter's indebtedness for which the transferred part was liable. This amount shall not exceed the proportion that the assessed valuation of the transferred part bears to the assessed valuation of the whole district from which said part is withdrawn. The adjustment of such indebtedness shall be based on the assessment for the year in which the transfer is made. The boards of commissioners of the districts involved in the said transfer and merger shall enter into a contract for the payment by the acquiring district of the above-referred to indebtedness under such terms as they deem proper, provided such contract shall not impair the security of existing creditors.

Sec. 76. Section 15, chapter 43, Laws of 1981 as amended by section 5, chapter 402, Laws of 1985 and RCW 18.39.215 are each amended to read as follows:

(1) No licensed embalmer shall embalm a deceased body without first having obtained authorization from a family member or representative of the deceased.

Notwithstanding the above prohibition a licensee may embalm without such authority when after due diligence no authorized person can be contacted and embalming is in accordance with legal or accepted standards of care in the community, or the licensee has good reason to believe that the family wishes embalming. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the provisions of this subsection.

The funeral director or embalmer shall inform the family member or representative of the deceased that embalming is not required by state law, except that embalming is required under certain conditions as determined by rule by the state board of health.

(2) Any person authorized to dispose of human remains shall refrigerate or embalm the body within twenty-four hours upon receipt of the body, unless disposition of the body has been made. However, subsection (1) of this section and RCW (~~(68.08.108)~~) 68.50.108 shall be complied with before a body is embalmed. Upon written authorization of the proper state or local authority, the provisions of this subsection may be waived for a specified period of time.

Violation of this subsection is a gross misdemeanor.

Sec. 77. Section 35A.40.050, chapter 119, Laws of 1967 ex. sess. as last amended by section 2, chapter 66, Laws of 1983 and RCW 35A.40.050 are each amended to read as follows:

Excess and inactive funds on hand in the treasury of any code city may be invested in the same manner and subject to the same limitations as provided for city and town funds in all applicable statutes, including, but not limited to the following: RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 41.16.040, (~~68.12.060, 68.12.065~~) 68.52.060, 68.52.065, and 72.19.120.

The responsibility for determining the amount of money available in each fund for investment purposes shall be placed upon the department, division or board responsible for the administration of such fund.

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for the mutual benefit of all participating funds: PROVIDED, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds in direct proportion to the amount of money invested by each.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in United States government bonds, notes, bills or certificates of indebtedness for the benefit of the general or current expense fund.

Sec. 78. Section 35A.42.010, chapter 119, Laws of 1967 ex. sess. as amended by section 320, chapter 258, Laws of 1984 and RCW 35A.42.010 are each amended to read as follows:

In addition to authority granted and duties imposed upon code city treasurers by this title, code city treasurers, or the officers designated by charter or ordinance to perform the duties of a treasurer, shall have the duties and the authority to perform the following: (1) As provided in RCW 8.12.500 relating to bonds and compensation payments in eminent domain proceedings; (2) as provided in RCW (~~68.12.050~~) 68.52.050 relating to cemetery improvement funds; (3) as provided in RCW 41.28.080 relating to custody of employees' retirement funds; (4) as provided in RCW 47.08.100 relating to the use of city street funds; (5) as provided in RCW 46.68.080 relating to motor vehicle funds; (6) as provided in RCW 41.16.020 and chapter 41.20 RCW relating to police and firemen's relief and pension boards; (7) as provided in chapter 42.20 RCW relating to misappropriation of funds; and (8) as provided in chapter 39.60 RCW relating to investment of municipal funds. The treasurer shall be subject to the penalties imposed for the violation of any of such provisions. Where a provision of this title, or the general law, names the city treasurer as an officer of a board or other body, or assigns duties to a city treasurer, such position shall be filled, or such duties performed, by the officer of a code city who is performing the

duties usually performed by a city treasurer, although he may not have that designation.

Sec. 79. Section 35A.56.010, chapter 119, Laws of 1967 ex. sess. as amended by section 2, chapter 30, Laws of 1979 ex. sess. and RCW 35A.56.010 are each amended to read as follows:

Except as otherwise provided in this title, state laws relating to special service or taxing districts shall apply to, grant powers, and impose duties upon code cities and their officers to the same extent as such laws apply to and affect other classes of cities and towns and their employees, including, without limitation, the following: (1) Chapter 70.94 RCW, relating to air pollution control; (2) chapter ~~((68-16))~~ 68.52 RCW, relating to cemetery districts; (3) chapter 29.68 RCW, relating to congressional districts; (4) chapters 14.07 and 14.08 RCW, relating to municipal airport districts; (5) chapter 36.88 RCW, relating to county road improvement districts; (6) Title 85 RCW, relating to diking districts, drainage districts, and drainage improvement districts; (7) chapter 36.54 RCW, relating to ferry districts; (8) Title 52 RCW, relating to fire protection districts; (9) Title 86 RCW, relating to flood control districts and flood control; (10) chapter 70.46 RCW, relating to health districts; (11) chapters 87.03 through 87.84 and 89.12 RCW, relating to irrigation districts; (12) chapter 35.61 RCW, relating to metropolitan park districts; (13) chapter 35.58 RCW, relating to metropolitan municipalities; (14) chapter 17.28 RCW, relating to mosquito control districts; (15) chapter 17.12 RCW, relating to agricultural pest districts; (16) chapter 13.12 RCW, relating to parental or truant schools; (17) Title 53 RCW, relating to port districts; (18) chapter 70.44 RCW, relating to public hospital districts; (19) Title 54 RCW, relating to public utility districts; (20) chapter 91.08 RCW, relating to public waterway districts; (21) Title 56 RCW for sewer districts; (22) chapter 89.12 RCW, relating to reclamation districts; (23) chapters 57.02 through 57.36 RCW, relating to water districts; and (24) chapter 17.04 RCW, relating to weed districts.

Sec. 80. Section 35A.68.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.68.010 are each amended to read as follows:

A code city may exercise the powers to acquire, own, improve, manage, operate and regulate real and personal property for the operation of the city morgue, cemetery or other place for the burial of the dead, to create cemetery boards or commissions, to establish and manage funds for cemetery improvement and care and to make all necessary or desirable rules and regulations concerning the control and management of burial places and the investment of funds relating thereto and accounting therefor as is authorized by chapter ~~((68-12))~~ 68.52 RCW, RCW 35.22.280, 35.23.440, 35.24.300 and 35.27.370(2) in accordance with the procedures and requirements prescribed by said laws and authority to be included within a cemetery district as authorized and conformed to the requirements of Title 68 RCW.

Sec. 81. Section 1, chapter 54, Laws of 1975 as amended by section 147, chapter 258, Laws of 1979 and RCW 46.20.113 are each amended to read as follows:

The department of licensing shall provide a statement whereby the licensee may certify in the presence of two witnesses his willingness to make an anatomical gift under RCW ((68.08.530)) 68.50.370, as now or hereafter amended. The department shall provide the statement in at least one of the following ways:

- (1) On each driver's license; or
- (2) With each driver's license; or
- (3) With each in-person driver's license application.

NEW SECTION. Sec. 82. The cemetery board, for administrative purposes, shall be transferred to the department of licensing.

NEW SECTION. Sec. 83. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the cemetery board shall be delivered to the custody of the department of licensing. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the cemetery board shall be made available to the department of licensing. All funds, credits, or other assets held by the cemetery board shall be assigned to the department of licensing.

Any appropriations made to the cemetery board shall, on the effective date of this section, be transferred and credited to the department of licensing.

Whenever any question arises as to the transfer of any personnel, 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. 84. All persons employed by the cemetery board before the effective date of this section shall be assigned to the department of licensing in civil service classifications appropriate to their duties to perform their usual duties upon the same terms as formerly, without any loss of rights or salary subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

NEW SECTION. Sec. 85. All rules and all pending business before the cemetery board shall be continued and acted upon by the cemetery board. All existing contracts and obligations shall remain in full force and shall be performed by the department of licensing.

NEW SECTION. Sec. 86. The transfer of the powers, duties, functions, and personnel of the cemetery board shall not affect the validity of any act performed before the effective date of this section.



**NEW SECTION.** Sec. 87. If apportionments of budgeted funds are required because of the transfers directed by sections 83 through 86 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION.** Sec. 88. Nothing contained in sections 82 through 87 of this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

**NEW SECTION.** Sec. 89. The following sections are recodified:

- (1) RCW 68.05.070 as RCW 68.05.095;
- (2) RCW 68.05.130 as RCW 68.05.254;
- (3) RCW 68.05.140 as RCW 68.05.259;
- (4) RCW 68.05.220 as RCW 68.05.215;
- (5) RCW 68.05.230 as RCW 68.05.205;
- (6) RCW 68.05.250 as RCW 68.05.290;
- (7) RCW 68.05.255 as RCW 68.05.115;
- (8) RCW 68.05.257 as RCW 68.05.175;
- (9) RCW 68.05.260 as RCW 68.50.035;
- (10) RCW 68.05.270 as RCW 68.05.285;
- (11) RCW 68.05.380 as RCW 68.05.400;
- (12) RCW 68.08.010 as RCW 68.50.010;
- (13) RCW 68.08.020 as RCW 68.50.020;
- (14) RCW 68.08.030 as RCW 68.50.030;
- (15) RCW 68.08.040 as RCW 68.50.040;
- (16) RCW 68.08.050 as RCW 68.50.050;
- (17) RCW 68.08.060 as RCW 68.50.060;
- (18) RCW 68.08.070 as RCW 68.50.070;
- (19) RCW 68.08.080 as RCW 68.50.080;
- (20) RCW 68.08.090 as RCW 68.50.090;
- (21) RCW 68.08.100 as RCW 68.50.100;
- (22) RCW 68.08.101 as RCW 68.50.101;
- (23) RCW 68.08.102 as RCW 68.50.102;
- (24) RCW 68.08.103 as RCW 68.50.103;
- (25) RCW 68.08.104 as RCW 68.50.104;
- (26) RCW 68.08.105 as RCW 68.50.105;
- (27) RCW 68.08.106 as RCW 68.50.106;
- (28) RCW 68.08.107 as RCW 68.50.107;
- (29) RCW 68.08.108 as RCW 68.50.108;
- (30) RCW 68.08.110 as RCW 68.50.110;
- (31) RCW 68.08.120 as RCW 68.50.120;

- (32) RCW 68.08.130 as RCW 68.50.130;
- (33) RCW 68.08.135 as RCW 68.50.135;
- (34) RCW 68.08.140 as RCW 68.50.140;
- (35) RCW 68.08.145 as RCW 68.50.145;
- (36) RCW 68.08.150 as RCW 68.50.150;
- (37) RCW 68.08.160 as RCW 68.50.160;
- (38) RCW 68.08.165 as RCW 68.50.165;
- (39) RCW 68.08.170 as RCW 68.50.170;
- (40) RCW 68.08.180 as RCW 68.50.180;
- (41) RCW 68.08.185 as RCW 68.50.185;
- (42) RCW 68.08.190 as RCW 68.50.190;
- (43) RCW 68.08.200 as RCW 68.50.200;
- (44) RCW 68.08.210 as RCW 68.50.210;
- (45) RCW 68.08.220 as RCW 68.50.220;
- (46) RCW 68.08.232 as RCW 68.50.232;
- (47) RCW 68.08.240 as RCW 68.50.240;
- (48) RCW 68.08.245 as RCW 68.50.270;
- (49) RCW 68.08.300 as RCW 68.50.280;
- (50) RCW 68.08.305 as RCW 68.50.290;
- (51) RCW 68.08.320 as RCW 68.50.300;
- (52) RCW 68.08.350 as RCW 68.50.310;
- (53) RCW 68.08.355 as RCW 68.50.320;
- (54) RCW 68.08.360 as RCW 68.50.330;
- (55) RCW 68.08.500 as RCW 68.50.340;
- (56) RCW 68.08.510 as RCW 68.50.350;
- (57) RCW 68.08.520 as RCW 68.50.360;
- (58) RCW 68.08.530 as RCW 68.50.370;
- (59) RCW 68.08.540 as RCW 68.50.380;
- (60) RCW 68.08.550 as RCW 68.50.390;
- (61) RCW 68.08.560 as RCW 68.50.400;
- (62) RCW 68.08.600 as RCW 68.50.410;
- (63) RCW 68.08.610 as RCW 68.50.420;
- (64) RCW 68.08.650 as RCW 68.50.500;
- (65) RCW 68.08.660 as RCW 68.50.510;
- (66) RCW 68.12.010 as RCW 68.52.010;
- (67) RCW 68.12.020 as RCW 68.52.020;
- (68) RCW 68.12.030 as RCW 68.52.030;
- (69) RCW 68.12.040 as RCW 68.52.040;
- (70) RCW 68.12.045 as RCW 68.52.045;
- (71) RCW 68.12.050 as RCW 68.52.050;
- (72) RCW 68.12.060 as RCW 68.52.060;
- (73) RCW 68.12.065 as RCW 68.52.065;
- (74) RCW 68.12.070 as RCW 68.52.070;
- (75) RCW 68.12.080 as RCW 68.52.080;

- (76) RCW 68.16.010 as RCW 68.52.090;
- (77) RCW 68.16.020 as RCW 68.52.100;
- (78) RCW 68.16.030 as RCW 68.52.110;
- (79) RCW 68.16.040 as RCW 68.52.120;
- (80) RCW 68.16.050 as RCW 68.52.130;
- (81) RCW 68.16.060 as RCW 68.52.140;
- (82) RCW 68.16.070 as RCW 68.52.150;
- (83) RCW 68.16.080 as RCW 68.52.160;
- (84) RCW 68.16.090 as RCW 68.52.170;
- (85) RCW 68.16.100 as RCW 68.52.180;
- (86) RCW 68.16.110 as RCW 68.52.190;
- (87) RCW 68.16.111 as RCW 68.52.191;
- (88) RCW 68.16.112 as RCW 68.52.192;
- (89) RCW 68.16.113 as RCW 68.52.193;
- (90) RCW 68.16.120 as RCW 68.52.200;
- (91) RCW 68.16.130 as RCW 68.52.210;
- (92) RCW 68.16.140 as RCW 68.52.220;
- (93) RCW 68.16.150 as RCW 68.52.230;
- (94) RCW 68.16.160 as RCW 68.52.240;
- (95) RCW 68.16.170 as RCW 68.52.250;
- (96) RCW 68.16.180 as RCW 68.52.260;
- (97) RCW 68.16.190 as RCW 68.52.270;
- (98) RCW 68.16.200 as RCW 68.52.280;
- (99) RCW 68.16.210 as RCW 68.52.290;
- (100) RCW 68.16.220 as RCW 68.52.300;
- (101) RCW 68.16.230 as RCW 68.52.310;
- (102) RCW 68.16.240 as RCW 68.52.320;
- (103) RCW 68.16.250 as RCW 68.52.330;
- (104) RCW 68.16.900 as RCW 68.52.900;
- (105) RCW 68.18.010 as RCW 68.54.010;
- (106) RCW 68.18.020 as RCW 68.54.020;
- (107) RCW 68.18.030 as RCW 68.54.030;
- (108) RCW 68.18.040 as RCW 68.54.040;
- (109) RCW 68.18.050 as RCW 68.54.050;
- (110) RCW 68.18.060 as RCW 68.54.060;
- (111) RCW 68.18.070 as RCW 68.54.070;
- (112) RCW 68.18.080 as RCW 68.54.080;
- (113) RCW 68.18.090 as RCW 68.54.090;
- (114) RCW 68.18.100 as RCW 68.54.100;
- (115) RCW 68.18.110 as RCW 68.54.110;
- (116) RCW 68.18.120 as RCW 68.54.120;
- (117) RCW 68.20.100 as RCW 68.50.250;
- (118) RCW 68.20.105 as RCW 68.50.260;
- (119) RCW 68.46.095 as RCW 68.05.235;

- (120) RCW 68.46.140 as RCW 68.05.155;
- (121) RCW 68.46.180 as RCW 68.05.225;
- (122) RCW 68.46.200 as RCW 68.05.310;
- (123) RCW 68.46.210 as RCW 68.05.330;
- (124) RCW 68.46.220 as RCW 68.05.320;
- (125) RCW 68.46.230 as RCW 68.05.340;
- (126) RCW 68.46.240 as RCW 68.05.350;
- (127) RCW 68.46.250 as RCW 68.05.360;
- (128) RCW 68.46.260 as RCW 68.05.370;
- (129) RCW 68.46.290 as RCW 68.05.300;
- (130) RCW 68.48.010 as RCW 68.56.010;
- (131) RCW 68.48.020 as RCW 68.56.020;
- (132) RCW 68.48.030 as RCW 68.56.030;
- (133) RCW 68.48.040 as RCW 68.56.040;
- (134) RCW 68.48.050 as RCW 68.05.185;
- (135) RCW 68.48.060 as RCW 68.56.050;
- (136) RCW 68.48.080 as RCW 68.56.060; and
- (137) RCW 68.48.090 as RCW 68.56.070.

NEW SECTION. Sec. 90. The following acts or parts of acts are each repealed:

- (1) Section 20, chapter 99, Laws of 1979, section 1, chapter 334, Laws of 1981 and RCW 43.131.187;
- (2) Section 62, chapter 99, Laws of 1979, section 2, chapter 334, Laws of 1981 and RCW 43.131.188;
- (3) Section 37, chapter 290, Laws of 1953 and RCW 68.05.110;
- (4) Section 47, chapter 290, Laws of 1953 and RCW 68.05.200;
- (5) Section 120, chapter 247, Laws of 1943, section 5, chapter 290, Laws of 1953, section 17, chapter 21, Laws of 1979 and RCW 68.40.020;
- (6) Section 121, chapter 247, Laws of 1943, section 6, chapter 290, Laws of 1953 and RCW 68.40.030;
- (7) Section 124, chapter 247, Laws of 1943 and RCW 68.40.050;
- (8) Section 119, chapter 247, Laws of 1943, section 9, chapter 290, Laws of 1953 and RCW 68.40.070;
- (9) Section 123, chapter 247, Laws of 1943, section 10, chapter 290, Laws of 1953 and RCW 68.40.080;
- (10) Section 6, chapter 351, Laws of 1977 ex. sess., section 41, chapter 21, Laws of 1979 and RCW 68.46.120; and
- (11) Section 146, chapter 247, Laws of 1943, section 42, chapter 21, Laws of 1979 and RCW 68.48.070.

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, 1987.

Passed the House March 4, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 332

[Substitute Senate Bill No. 5510]

### REAL ESTATE LICENSURE

AN ACT Relating to real estate licenses; amending RCW 18.85.010, 18.85.040, 18.85.095, 18.85.120, 18.85.140, 18.85.190, 18.85.200, 18.85.215, 18.85.220, 18.85.230, 18.85.240, 18.85.251, 18.85.261, 18.85.271, 18.85.320, 18.85.450, and 18.85.460; adding a new section to chapter 18.85 RCW; and repealing RCW 18.85.161 and 18.85.163.

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

Sec. 1. Section 2, chapter 252, Laws of 1941 as last amended by section 1, chapter 305, Laws of 1981 and RCW 18.85.010 are each amended to read as follows:

In this chapter words and phrases have the following meanings unless otherwise apparent from the context:

(1) "Real estate broker," or "broker," means a person, while acting for another for commissions or other compensation or the promise thereof, or a licensee under this chapter while acting in his or her own behalf, who:

(a) Sells or offers for sale, lists or offers to list, buys or offers to buy real estate or business opportunities, or any interest therein, for others;

(b) Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate or business opportunities, or any interest therein, for others;

(c) Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, or exchange of a used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located;

(d) Advertises or holds himself or herself out to the public by any oral or printed solicitation or representation that he or she is so engaged; or

(e) Engages, directs, or assists in procuring prospects or in negotiating or closing any transaction which results or is calculated to result in any of these acts;

(2) "Real estate ((salesman)) salesperson" or "((salesman)) salesperson" means any natural person employed, either directly or indirectly, by a real estate broker, or any person who represents a real estate broker in the performance of any of the acts specified in subsection (1) of this section;

(3) An "associate real estate broker" is a person who has qualified as a "real estate broker" who works with a broker and whose license states that he or she is associated with a broker;

(4) The word "person" as used in this chapter shall be construed to mean and include a corporation or copartnership, except where otherwise restricted;

(5) "Business opportunity" shall mean and include business, business opportunity and good will of an existing business or any one or combination thereof;

(6) "Commission" means the real estate commission of the state of Washington;

(7) "Director" means the director of licensing;

(8) "Real estate multiple listing association" means any association of real estate brokers:

(a) Whose members circulate listings of the members among themselves so that the properties described in the listings may be sold by any member for an agreed portion of the commission to be paid; and

(b) Which require in a real estate listing agreement between the seller and the broker, that the members of the real estate multiple listing association shall have the same rights as if each had executed a separate agreement with the seller;

(9) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public vocational-technical institution, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours, and the real estate commission may certify courses of instruction other than in the aforementioned institutions; and

(10) "Incapacitated" means the physical or mental inability to perform the duties of broker prescribed by this chapter.

Sec. 2. Section 4, chapter 252, Laws of 1941 as last amended by section 3, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.040 are each amended to read as follows:

The director, with the advice and approval of the commission, may issue rules and regulations to govern the activities of real estate brokers, associate real estate brokers and ~~((salesmen))~~ salespersons, consistent with this chapter, fix the times and places for holding examinations of applicants for licenses and prescribe the method of conducting them. The director shall enforce all laws, rules and regulations relating to the licensing of real estate brokers, associate real estate brokers, and ~~((salesmen))~~ salespersons, grant or deny licenses to real estate brokers, associate real estate brokers, and ~~((salesmen))~~ salespersons, hold hearings and suspend or revoke ~~((the))~~ licenses ~~((of))~~, or deny applications for licenses, or fine violators and may deny, suspend or revoke the authority of a broker to act as the designated

broker of persons who commit violations of the real estate license law or of the rules and regulations. The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions. The director shall institute a program of education for the benefit of the licensees and may institute a program of education at institutions of higher education in Washington. The director shall charge a fee, as prescribed by the director by rule, for the certification of courses of instruction, instructors, and schools.

Sec. 3. Section 7, chapter 139, Laws of 1972 ex. sess. as last amended by section 2, chapter 162, Laws of 1985 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))~~ salesperson's license are that the individual:

- (1) Is eighteen years of age or older;
- (2) ~~((Is a resident of the state of Washington;~~
- ~~(3))~~ Has passed a ~~((salesman's))~~ salesperson's examination; and
- ~~((4))~~ (3) Except as provided in section 18 of this act, has successfully completed a thirty clock hour course in real estate fundamentals prior to obtaining a first real estate license.

Except as provided in section 18 of this act, no licensed ~~((salesman))~~ salesperson shall have his or her 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))~~ salespersons 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. 4. Section 1, chapter 25, Laws of 1979 as amended by section 1, chapter 72, Laws of 1980 and RCW 18.85.120 are each amended to read as follows:

Any person desiring to be a real estate broker, associate real estate broker, or real estate ~~((salesman with the exception of applicants meeting the requirements of RCW 18.85.161))~~ salesperson, must pass an examination as provided in this chapter. Such person shall make application for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

- (1) Pay an examination fee ~~((of twenty-five dollars as directed by the director if a salesman's license is applied for and of forty dollars if a broker's license is applied for))~~ as prescribed by the director by rule.

(2) If the applicant is a corporation, furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses ~~((, and))~~. If the applicant is a foreign corporation, the applicant shall furnish a certified copy of certificate of authority to conduct business

in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a copartnership, the applicant shall furnish a list of the members thereof and their addresses.

~~(3) ((Furnish such proof as the director may require that the applicant is a resident of the state of Washington or, if the applicant is a corporation or copartnership, that the designated broker of the corporation or copartnership is a resident of the state of Washington:~~

~~(4))~~ Furnish such other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, ((including but not limited to)) which may include fingerprints, of any applicants for a license, or of the officers of a corporation making the application.

Sec. 5. Section 2, chapter 25, Laws of 1979 and RCW 18.85.140 are each amended to read as follows:

Before receiving his or her 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)) salesperson must pay a license fee ((of twenty-five dollars)) as prescribed by the director by rule. 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)) on a date prescribed by the director by rule, which date will henceforth be their renewal date. Licenses issued to corporations expire on a date prescribed by the director by rule, which date will henceforth be their renewal date, except that if the corporation registration or certificate of authority filed with the secretary of state expires, the real estate broker's license issued to the corporation shall expire on that date. On or before the renewal date an annual renewal license fee ((in the same amount)) as prescribed by the director by rule 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)) a penalty fee as prescribed by the director by rule shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be canceled. This person may obtain a new license by satisfying the procedures and qualifications for initial licensing, including the successful completion of any applicable examinations.

The director shall issue to each active licensee a license and a pocket identification card in such form and size as he or she shall prescribe.



Sec. 6. Section 42, chapter 52, Laws of 1957 as last amended by section 5, chapter 24, Laws of 1977 ex. sess. and RCW 18.85.190 are each amended to read as follows:

A real estate broker may apply to the director for authority to establish one or more branch offices under the same name as the main office upon the payment of ~~((twenty-five dollars for each branch office))~~ a fee as prescribed by the director by rule. The director shall issue a duplicate license for each of the branch offices showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. Each branch office shall be required to have a branch manager who shall be an associate broker authorized by the designated broker to perform the duties of a branch manager.

A branch office license shall not be required where real estate sales activity is conducted on and, limited to a particular subdivision or tract, if a licensed office or branch office is located within thirty-five miles of the subdivision or tract. A real estate broker shall apply for a branch office license if real estate sales activity on the particular subdivision or tract is five days or more per week.

Sec. 7. Section 43, chapter 52, Laws of 1957 as amended by section 17, chapter 266, Laws of 1971 ex. sess. and RCW 18.85.200 are each amended to read as follows:

Notice in writing shall be given to the director of any change by a real estate broker, associate broker, or ~~((salesmen))~~ salesperson of his or her business location or of any branch office. Upon the surrender of the original license for the business or the duplicate license applicable to a branch office, and a payment of a fee ~~((of five dollars))~~ as prescribed by the director by rule, the director shall issue a new license or duplicate license, as the case may be, covering the new location.

Sec. 8. Section 7, chapter 252, Laws of 1941 as last amended by section 1, chapter 22, Laws of 1967 and RCW 18.85.220 are each amended to read as follows:

All fees required under ~~((the provisions of))~~ this chapter shall be set by the director in accordance with RCW 43.24.086 and shall be paid to the state treasurer. The sum of five dollars from each license fee and each renewal fee received from a broker, associate broker, or ~~((salesman))~~ salesperson, shall be placed in the general fund. The balance of such fees and all other fees paid under the provisions of this chapter shall be placed in ~~((a special fund to be designated))~~ the real estate commission ((fund, one-half of which may be held and used for the sole purpose of inspecting the books, records and operations of the brokers, associate brokers, and salesmen)) account in the state treasury. All money derived from fines imposed under this chapter shall also be deposited in the real estate commission account, shall be used solely for education for the benefit of licensees and shall be subject to appropriation pursuant to chapter 43.88 RCW.

Sec. 9. Section 4, chapter 25, Laws of 1979 and RCW 18.85.230 are each amended to read as follows:

The director may, upon his or her own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate ((salesman)) salesperson, regardless of whether the transaction was for his or her own account or in his or her capacity as broker, associate real estate broker, or real estate salesperson, and may ((temporarily)) suspend or ((permanently)) revoke, or levy a fine not to exceed one thousand dollars for each offense, or deny the license of any holder or applicant who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any ((salesman)) associate broker or salesperson who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is

entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book or record in his or her possession for inspection of the director or his or her authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a ((salesman)) salesperson or associate broker, without affixing the name of the broker as licensed for whom or under whom the ((salesman)) salesperson or associate broker operates, to the advertisement;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker ((or-salesman)), associate broker, or salesperson has an interest unless his or her interest is clearly stated in the appraisal report;

(17) Misrepresentation of his or her membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his or her representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a ~~((salesman, associate broker or))~~ branch manager, associate broker, or salesperson of a commission or any valuable consideration for the performance of any acts specified in this ~~((1972 amendatory act))~~ chapter, from any person, except the licensed real estate broker with whom he or she is licensed;

(23) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his or her principal;

(24) Failing to disclose to an owner his or her intention or true position if he or she directly or indirectly through third party, purchases for himself or herself or acquires or intends to acquire any interest in, or any option to purchase, property;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his or her licensed associate brokers and ~~((salesmen within the scope of this 1972 amendatory act))~~ salespersons within the scope of this chapter;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a mobile home and travel trailer dealer or ~~((salesman))~~ salesperson, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so;

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker ~~((or salesman)),~~ associate broker, or salesperson; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter.

Sec. 10. Section 45, chapter 52, Laws of 1957 and RCW 18.85.240 are each amended to read as follows:

The director may deputize one or more ~~((of his))~~ assistants to perform his or her duties with reference to refusal, revocation, or suspension of licenses ~~((including the power to preside at hearings and to render decisions therein subject to the approval of the director))~~ and imposition of fines.

Sec. 11. Section 23, chapter 222, Laws of 1951 as amended by section 22, chapter 67, Laws of 1981 and RCW 18.85.251 are each amended to read as follows:

The proceedings for revocation or suspension of a license or imposition of a fine or refusal to renew a license or accept an application for an initial license or license renewal shall be had on motion of the director or after a statement in writing verified by some person or persons familiar with the facts upon which the proposed revocation, suspension, ~~((or))~~ refusal, or fine

is based has been filed with the director. Upon receipt of such statement or accusation, the director shall make a preliminary investigation of the facts charged to determine whether the statement or accusation is sufficient. If the director shall determine the statement or accusation is sufficient to require formal action, the director shall thereupon set the matter for hearing at a specified time and place. A copy of such order setting time and place and a copy of the verified statement shall be served upon the licensee or applicant involved not less than twenty days before the day appointed in the order for said hearing. The department of licensing, the licensee or applicant accused, and the person making the accusation may be represented by counsel at such a hearing. The director or an administrative law judge appointed under chapter 34.12 RCW shall hear and receive pertinent evidence and testimony.

Sec. 12. Section 24, chapter 222, Laws of 1951 and RCW 18.85.261 are each amended to read as follows:

If the licensed person or applicant accused does not appear at the time and place appointed for the hearing in person or by counsel, the hearing officer may proceed and determine the facts of the accusation in his or her absence. The proceedings may be conducted at places within the state convenient to all persons concerned as determined by the director, and may be adjourned from day to day or for longer periods. The hearing officer shall cause a transcript of all such proceedings to be kept by a reporter and shall upon request after completion thereof, furnish a copy of such transcript to the licensed person or applicant accused in such proceedings at the expense of the licensee or applicant. The hearing officer shall certify the transcript of proceedings to be true and correct. If the director finds that the statement or accusation is not proved by a fair preponderance of evidence, the director shall notify the licensee or applicant and the person making the accusation and shall dismiss the case.

Sec. 13. Section 25, chapter 222, Laws of 1951 as amended by section 20, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.271 are each amended to read as follows:

If the director shall decide, after such hearing, that the evidence supports the accusation by a preponderance of evidence, ~~((he))~~ the director may revoke ~~((the license in question or withhold renewal of any such license))~~ or suspend ~~((any such))~~ the license, or fine the licensee, or deny the application for, or renewal of, a license. In such event ~~((he))~~ the director shall enter an order to that effect and shall file the same in his or her office and immediately mail a copy thereof to the affected party at the address of record with the department. Such order shall not be operative for a period of ten days from the date thereof. Any licensee or applicant aggrieved by a final decision by the director in a contested case whether such decision is affirmative or negative in form, is entitled to a judicial review in the superior court under the provisions of the Administrative Procedure Act, chapter

34.04 RCW. Upon instituting appeal in the superior court, the appellant shall give a cash bond to the state of Washington, which bond shall be filed with the clerk of the court, in the sum of five hundred dollars to be approved by the judge of said court, conditioned to pay all costs that may be awarded against such appellant in the event of an adverse decision, such bond and notice to be filed within thirty days from the date of the director's decision.

Sec. 14. Section 26, chapter 252, Laws of 1941 as last amended by section 14, chapter 235, Laws of 1953 and RCW 18.85.320 are each amended to read as follows:

The license of a real estate ((salesman)) salesperson or associate real estate broker shall be retained at all times by his or her designated broker and when any real estate ((salesman)) salesperson or associate real estate broker ceases to represent his or her broker his or her license shall cease to be in force. Notice of such termination shall be given by the broker to the director and such notice shall be accompanied by and include the surrender of the ((salesman's)) salesperson's or associate real estate broker's license. Failure of any broker to promptly notify the director of such ((salesman's)) salesperson's or associate real estate broker's termination after demand by the affected ((salesman)) salesperson or associate real estate broker shall work a forfeiture of the broker's license. Upon application of the ((salesman)) salesperson or associate real estate broker and the payment of ((five dollars)) a fee as prescribed by the director by rule, the director shall issue a new license for the unexpired term, if such ((salesman)) salesperson or associate real estate broker is otherwise entitled thereto. When a real estate ((salesman's)) salesperson's or associate real estate broker's services shall be terminated by his or her broker for a violation of any of the provisions of RCW 18.85.230, a written statement of the facts in reference thereto shall be filed forthwith with the director by the broker.

Sec. 15. Section 6, chapter 24, Laws of 1977 ex. sess. and RCW 18.85.450 are each amended to read as follows:

The director shall issue a land development representative registration for any applicant, upon application made by the employing real estate broker, on a form provided by the department. The minimum requirements for an individual to be registered as a land development representative are that the applicant shall:

- (1) Be eighteen years of age or older; and
- (2) ~~((Be a resident of the state of Washington, and~~
- ~~(3)))~~ Furnish such proof as the director may require concerning the applicant's honesty, good reputation, and identification ((including)) which may include finger prints.

Sec. 16. Section 7, chapter 24, Laws of 1977 ex. sess. and RCW 18.85.460 are each amended to read as follows:

The registration for a land development representative shall be issued to and retained by the employing broker and shall be displayed as set forth in this chapter for licenses. A fee (~~of fifteen dollars~~) as prescribed by the director by rule shall accompany each application for registration. Each registration shall be valid for a period of one year from date of issue or until employment with the broker is terminated, whichever occurs first. No registration may be transferred to another broker, nor may a representative be registered to more than one broker at a time. Upon the termination of employment of any representative the broker shall release and return the registration of that representative to the department.

Sec. 17. Section 8, chapter 370, Laws of 1977 ex. sess. as amended by section 4, chapter 162, Laws of 1985 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. Subject to section 18 of this act, 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.

(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.

NEW SECTION. Sec. 18. A new section is added to chapter 18.85 RCW to read as follows:

The director may waive the thirty clock-hour requirements in RCW 18.85.095 and 18.85.215 if the director makes a determination that the individual is otherwise and similarly qualified by reason of practical experience in a business allied with or related to real estate.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) Section 21, chapter 222, Laws of 1951, section 9, chapter 235, Laws of 1953, section 15, chapter 139, Laws of 1972 ex. sess., section 7, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.161; and

(2) Section 22, chapter 222, Laws of 1951 and RCW 18.85.163.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 333

[Substitute House Bill No. 458]

### MEASURED TELECOMMUNICATIONS SERVICES

AN ACT Relating to measured telecommunications service; reenacting and amending RCW 80.04.130; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 80.04.130, chapter 14, Laws of 1961 as last amended by section 2, chapter 161, Laws of 1985 and by section 1, chapter 206, Laws of 1985 and by section 12, chapter 450, Laws of 1985 and RCW 80.04.130 are each reenacted and amended to read as follows:

(1) 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))~~ telecommunications service is a major policy change in available ~~((telephone))~~ telecommunications service. The commission shall not accept for



filing or approve, prior to June 1, (~~(1987)~~) 1990, a tariff filed by a (~~(telephone)~~) telecommunications company which imposes mandatory local measured service on any customer or class of customers, except that, upon finding that it is in the public interest, the commission may accept for filing and approve a tariff that imposes mandatory measured service for a telecommunications company's extended area service or foreign exchange service. 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.

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 1, 1987.

Passed the House March 11, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 334

[Substitute Senate Bill No. 5978]  
TRIBUTYLtin REGULATED

AN ACT Relating to prohibiting the sale or use of tributyltin in paints; adding new sections to chapter 70.54 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 70.54 RCW to read as follows:

(1) A person shall not sell, offer to sell, or use in this state any tributyltin-based marine antifouling paint or coating unless a method of using such paint or coating exists that does not result in the release of tributyltin or derivative of organotin into the marine waters of the state.

(2) Subsection (1) of this section does not apply to the sale or use in this state of a tributyltin-based marine antifouling paint or coating that is (a) used on aluminum hulls and (b) that has a steady release rate of not more than five micrograms per square centimeter per day.

(3) Subsection (1) of this section does not apply to the sale, use, distribution, or possession of a tributyltin-based marine antifouling paint or coating if the paint or coating (a) is in a spray can containing sixteen ounces or less of paint or coating; (b) is commonly referred to as an outboard or lower drive unit paint; and (c) the steady release rate of not more than five micrograms per square centimeter per day.

(4) The department of agriculture shall enforce this section and shall adopt any rules necessary to implement this section.

(5) For purposes of this section "tributyltin-based marine antifouling paint or coating" means a paint, coating, or treatment that contains tributyltin or a triorganotin compound used as a substitute for tributyltin and that is intended to control fouling organisms in a marine environment.

NEW SECTION. Sec. 2. This act shall take effect April 1, 1988.

NEW SECTION. Sec. 3. Section (1) of this act shall only remain in effect until the U.S. environmental protection agency promulgates standards for the use of tributyltin-based marine antifouling paint or coating.

Passed the Senate April 26, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 335

[Engrossed Substitute Senate Bill No. 5608]

### CRUELTY TO AND NEGLECT OF DOMESTIC ANIMALS

AN ACT Relating to abused and injured animals; amending RCW 16.52.085, 16.52.010, and 46.61.660; adding new sections to chapter 16.52 RCW; creating a new section; and prescribing penalties.

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

Sec. 1. Section 2, chapter 12, Laws of 1974 ex. sess. and RCW 16.52-.085 are each amended to read as follows:

(1) If the county sheriff or other law enforcement officer shall find that said domestic animal has been neglected by its owner, he or she may authorize the removal of the animal to a proper pasture or other suitable place for feeding and restoring to health.

(2) If a law enforcement officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of an allegedly neglected domestic animal by a veterinarian to determine whether the level of neglect is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed to a suitable place pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. In making the decision to remove an animal pursuant to this chapter, the law enforcement officer shall make a good faith effort to contact the animal's owner before removal unless the animal is in a life-threatening condition or unless the officer reasonably believes that the owner would remove the animal from the jurisdiction.

(4) If no criminal case is filed within seventy-two hours of the removal of the animal, the owner may petition the district court of the county where

the removal of the animal occurred for the return of the animal. The petition shall be filed with the court, with copies served to the law enforcement agency responsible for removing the animal and to the prosecuting attorney. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

(5) In a motion or petition for the return of the removed animal before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect and is not in need of being restored to health.

(6) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

**NEW SECTION.** Sec. 2. A new section is added to chapter 16.52 RCW to read as follows:

(1) The sentence imposed for a violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the cruel treatment to have been severe and likely to reoccur. If forfeiture is ordered, the owner shall be prohibited from owning or caring for any similar animals for a period of two years. The court may delay its decision on forfeiture under this subsection until the end of the probationary period.

(4) In addition to fines and court costs, the owner, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by the law enforcement or authorized private or public entities involved with the care of the animals.

(5) If convicted, the owner shall also pay a civil penalty of one hundred dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

**NEW SECTION.** Sec. 3. A new section is added to chapter 16.52 RCW to read as follows:

This chapter shall not limit the right of a law enforcement officer to destroy an animal that has been seriously injured and would otherwise continue to suffer. Such action shall be undertaken with reasonable prudence and, whenever possible, in consultation with a licensed veterinarian and the owner of the animal.

Law enforcement officers and licensed veterinarians shall be immune from civil and criminal liability for actions taken under this chapter if reasonable prudence is exercised in carrying out the provisions of this chapter.

**\*Sec. 4. Section 17, chapter 146, Laws of 1901 and RCW 16.52.010 are each amended to read as follows:**

**((In RCW 16.52.010 through 16.52.055, 16.52.070 through 16.52.090 and 16.52.100 through 16.52.180)) For purposes of this chapter, the singular shall include the plural; the word "animal" shall be held to include every living creature, except man; the words "torture," "torment," and "cruelty," shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted: PROVID- ED, That in no event shall it be considered cruelty, torture, torment, or neglect to transport a dog in the rear area commonly referred to as the bed, of a pick-up truck, nor shall such activity be prohibited by rule or law; and the words "owner" and "person" shall be held to include corporations as well as individuals; ((and)) the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the act and knowledge of such corporations as well as of such agents or employees; and the words "law enforcement officer" shall mean 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, town marshal or deputy marshal, or state patrol.**

**\*Sec. 4 was vetoed, see message at end of chapter.**

**\*Sec. 5. Section 46.56.070, chapter 12, Laws of 1961 and RCW 46.61-.660 are each amended to read as follows:**

**Except as provided in RCW 16.52.010, it shall be unlawful for any person to transport any living animal on the running board, fenders, hood, or other outside part of any vehicle unless suitable harness, cage or enclosure be provided and so attached as to protect such animal from falling or being thrown therefrom. It shall be unlawful for any person to transport any persons upon the running board, fenders, hood or other outside part of any vehicle, except that this provision shall not apply to authorized emergency vehicles.**

**Sec. 5 was vetoed, see message at end of chapter.**

**NEW SECTION.** Sec. 6. Nothing in this act shall be construed as expanding or diminishing, in any manner whatsoever, any authority granted officers under RCW 16.52.020 or 16.52.030.

**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.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 12, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to two sections, Substitute Senate Bill No. 5608 entitled:

"AN ACT Relating to abused and injured animals."

The bill amends the cruelty to animals statutes to allow law enforcement officials to remove an animal for a medical examination to determine if the animal is neglected and in need of restoration. The bill also prescribes penalties for violations of these statutes.

Sections 4 and 5, amendments to the original bill, specifically allow dogs to be transported in the open bed of a pickup truck. Current statute allows this to occur but requires that the animal be suitably harnessed or otherwise protected from falling or being thrown from the vehicle. Testimony before the House pointed out that nationally every year over 100,000 dogs die after being thrown from pickup truck beds. In keeping with the intent of the bill to encourage humane treatment of animals, I am vetoing sections 4 and 5.

With the exception of sections 4 and 5, Substitute Senate Bill No. 5608 is approved."

---

## CHAPTER 336

[Substitute Senate Bill No. 5561]

### AUCTIONEERS—BONDING AND SECURITY REQUIREMENTS

AN ACT Relating to bonding and trust account requirements for auctioneers; and amending RCW 18.11.085, 18.11.121, 18.11.220, 18.11.230, and 18.11.095.

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

Sec. 1. Section 5, chapter 324, Laws of 1986 and RCW 18.11.085 are each amended to read as follows:

Every individual, before acting as an auctioneer, shall obtain an auctioneer certificate of registration. To be licensed as an auctioneer, an individual shall meet all of the following requirements:

- (1) Be at least eighteen years of age or sponsored by a licensed auctioneer.
- (2) File with the department a completed application on a form prescribed by the director.
- (3) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.
- (4) Pay the auctioneer registration fee required under the agency rules adopted pursuant to this chapter.

(5) Except as otherwise provided under RCW 18.11.121, file with the department an auctioneer surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(6) Have no disqualifications under RCW 18.11.160.

Sec. 2. Section 8, chapter 324, Laws of 1986 and RCW 18.11.121 are each amended to read as follows:

(1) Except as provided in this section, each auctioneer and each auction company shall as a condition to the granting and retention of a license have on file with the department an approved surety bond or other security in lieu of a bond. However, if an auction company is a sole proprietorship or a partnership and has on file with the department a surety bond or other security approved by the director in the amount that would otherwise be required for an auction company to be granted or to retain a license under this section, then no separate bond or bonds shall be required for the sole proprietor or any individual partner to act as an auctioneer for the sole proprietorship or partnership. The bond or other security of an auctioneer shall be in the amount of five thousand dollars.

(2) The bond or other security of an auction company shall be in an amount not less than five thousand dollars and not more than twenty-five thousand dollars. The amount shall be based on the value of the goods and real estate sold at auctions conducted, supervised, arranged, sponsored, or managed by the auction company during the previous calendar year or, for a new auction company, the estimated value of the goods and real estate to be sold at auction during the current calendar year. The director shall establish by rule the procedures to be used for determining the amount of auction company bonds or other security.

(3) In lieu of a surety bond, an auctioneer or auction company may deposit with the department any of the following:

- (a) Savings accounts assigned to the director;
- (b) Certificates of deposit payable to the director;
- (c) Investment certificates or share accounts assigned to the director;

or

- (d) Any other security acceptable to the director.

All obligations and remedies relating to surety bonds authorized by this section shall apply to deposits filed with the director.

(4) Each bond shall comply with all of the following:

(a) Be executed by the person seeking the license as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state;

(c) Be conditioned on compliance with all provisions of this chapter and the agency rules adopted pursuant to this chapter, including payment of any administrative fines assessed against the licensee; and

(d) Remain in effect for one year after expiration, revocation, or suspension of the license.

(5) If any licensee fails or is alleged to have failed to comply with the provisions of this chapter or the agency rules adopted pursuant to this chapter, the director may hold a hearing in accordance with chapter 34.04 RCW, determine those persons who are proven claimants under the bond, and, if appropriate, distribute the bond proceeds to the proven claimants. The state or an injured person may also bring an action against the bond in superior court. The liability of the surety shall be only for actual damages and shall not exceed the amount of the bond.

(6) Damages that exceed the amount of the bond may be remedied by actions against the auctioneer or the auction company under RCW 18.11-.260 or other available remedies at law.

Sec. 3. Section 20, chapter 324, Laws of 1986 and RCW 18.11.220 are each amended to read as follows:

The client of an auctioneer or auction company has a right to (1) an accounting for any money that the auctioneer or auction company receives from the sale of the client's goods, ~~((and))~~ (2) payment of all money due to the client within twenty-one calendar days unless the parties have mutually agreed in writing to another time of payment, and (3) bring an action against the surety bond or other security filed in lieu of the surety bond for any violation of this chapter or the rules adopted pursuant to this chapter.

Sec. 4. Section 21, chapter 324, Laws of 1986 and RCW 18.11.230 are each amended to read as follows:

Auction proceeds due to ~~((the))~~ a client that are received by the auctioneer or auction company and not paid to the client within twenty-four hours of the sale shall be deposited no later than the next business day by the auctioneer or auction company in a trust account for ~~((the))~~ clients in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in the state. The auctioneer or auction company shall draw on the trust account only to pay proceeds to ~~((the))~~ clients, or such other persons who are legally entitled to such proceeds, and to obtain the sums due to the auctioneer or auction company for services as set out in the written contract required under RCW 18.11.130. Funds in the trust account shall not be subject to the debt of the auctioneer or auction company and shall not be used for personal reasons or other business reasons.

Sec. 5. Section 6, chapter 324, Laws of 1986 and RCW 18.11.095 are each amended to read as follows:

Every person, before operating an auction company as defined in RCW 18.11.050, shall obtain an auction company certificate of registration.

(1) Except as provided in subsection (2) of this section, to be licensed as an auction company, a person shall meet all of the following requirements:

~~((+))~~ (a) File with the department a completed application on a form prescribed by the director.

~~((2))~~ (b) Sign a notarized statement included on the application form that all auctioneers hired by the auction company to do business in the state shall be properly registered under this chapter.

~~((3))~~ (c) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.

~~((4))~~ (d) Pay the auction company registration fee required under the agency rules adopted pursuant to this chapter.

~~((5))~~ (e) File with the department an auction company surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

~~((6))~~ (f) Have no disqualifications under RCW 18.11.160.

(2) An auction company shall not be charged a license fee if it is a sole proprietorship or a partnership owned by an auctioneer or auctioneers, each of whom is licensed under this chapter, and if it has in effect a surety bond or bonds or other security approved by the director in the amount that would otherwise be required for an auction company to be granted or to retain a license under RCW 18.11.121.

Passed the Senate April 18, 1987.

Passed the House April 9, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 337

[Substitute House Bill No. 324]

### PUBLIC DISCLOSURE EXEMPTION GRANTED FOR CERTAIN INFORMATION FILED REGARDING GRANTS, LOANS, AND SERVICES

AN ACT Relating to the exemption from public disclosure of financial and commercial information and records supplied by businesses; and reenacting and amending RCW 42.17.310.

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

Sec. 1. Section 31, chapter 1, Laws of 1973 as last amended by section 7, chapter 276, Laws of 1986 and by section 25, chapter 299, Laws of 1986 and RCW 42.17.310 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or



(ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: PROVIDED, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: PROVIDED, FURTHER, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for

(a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapters 43.31, 43.63A, and 43.168 RCW.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Passed the House April 20, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 338

[House Bill No. 146]

### CREDIT UNIONS—AUTHORITY AND DUTIES MODIFIED

AN ACT Relating to credit unions; and amending RCW 31.12.136, 31.12.185, 31.12.195, 31.12.265, 31.12.385, 31.12.406, 31.12.425, and 31.12.695.

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

Sec. 1. Section 15, chapter 31, Laws of 1984 and RCW 31.12.136 are each amended to read as follows:

(1) Notwithstanding any other provision of law, a credit union may exercise any of the powers or authority conferred as of ~~((July 1, 1984))~~ the effective date of this 1987 section, upon a federal credit union doing business in this state.

(2) In addition to the powers conferred under subsection (1) of this section, the supervisor may by rule authorize credit unions to exercise any of the powers conferred at the time of the adoption of the rule upon a federal credit union doing business in this state if the supervisor finds that the exercise of power serves the convenience and advantage of depositors and borrowers of state-chartered credit unions, and maintains the fairness of competition and parity between state-chartered credit unions and federal-chartered credit unions.

(3) Before exercising a power under subsection (1) or (2) of this section, the board of a credit union shall adopt a resolution identifying and formally adopting that power.

Sec. 2. Section 20, chapter 31, Laws of 1984 and RCW 31.12.185 are each amended to read as follows:

(1) The regular membership meeting of a credit union shall be held annually ~~((within ninety days of the end of the fiscal year))~~, at such time and place as the bylaws prescribe, and shall be conducted according to the customary rules of parliamentary procedure.

(2) Notice of regular meetings of a credit union shall be given as provided in the bylaws of the credit union.

(3) No member may have more than one vote regardless of the number of shares held by the member. A fraternal organization, voluntary association, partnership, or corporation having a membership in a credit union may cast one vote by its authorized agent, who shall be an officer of the organization, association, partnership, or corporation. Voting by mail ballot may be authorized by the board as prescribed in the bylaws.

Sec. 3. Section 21, chapter 31, Laws of 1984 and RCW 31.12.195 are each amended to read as follows:

(1) A special meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand, whichever is less, of the voting members of a credit union. A request for a special meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. If the special meeting is being called for the removal of a director the notice shall state the name of the director whose removal is sought.

(2) Upon receipt of a request for a special meeting, the secretary of the credit union shall designate the time and place at which the special meeting will be held. The designated place of the meeting shall be a reasonable location within the county in which the principal office of the credit union is located. The designated time of the meeting shall be no sooner than twenty nor later than thirty days after the request is received by the secretary. The secretary shall within ten days of receipt of the request give notice of the meeting, including the purpose for which the meeting is called, as provided in the bylaws. A wilful violation of this section constitutes a violation of this chapter and constitutes grounds sufficient for the suspension and removal of the secretary under RCW 31.12.575.

(3) Except as provided in this subsection, the chairman or president of the board shall preside over special meetings. If the purpose of the special meeting includes the proposed removal of the chairman or president from the board, the next highest ranking officer of the board whose removal is not sought shall preside over the special meeting. If the removal of all of the officers of the board is sought, the chairman of the supervisory committee shall preside over the special meeting. After every special meeting, the chairman of the supervisory committee shall report to the supervisor the results of the special meeting and whether the special meeting was conducted in a fair manner in accordance with the bylaws of the credit union and with customary rules of parliamentary procedure.

(4) Voting by mail ballot on issues to be presented at a special meeting is prohibited except with regard to mergers under RCW 31.12.695. Voting by mail ballot on a merger under RCW 31.12.695 may be authorized by the board in accordance with rules established by the supervisor.

Sec. 4. Section 28, chapter 31, Laws of 1984 and RCW 31.12.265 are each amended to read as follows:

The board at its first meeting after the annual meeting of the members shall elect (~~from its own members~~) a chairman or president, and one or more vice chairmen or vice presidents, a secretary, a treasurer, and other officers that may be necessary for transacting the business of the board of the credit union. The officers of the board of the credit union shall hold office until their successors are elected and qualified, unless sooner removed as provided by this chapter. The offices of secretary and treasurer may be held by the same person. All officers of the board of a credit union, with the exception of the treasurer, shall be elected members of the board. The treasurer need not be an elected member of the board. The board may designate such employees, including a principal operating officer who shall not share the title chosen for the chairman or president of the board and who need not be a member of the board, as are necessary for the operation of the credit union.

*\*Sec. 5. Section 40, chapter 31, Laws of 1984 and RCW 31.12.385 are each amended to read as follows:*

*Shares purchased and deposits made in a credit union by an individual are governed by chapter 30.22 RCW. An individual member may purchase shares and make deposits in a credit union in an amount that does not exceed five hundred dollars or twenty percent of the total shares of the credit union, whichever is greater. A fraternal organization, partnership, or corporation that is a member may purchase shares and make deposits in an amount that does not exceed twenty percent of the assets of the credit union, unless the supervisor authorizes a greater amount. A credit union may require from a member ninety days notice of the intention to withdraw shares or deposits. The notice requirement may be extended with the written consent of the supervisor.*

*A credit union shall have a lien on share accounts and accumulated dividends of a member for any sum owed the credit union by the member and for any loan endorsed or guaranteed by the member. A credit union shall also have a right of immediate set-off with respect to every deposit account. The credit union may refuse to allow withdrawals from any share or deposit accounts of a member who owes any sum to the credit union. The credit union may waive its right to a lien, to immediate set-off, to restrict withdrawals, or to any combination of such rights with respect to any share or deposit account or groups of such accounts.*

\*Sec. 5 was vetoed, see message at end of chapter.

Sec. 6. Section 42, chapter 31, Laws of 1984 and RCW 31.12.406 are each amended to read as follows:

(1) A credit union may make loans to its members with the approval of a credit committee or loan officer. A credit union shall not make loans to a fraternal organization, partnership, or corporation in excess of the total shares of the organization, partnership, or corporation without the written consent of the supervisor.

(2) A credit union may make to individual members:

(a) Personal loans secured by the note of the member or other adequate security, including, but not limited to, equity interests in real estate, automobiles, boats, motorhomes, and travel trailers. The aggregate of personal loans to one member shall be limited to five thousand dollars or two and one-half percent of the assets of the credit union, whichever is greater, unless the supervisor approves in writing a greater loan amount (~~(-Personal loans shall be payable within twelve years unless the personal loan is fully secured by the member's equity interest in real estate, in which case the loan shall be payable within fifteen years))~~);

(b) Student loans under student loan programs of this state or the United States;

(c) Loans for the acquisition of a modular home or mobile home as defined by RCW 82.50.010, secured by a first security interest in that modular home or mobile home, owned by the member. A loan under this subsection shall not exceed eighty-five percent of the purchase price or of the

appraised value of the modular home or mobile home, whichever is less( ~~and shall have a maturity not to exceed twenty years~~);

(d) Residential real estate loans under RCW 31.12.415;

(e) Loans to its members under an act of congress known as the "FHA Title I, National Housing Act of 1934," June 27, 1934 (12 U.S.C. Sec. 1701 to 1750, inc.); and

(f) Loans to credit union members in participation with other credit unions, credit union organizations, or financial organizations. The credit union which originates a loan under this subsection shall retain an interest of at least ten percent of the face amount of the loan unless the loan is a real estate loan in which case there is no retention requirement.

(3) Personal loans shall be given preference, and in the event there are not sufficient funds available to satisfy all approved loan applicants, further preference shall be given to small loans.

Sec. 7. Section 44, chapter 31, Laws of 1984 and RCW 31.12.425 are each amended to read as follows:

(1) The capital or surplus funds in excess of the amount for which loans are approved may be deposited or invested in any of the following ways, so long as the investment has not been in default as to principal or interest within five years prior to the date of purchase:

(a) Accounts in banks or trust companies, including national banks located in this state, or other states, the accounts of which ((accounts)) are insured by the federal deposit insurance corporation. The deposits made by a credit union under this subsection may exceed the insurance limits established by the federal deposit insurance corporation;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under Section 9101 of Title 31 U.S.C., or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Shares, share certificates, or share deposits of other credit unions or savings and loan associations organized or authorized to do business under the laws of this state, other states, or the United States, the accounts of which are insured or guaranteed by the federal savings and loan insurance corporation, the national credit union administration, the Washington credit union share guaranty association, or another insurer approved by the supervisor. The deposits made by a credit union under this subsection may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the deposits are made;

(f) Common trust funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to two percent of a corporation owned by the Washington credit union league;

(h) Shares, stocks, loans, or other obligations of an organization of which the membership or ownership is confined primarily to credit unions and the purpose of which is to strengthen, advance, or provide services to the credit union industry. An investment under subsection (1)(h) of this section shall be limited to one percent of the total paid-in and unimpaired capital and surplus of the credit union, but a credit union may, in addition to the investment, lend to the organization an amount not exceeding an additional one percent of the total paid-in and unimpaired capital and surplus of the credit union;

(i) Loans to other credit unions organized or authorized to do business under the laws of this state, other states, or the United States. The aggregate of loans issued under this subsection shall be limited to twenty-five percent of the paid-in and unimpaired capital of the lending credit union; or

(j) Other investments authorized in accordance with rules adopted by the supervisor consistent with this chapter.

(2) The board may appoint an investment committee to make and manage the investments under this section. An investment committee shall remain subject to the supervision of the board.

Sec. 8. Section 71, chapter 31, Laws of 1984 and RCW 31.12.695 are each amended to read as follows:

(1) For purposes of this section the merging credit union is the credit union whose charter ceases to exist upon merging with the continuing credit union. The continuing credit union is the credit union whose charter continues upon merging with the merging credit union.

(2) A credit union may be merged with another credit union with the approval of the supervisor and in accordance with requirements the supervisor may prescribe. The merger shall be approved by two-thirds majority vote of the board of each credit union and two-thirds majority vote of ((the)) those members of the merging credit union ((present)) voting on the merger at a special membership meeting called by the merging credit union board or by mail ballot as provided in RCW 31.12.195(4). The requirement of approval by the members of the merging credit union may be waived if in the supervisor's opinion the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if their use is deemed appropriate. The debts and obligations of the

merging credit union that are known or reasonably should be known are assumed by the continuing credit union. The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the merging credit union is located. The notice of merger shall inform creditors of the merging credit union how to make a claim on the continuing credit union and that if a claim is not made upon the continuing credit union within thirty days of the last date of publication creditors' claims that are not known by the continuing credit union may be barred. Unless a claim is filed as requested by the notice, or unless the debt or obligation is known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged. Upon merger the charter of the merging credit union ceases to exist.

Passed the House February 6, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 12, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5, House Bill No. 146, entitled:

"AN ACT Relating to credit unions."

This bill makes several changes to the Credit Union Code as revised by the Legislature in 1984. State chartered credit unions are now granted the authority to engage in activities permitted for federal credit unions in this update.

Section 5 of House Bill No. 146 is applicable to all credit union members with sums owing a credit union. It would significantly expand a credit union's authority over access to members' accounts without establishing adequate limitations on the exercise of this authority. If this section were left in, it would grant a statutory right of immediate set-off which would allow a credit union the right to refuse withdrawals from any share account of a member who owes any sum to the credit union. I do not feel that it is necessary to create this statutory right. Typically, members are asked by their credit unions to sign a consensual lien on their shares as collateral for loans. It is my understanding that other organizations in the banking industry do not have similar statutory lien rights but, like credit unions, must rely on consensual authorization from their depositors. For this reason I have vetoed section 5.

With the exception of section 5, House Bill No. 146 is approved."

---

## CHAPTER 339

[Substitute House Bill No. 902]

### CIVIL SERVICE EXEMPTIONS—CERTAIN FIRE DEPARTMENT AND POLICE DEPARTMENT CHIEFS

AN ACT Relating to cities and towns; amending RCW 41.08.050 and 41.12.050; adding new sections to chapter 35.21 RCW; 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 4, chapter 31, Laws of 1935 and RCW 41.08.050 are each amended to read as follows:

The classified civil service and provisions of this chapter shall include all full paid employees of the fire department of each city, town or municipality coming within its purview, ~~((including the chief of that department))~~ except that individuals appointed as fire chief after July 1, 1987, may be excluded by the legislative body of the city, town, or municipality. All appointments to and promotions in said department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in, or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter.

Sec. 2. Section 4, chapter 13, Laws of 1937 and RCW 41.12.050 are each amended to read as follows:

The classified civil service and provisions of this chapter shall include all full paid employees of the police department of each city, town or municipality coming within its purview, ~~((including the chief of that department))~~ except that individuals appointed as police chief after July 1, 1987, to a department with six or more commissioned officers, including the police chief, may be excluded by the legislative body of the city, town or municipality. All appointments to and promotions in said department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter.

NEW SECTION. Sec. 3. The intent of this act is to require certain qualifications for candidates for the office of chief of police or marshal, which position in whole or in part oversees law enforcement personnel or activities for a city or town.

The legislature finds that over the past century the field of law enforcement has become increasingly complex and many new techniques and resources have evolved both socially and technically. In addition the ever-changing requirements of law, both constitutional and statutory provisions protecting the individual and imposing responsibilities and legal liabilities of law enforcement officers and the government of which they represent, require an increased level of training and experience in the field of law enforcement.

The legislature, therefore finds that minimum requirements are reasonable and necessary to seek and hold the offices or office of chief of police or marshal, and that such requirements are in the public interest.

**NEW SECTION.** Sec. 4. (1) A person seeking appointment to the office of chief of police or marshal, of a city or town, including a code city, with a population in excess of one thousand, is ineligible unless that person:

- (a) Is a citizen of the United States of America;
- (b) Has obtained a high school diploma or general equivalency diploma;
- (c) Has not been convicted under the laws of this state, another state, or the United States of a felony;
- (d) Has not been convicted of a gross misdemeanor or any crime involving moral turpitude within five years of the date of application;
- (e) Has received at least a general discharge under honorable conditions from any branch of the armed services for any military service if the person was in the military service;
- (f) Has completed at least two years of regular, uninterrupted, full-time commissioned law enforcement employment involving enforcement responsibilities with a government law enforcement agency; and
- (g) The person has been certified as a regular and commissioned enforcement officer through compliance with this state's basic training requirement or equivalency.

(2) A person seeking appointment to the office of chief of police or marshal, of a city or town, including a code city, with a population of one thousand or less, is ineligible unless that person conforms with the requirements of subsection (1) (a) through (e) of this section. A person so appointed as chief of police or marshal must successfully complete the state's basic training requirement or equivalency within nine months after such appointment, unless an extension has been granted by the criminal justice training commission.

(3) A person seeking appointment to the office of chief of police or marshal shall provide a sworn statement under penalty of perjury to the appointing authority stating that the person meets the requirements of this section.

**NEW SECTION.** Sec. 5. Before making an appointment in the office of chief of police or marshal, the appointing agency shall complete a thorough background investigation of the candidate. The Washington association of sheriffs and police chiefs shall develop advisory procedures which may be used by the appointing authority in completing its background investigation of candidates for the office of chief of police or marshal.

**NEW SECTION.** Sec. 6. In the case of a vacancy in the office of chief of police or marshal, all requirements and procedures of sections 4 and 5 of this act shall be followed in filling the vacancy.

**NEW SECTION.** Sec. 7. Sections 4 through 6 of this act are each added to chapter 35.21 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.

**NEW SECTION.** Sec. 9. This act is necessary for the immediate preservation of the public pace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

Passed the House April 24, 1987.

Passed the Senate April 23, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 340

[Substitute Senate Bill No. 5520]

### LOCAL IMPROVEMENT DISTRICTS—FINANCING LIMITATIONS—RESERVE FUNDS

AN ACT Relating to improvement districts; and amending RCW 35.51.040.

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

Sec. 1. Section 8, chapter 397, Laws of 1985 and RCW 35.51.040 are each amended to read as follows:

For the purpose of securing the payment of the principal of and interest on an issue of local improvement bonds, notes, warrants, or other short-term obligations, the legislative authority of a municipality may create a reserve fund in an amount not exceeding fifteen percent of the principal amount of the bonds, notes, or warrants issued. The cost of a reserve fund may be included in the cost and expense of any local improvement for assessment against the property in the local improvement district to pay the cost, or any part thereof. The reserve fund may be provided for from the proceeds of the bonds, notes, warrants, or other short-term obligations, from special assessment payments, or from any other money legally available therefor. The legislative authority of a municipality shall provide that after payment of administrative costs a sum in proportion to the ratio between the part of the original assessment against a given lot, tract, or parcel of land in a local improvement district assessed to create a reserve fund, if any, and the total original amount of such assessment, plus a proportionate share of any interest accrued in the reserve fund, shall be credited and applied, respectively, to any nondelinquent portion of the principal of that assessment and any nondelinquent installment interest on that assessment paid by a property owner, but in no event may the principal amount of bonds outstanding exceed the principal amount of assessments outstanding.

Whether the payment is made during the thirty-day prepayment period referred to in RCW 35.49.010 and 35.49.020 or thereafter and whenever all or part of a remaining nondelinquent assessment or any nondelinquent installment payment of principal and interest is paid, the reserve fund balance shall be reduced accordingly as each such sum is thus credited and applied to a nondelinquent principal payment and a nondelinquent interest payment. Each payment of a nondelinquent assessment or any nondelinquent installment payment of principal and interest shall be reduced by the amount of the credit. The balance of a reserve fund remaining after payment in full and retirement of all local improvement bonds, notes, warrants, or other short-term obligations secured by such fund shall be transferred to the municipality's guaranty fund.

Where, before the effective date of this section, a municipality established a reserve fund under this section that did not provide for a credit or reimbursement of the money remaining in the reserve fund to the owners of the lots, tracts, or parcels of property subject to the assessments, the balance in the reserve fund shall be distributed, after payment in full and retirement of all local improvement district bonds and other obligations secured by the reserve fund, to those owners of the lots, tracts, or parcels of property subject to the assessments at the time the final installment or assessment payment on the lot, tract, or parcel was made. No owner is eligible to receive reimbursement for a lot, tract, or parcel if a lien on an unpaid assessment, or an installment thereon, that was imposed on such property remains in effect at the time the reimbursement is made or was foreclosed on the property. The amount to be distributed to the owners of each lot, tract, or parcel that is eligible for reimbursement shall be equal to the balance in the reserve fund, multiplied by the assessment imposed on the lot, tract, or parcel, divided by the total of all the assessments on the lots, tracts, or parcels eligible for reimbursement.

Passed the Senate April 18, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 341

[Senate Bill No. 5747]

### NONPROFIT HISTORIC PRESERVATION CORPORATIONS—REAL PROPERTY CONVEYANCES FOR CONSERVATION AND PRESERVATION

AN ACT Relating to historic preservation corporations; amending RCW 64.04.130, 84.34.210, and 84.34.220; and adding a new section to chapter 64.04 RCW.

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

Sec. 1. Section 1, chapter 21, Laws of 1979 ex. sess. and RCW 64.04-.130 are each amended to read as follows:

A development right, easement, covenant, restriction, or other right, or any interest less than the fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land, whether the right or interest be appurtenant or in gross, may be held or acquired by any state agency, federal agency, county, city, town, or metropolitan municipal corporation, nonprofit historic preservation corporation, or nonprofit nature conservancy corporation. Any such right or interest shall constitute and be classified as real property. All instruments for the conveyance thereof shall be substantially in the form required by law for the conveyance of any land or other real property.

As used in this section, "nonprofit nature conservancy corporation" means an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c)(3) (of the United States Internal Revenue Code of 1954, as amended) as it existed on June 25, 1976, and which has as one of its principal purposes the conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; or the conserving of natural areas including but not limited to wildlife or plant habitat.

As used in this section, "nonprofit historic preservation corporation" means an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended, and which has as one of its principal purposes the conducting or facilitating of historic preservation activities within the state, including conservation or preservation of historic sites, districts, buildings, and artifacts.

Sec. 2. Section 2, chapter 243, Laws of 1971 ex. sess. as amended by section 1, chapter 22, Laws of 1975-'76 2nd ex. sess. and RCW 84.34.210 are each amended to read as follows:

Any county, city, town, ((or)) metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may acquire by purchase, gift, grant, bequest, devise, lease, or otherwise, except by eminent domain, the fee simple or any lesser interest, development right, easement, covenant, or other contractual right necessary to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve, selected open space land, farm and agricultural land, and timber land as such are defined in chapter 84.34 RCW for public use or enjoyment. Among interests that may be so acquired are mineral rights. Any county, city, town, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may acquire such property for the purpose of conveying or leasing the property back to its original owner or other person under such

covenants or other contractual arrangements as will limit the future use of the property in accordance with the purposes of this 1971 amendatory act.

Sec. 3. Section 3, chapter 243, Laws of 1971 ex. sess. as amended by section 2, chapter 22, Laws of 1975-'76 2nd ex. sess. and RCW 84.34.220 are each amended to read as follows:

In accordance with the authority granted in RCW 84.34.210, a county, city, town, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may specifically purchase or otherwise acquire, except by eminent domain, rights in perpetuity to future development of any open space land, farm and agricultural land, and timber land which are so designated under the provisions of chapter 84.34 RCW and taxed at current use assessment as provided by that chapter. For the purposes of this 1971 amendatory act, such developmental rights shall be termed "conservation futures". The private owner may retain the right to continue any existing open space use of the land, and to develop any other open space use, but, under the terms of purchase of conservation futures, the county, city, town, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, may forbid or restrict building thereon, or may require that improvements cannot be made without county, city, town, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, permission. The land may be alienated or sold and used as formerly by the new owner, subject to the terms of the agreement made by the county, city, town, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association, as such are defined in RCW 84.34.250, with the original owner.

**NEW SECTION.** Sec. 4. A new section is added to chapter 64.04 RCW to read as follows:

The criteria for monitoring historical conformance shall not exceed those included in the original donation agreement, unless agreed to in writing between grantor and grantee.

Passed the Senate April 20, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 342

[Engrossed Senate Bill No. 5764]

## SUNRISE ACT—SUNRISE NOTES FOR PROPOSED BOARDS AND SPECIAL PURPOSE DISTRICTS

AN ACT Relating to the creation of new boards, commissions, and special purpose districts; adding a new chapter to Title 43 RCW; adding a new section 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. Because of the proliferation of boards and special purpose districts, the legislature recognizes the necessity of developing a uniform and coordinated procedure for determining the need for these new units of government.

**NEW SECTION.** Sec. 2. (1) For purposes of this chapter, "special purpose district" means any unit of local government other than a city, town, county, or school district.

(2) For purposes of this chapter, "board" means a board, commission, council, committee or task force.

**NEW SECTION.** Sec. 3. (1) The office of financial management and the department of community development shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of sunrise notes on the expected impact of bills and resolutions that authorize the creation of new boards and new types of special purpose districts.

**NEW SECTION.** Sec. 4. Sunrise notes shall include:

(1) The purpose and expected impact of the new board or special purpose district;

(2) The powers and duties of the new board or special purpose district;

(3) The direct or potential duplication of the powers and duties of existing boards or special purpose districts; and

(4) Other information relevant to the need for the new board or special purpose district.

**NEW SECTION.** Sec. 5. (1) The office of financial management shall prepare sunrise notes for legislation concerning the creation of new boards. The department of community development shall prepare sunrise notes for legislation creating new types of special purpose districts.

(2) A sunrise note shall be prepared for all executive and agency request legislation that creates a board or special purpose district.

(3) The office of financial management or the department of community development shall also provide a sunrise note at the request of any committee of the legislature.

**NEW SECTION.** Sec. 6. Sunrise notes shall be filed with:

- (1) The committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means or its successor;
- (3) The house of representatives committee on ways and means or its successor;
- (4) The senate governmental operations committee or its successor; and
- (5) The house of representatives state government committee or its successor.

**NEW SECTION.** Sec. 7. Legislative standing committees shall forward notification and the sunrise note, if available, to the senate or house of representatives ways and means committee and the senate governmental operations committee or the house of representatives state government committee whenever a bill providing for the creation of a new board or special purpose district is voted out of the standing committee.

**NEW SECTION.** Sec. 8. Nothing in this chapter prevents either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any sunrise note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature.

**NEW SECTION.** Sec. 9. This chapter shall be known as the Washington sunrise act.

**NEW SECTION.** Sec. 10. A new section is added to chapter 43.131 RCW to read as follows:

The Washington sunrise act, chapter 43.— RCW (sections 1 through 9 of this act), shall expire on June 30, 1992.

**NEW SECTION.** Sec. 11. Sections 1 through 9 of this act shall constitute a new chapter in Title 43 RCW.

Passed the Senate April 21, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

## CHAPTER 343

[Second Substitute Senate Bill No. 5993]

### DROUGHT OF 1987—WATER RIGHT EMERGENCY PROCEDURES

AN ACT Relating to water rights; amending RCW 43.83B.300, 43.83B.310, 43.83B.320, and 43.83B.210; amending section 303, chapter 6, Laws of 1985 ex. sess. as amended by section 302, chapter 312, Laws of 1986 (uncodified); adding new sections to chapter 43.83B RCW; adding a new section to chapter 75.20 RCW; adding a new section to chapter 86.16 RCW; adding a new section to chapter 90.58 RCW; and declaring an emergency.

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



Sec. 1. Section 1, chapter 1, Laws of 1977 ex. sess. as amended by section 1, chapter 263, Laws of 1979 ex. sess. and RCW 43.83B.300 are each amended to read as follows:

The legislature finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during ~~((the summer and fall of))~~ 1977 and during 1987.

The legislature further finds that there is a continuing agricultural water supply shortage in many areas of the state and that, in relation to the lessening of that unsatisfactory condition, there is an urgent need to both improve water supply facilities and replace other such facilities.

In order to provide needed capital for the planning, acquisition, construction, and improvement of water supply facilities to withdraw and distribute water to alleviate unsatisfactory water supply conditions arising from droughts occurring from time to time in the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43.83B.375 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

Sec. 2. Section 3, chapter 1, Laws of 1977 ex. sess. and RCW 43.83B-.310 are each amended to read as follows:

In addition to the powers previously vested in the department of ecology to permit the withdrawal of public surface and ground waters by chapters 90.03 and 90.44 RCW, the department of ecology is authorized to permit withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, for any period ending not later than ~~((September 30, 1977))~~ October 31, 1987, for any beneficial use. The department may issue such emergency permits if, after investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(1) The waters proposed for withdrawal are to be used in relation to beneficial use involving a previously established activity or purpose; and

(2) The previously established activity or purpose was furnished water through rights applicable to the use of a public water body which are not exercisable due to the lack of water arising from natural drought conditions; and

(3) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (a) to assure the maintenance of fisheries requirements, and (b) to protect federal and state interests including, among others, power generation, navigation, and existing water rights.

All permits issued hereunder shall contain provisions which allow for termination of authorized withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in subsection (3) of this section.

Sec. 3. Section 5, chapter 1, Laws of 1977 ex. sess. and RCW 43.83B-.320 are each amended to read as follows:

~~((+))~~ As to projects and water withdrawal permits issued or authorized or both under RCW 43.83B.310 and 43.83B.315, the requirements of chapter 43.21C RCW ~~((and all local zoning ordinances, plans, and local building and construction permit ordinances))~~ and public bidding requirements as otherwise provided by law are waived and inapplicable. ~~((Notwithstanding any other provisions of law, water projects and related withdrawal permits, authorized or issued pursuant to RCW 43.83B.310 or 43.83B.315 shall not be subject to any public notice requirements. Permits issued under RCW 43.83B.310 and 43.83B.315 shall be in lieu of all environmental protection and natural resource regulation permits, certificates, and other approvals and authorization documents required under state statutes including, but not limited to, RCW 90.58.140, 75.20.100, and 86.16-.080, as well as all other similar permits required under local ordinances.))~~ Notwithstanding any statutory provisions to the contrary, all state and local agencies with authority to issue permits or other authorizations for such projects shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands which are required to be used in carrying out projects related to water withdrawal permits, issued pursuant to RCW 43.83B.310 and 43.83B.315, shall provide short term easements or other appropriate property interests upon the payment of the fair market value: PROVIDED, That this mandate shall not apply to any lands of the state which are reserved for a special purpose or use which cannot properly be carried out if such a property interest were to be conveyed.

~~((2))~~ Upon request of the department of ecology or the department of social and health services, the department of general administration may waive any public bidding requirements otherwise provided by law, for any project authorized by RCW 43.83B.310 or 43.83B.315 and financed with funds appropriated in RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210 if the department of general administration determines that (a) an emergency condition exists, and (b) if the request for a waiver is not approved the public interest will be significantly affected in a detrimental

~~manner. The department of general administration shall rule upon requests for waiver submitted to it within five working days. If the department fails to rule within said five-day period the request shall be deemed approved and a waiver deemed to be granted. The department of general administration, after obtaining the views of the department of ecology and the department of social and health services, shall adopt rules to implement this section. Notwithstanding any other provision of RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210, this subsection shall terminate on September 30, 1977.)~~

Sec. 4. Section 3, chapter 295, Laws of 1975 1st ex. sess. as last amended by section 11, chapter 1, Laws of 1977 ex. sess. and RCW 43.83B.210 are each amended to read as follows:

The department of ecology is authorized to make loans or grants or combinations thereof to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands or, when required because of emergency drought conditions, to provide water to previously irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project costs for any single proposed project: PROVIDED, That for ((projects)) purposes authorized by RCW 43.83B.300, 43.83B.310, and 43.83B.385 the department of ecology may make a loan up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost and the grant portion for any single project shall not exceed fifteen percent of the total single project cost. Any grant or grant portion of a combination loan and grant for any single proposed project shall not exceed fifteen percent of the eligible project costs: PROVIDED, That the fifteen percent limitation established herein shall not be applicable to project commitments which the director or deputy director of the state department of ecology made to the bureau of reclamation of the United States department of interior for providing state funding at thirty-five percent of project costs during the period between August 1, 1974, and June 30, 1975.

The department of social and health services is authorized to make grants of up to forty percent of the cost of construction of any eligible project necessitated by the 1977 drought conditions. Such grants may be made only to public bodies as defined in RCW 43.83B.050 for municipal and industrial water supply and distribution facilities.

NEW SECTION. Sec. 5. A new section is added to chapter 90.58 RCW to read as follows:

All state and local agencies with authority under this chapter to issue permits or other authorizations for emergency water withdrawal and facilities pursuant to RCW 43.83B.300 through 43.83B.345 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

NEW SECTION. Sec. 6. A new section is added to chapter 75.20 RCW to read as follows:

All state and local agencies with authority under this chapter to issue permits or other authorizations for emergency water withdrawal and facilities pursuant to RCW 43.83B.300 through 43.83B.345 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

NEW SECTION. Sec. 7. A new section is added to chapter 86.16 RCW to read as follows:

All state and local agencies with authority under this chapter to issue permits or other authorizations for emergency water withdrawal and facilities pursuant to RCW 43.83B.300 through 43.83B.345 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

NEW SECTION. Sec. 8. A new section is added to chapter 43.83B RCW to read as follows:

The department of ecology is authorized to expend funds from the emergency water supply appropriations for necessary drought-related equipment and to employ a maximum of two and one-half full-time equivalent staff positions until October 31, 1987, for the purpose of planning and administering drought relief activities.

NEW SECTION. Sec. 9. A new section is added to chapter 43.83B RCW to read as follows:

For a limited period of time ending October 31, 1987, a water right may be temporarily changed in purpose or place of use or point of diversion consistent with existing state policy allowing transfer or lease of waters between willing parties as provided for in RCW 90.03.380, 90.03.390, and 90.44.100 without complying with any requirements of (1) notice of newspaper publication or (2) the state environmental policy act, chapter 43.21C RCW, when such changes are necessary to respond to emergency water supply conditions as determined by the department of ecology. The temporary changing of a water right as authorized under this section shall not be admissible as evidence in either the supporting or the contesting of the validity of water claims in State of Washington, Department of Ecology v.

Acquavella, or any similar proceeding where the existence of a water right is at issue.

Sec. 10. Section 303, chapter 6, Laws of 1985 ex. sess. as amended by section 302, chapter 312, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

	FY 1986	FY 1987
General Fund Appropriation—State . . . . .	\$ 20,873,000	22,136,000
General Fund Appropriation—Federal . . . . .	\$ 10,122,000	10,128,000
General Fund Appropriation—		
Private/Local . . . . .	\$ 64,000	460,000
General Fund—Hazardous Waste Control and Elimination Account Appropriation . . . . .	\$ 1,154,000	1,158,000
General Fund—Flood Control Account Appropriation . . . . .	\$ 2,000,000	2,000,000
General Fund—Special Grass Seed Burning Account Appropriation . . . . .	\$ 35,000	35,000
General Fund—Reclamation Revolving Account Appropriation . . . . .	\$ 561,000	562,000
General Fund—Emergency Water Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess. . . . .	\$ 311,000	335,000
General Fund—Emergency Water Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess:		
Reappropriation . . . . .	\$ 3,000,000	3,570,000
Water Project Revolving Account Subtotal . . . . .	\$ 3,311,000	3,905,000
General Fund—Litter Control Account Appropriation . . . . .	\$ 2,356,000	2,929,000
General Fund—State and Local Improvements Revolving Account—Waste Disposal Facilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26) . . . . .	\$ 363,000	373,000
General Fund—State and Local Improvements Revolving Account—Waste Disposal Facilities: Appropriated pursuant to chapter 127, Laws		

of 1972 ex. sess. (Referendum 26):		
Reappropriation . . . . .	\$ 20,000,000	26,278,000
Referendum 26 Subtotal . . . . .	\$ 20,363,000	26,651,000
General Fund—State and Local Im-		
provements Revolving Account—		
Waste Disposal Facilities 1980: Ap-		
propriated pursuant to chapter 159,		
Laws of 1980 (Referendum 39) . . . . .	\$ 39,346,000	39,441,000
General Fund—State and Local Im-		
provements Revolving Account—		
Waste Disposal Facilities 1980: Ap-		
propriated pursuant to chapter 159,		
Laws of 1980 (Referendum 39): Re-		
appropriation . . . . .	\$ 130,000,000	127,400,000
Referendum 39 Subtotal . . . . .	\$ 169,346,000	166,841,000
General Fund—State and Local Im-		
provements Revolving Account—		
Water Supply Facilities . . . . .	\$ 3,354,000	3,412,000
General Fund—State and Local Im-		
provements Revolving Account—		
Water Supply Facilities: Reappropri-		
ation . . . . .	\$ 18,000,000	18,043,000
Water Supply Subtotal . . . . .	\$ 21,354,000	21,455,000
Stream Gaging Basic Data Fund Appro-		
riation . . . . .	\$ 100,000	100,000
Total Appropriation . . . . .	\$509,999,000	

The appropriations in this section are subject to the following conditions and limitations:

(1) On or before October 1, 1985, the department of ecology shall file with the committees on ways and means of the senate and house of representatives and the office of financial management a master compilation by project type of those projects proposed for funding during the 1985–87 biennium from the appropriations for waste disposal facilities and water supply facilities. A separate compilation shall be supplied for each bond proceed account. The department shall submit updates for the master compilation to the committees on ways and means and the office of financial management at six-month intervals during the 1985–87 biennium. The updates shall reflect project completions, deletions, substitutions, or additions made during the course of administering the projects. If the department proposes to change or modify any project list on the master compilation, it shall give the committees on ways and means and the office of financial management thirty days' written notice of the change or modification prior

to the expenditure or obligation of any funds appropriated by this section. The department shall immediately inform the committees and the office of financial management of significant changes from historic federal funding levels for waste disposal facilities and water supply facilities. If the department does not comply fully and in a timely manner with the several compilations, updates, and modification reports required by this subsection, the director of financial management is authorized to place in reserve the second year funds allotted to the department until such time as the documents are produced and distributed as directed by this subsection.

(2) The appropriation from the state and local improvements revolving account—water supply facilities (Referendum 27) may be expended to pay up to 50% of the eligible cost of any project as a grant or loan or combination thereof. Also, the department may lend up to 100% of the eligible costs of preconstruction activities and the department may provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(3) The appropriation from the state and local improvements revolving account—waste disposal facilities (Referendum 26) may be expended by the department to pay for up to 50% of the eligible cost of any project as a grant or up to 100% as a loan or combination thereof, for waste water treatment or disposal, agricultural pollution, lake rehabilitation, or solid waste management facilities. The department is authorized to provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(4) The appropriation from the state and local improvements revolving account—waste disposal facilities 1980 (Referendum 39) may be expended by the department to pay up to 75% of the eligible cost of any project as a grant or up to 100% as a loan, or combination thereof, for waste water treatment or disposal, agricultural pollution, lake rehabilitation, or solid waste management facilities. The department is authorized to provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(5) The department may operate, and seek and accept grants or gifts for the purpose of operating and maintaining, the Padilla Bay estuarine sanctuary and interpretive center.

(6) Not more than \$10,545,000 of the general fund—state appropriation for fiscal year 1986 and \$11,302,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the hazardous waste and air quality program.

(7) Not more than \$3,919,000 of the general fund—state appropriation for fiscal year 1986 and \$4,361,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the water and land resources program including but not limited to:

(a) Public water supply reservation;

- (b) Well drilling enforcement;
- (c) Ground/surface water data collection;
- (d) State-wide groundwater planning;
- (e) Increased shoreline management grants to local governments; and
- (f) Shoreline management support.

(8) Not more than \$2,155,000 of the general fund—state appropriation for fiscal year 1986 and \$2,178,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the water quality program including but not limited to:

- (a) Groundwater management and investigation;
- (b) Groundwater technical assistance; and
- (c) Municipal water management.

(9) \$985,000 of the general fund—state appropriation is provided for grants to activated air pollution control authorities.

(10) \$200,000 of the general fund—state appropriation is provided solely as a loan for the hazardous substances information and education program. At the close of the 1985-87 biennium, the state treasurer shall transfer \$200,000 from the worker and community right to know fund to the general fund. If House Bill No. 865 is not enacted before July 1, 1985, the general fund amount provided in this subsection shall revert and the transfer from the worker and community right to know fund shall not occur.

(11) \$354,000 of the general fund—state appropriation is provided solely for the department to develop a state hazardous waste management plan, including criteria for the siting of hazardous waste management facilities.

(12) For the purpose of implementing the requirements of a shellfish protection program, including a pilot program for the prevention of non-point source pollution of important shellfish resource areas, the department of ecology shall expend up to a maximum of \$300,000 for:

(a) The development of regulations designating priority shellfish protection resource areas;

(b) Contracts with local governments and conservation districts to develop plans, educational programs, and other activities to clean up and protect shellfish resource areas; and

(c) Washington conservation corps activities and other programs to assist land owners in eliminating animal waste related pollution.

(13) The office of financial management is authorized to allow the department to deviate from the annual allocation of moneys provided in this section. This authorization pertains only to moneys appropriated and reappropriated for construction grants and hazardous waste remedial action construction contracts.

(14) \$470,000 of the general fund—state appropriation and \$396,000 of the general fund—local appropriation are provided solely to implement either Senate Bill No. 4876 or House Bill No. 1655 on low-level



radioactive waste. If neither Senate Bill No. 4876 nor House Bill No. 1655 is enacted by July 1, 1986, the amounts provided by this subsection shall lapse.

(15) \$57,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 69 (chapter 426, Laws of 1985), dealing with the development of guidelines and standards for the establishment of solid waste trust funds.

(16) \$52,000 of the general fund—state appropriation is provided solely to implement House Bill No. 974 (chapter 456, Laws of 1985), dealing with acid rain assessment.

(17) \$45,000 of the general fund—state appropriation is provided solely for water quality laboratory analysis.

(18) \$59,000 of the general fund—state appropriation is provided solely for the conduct of civil and criminal investigations of violations of environmental statutes.

(19) Not more than \$15,000 from the general fund—reclamation revolving account appropriation shall be paid to Cowlitz county as reimbursement for prior contributions of the flood control district to the account.

(20) Not more than \$150,000 from the general fund—private/local appropriation may be expended by the department to perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility. The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986.

(21) Of the funds appropriated to the department of ecology from the emergency water projects revolving account (emergency water supply), up to four million dollars may be expended by the department to provide needed capital for the planning, acquisition, construction, and improvement of water supply facilities to withdraw and distribute ground and surface water to previously irrigated lands to alleviate the emergency water supply conditions which may arise in 1987.

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. 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 18, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

---

## CHAPTER 344

[Engrossed Substitute Senate Bill No. 5502]

### MOTOR VEHICLE WARRANTIES

AN ACT Relating to new motor vehicle warranties; amending RCW 19.118.050; adding new sections to chapter 19.118 RCW; adding a new section to chapter 82.32 RCW; creating new sections; repealing RCW 19.118.020, 19.118.030, 19.118.040, and 19.118.060; prescribing penalties; making an appropriation; providing effective dates; providing an expiration date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature recognizes that a new motor vehicle is a major consumer purchase and that a defective motor vehicle is likely to create hardship for, or may cause injury to, the consumer. The legislature further recognizes that good cooperation and communication between a manufacturer and a new motor vehicle dealer will considerably increase the likelihood that a new motor vehicle will be repaired within a reasonable number of attempts.

It is the intent of the legislature to ensure that the consumer is made aware of his or her rights under this chapter and is not refused information, documents, or service that would otherwise obstruct the exercise of his or her rights.

In enacting these comprehensive measures, it is the intent of the legislature to create the proper blend of private and public remedies necessary to enforce this chapter, such that a manufacturer will be sufficiently induced to take necessary steps to improve quality control at the time of production or provide better warranty service for the new motor vehicles that it sells in this state.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any sales-related charges including but not limited to sales tax, arbitration service fees, license fees, registration fees, title fees, finance charges, insurance costs, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers.

(8) "New motor vehicle" means any new self-propelled vehicle primarily designed for the transportation of persons or property over the public highways that was leased or purchased in this state and registered in this state, but does not include vehicles purchased or leased by a business as part of a fleet of ten or more vehicles. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include motorcycles or trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

(9) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed as a dealer by the state of Washington.

(10) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

(11) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract, including any allowance for a trade-in vehicle.

(12) "Reasonable offset for use" means an amount directly attributable to use by the consumer before repurchase or replacement by the manufacturer. The reasonable offset for use shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by one hundred thousand.

(13) "Reasonable number of attempts" means the definition provided in section 4 of this act.

(14) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of purchase.

(15) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

(16) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

(17) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the warranty period as defined under this section.

(18) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand miles of operation, whichever occurs first.

**NEW SECTION.** Sec. 3. (1) Each new motor vehicle dealer shall provide an owner's manual which shall be published by the manufacturer and include a list of the addresses and phone numbers for its zone or regional offices for this state.

(2) At the time of purchase, the new motor vehicle dealer shall provide the consumer with a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared and supplied by the attorney general and shall contain a toll-free number that the consumer can contact for information regarding the procedures and remedies under this chapter.

(3) For the purposes of this chapter, if a new motor vehicle does not conform to the warranty and the consumer reports the nonconformity during the term of the warranty period or the period of coverage of the applicable manufacturer's written warranty, whichever is less, to the

manufacturer, its agent, or the new motor vehicle dealer who sold the new motor vehicle, the manufacturer, its agent, or the new motor vehicle dealer shall make repairs as are necessary to conform the vehicle to the warranty, regardless of whether such repairs are made after the expiration of the warranty period. Any corrections or attempted repairs undertaken by a new motor vehicle dealer under this chapter shall be treated as warranty work and billed by the dealer to the manufacturer in the same manner as other work under the manufacturer's written warranty is billed. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(4) Upon request from the consumer, the manufacturer or new motor vehicle dealer shall provide a copy of any report or computer reading compiled by the manufacturer's field or zone representative regarding inspection, diagnosis, or test-drive of the consumer's new motor vehicle, or shall provide a copy of any technical service bulletin issued by the manufacturer regarding the year and model of the consumer's new motor vehicle as it pertains to any material, feature, component, or the performance thereof.

(5) The new motor vehicle dealer shall provide to the consumer each time the consumer's vehicle is returned from being diagnosed or repaired under the warranty, a fully itemized, legible statement or repair order indicating any diagnosis made, and all work performed on the vehicle including but not limited to, a general description of the problem reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the vehicle was submitted for repair, and the date when the vehicle was made available to the consumer.

(6) No manufacturer, its agent, or the new motor vehicle dealer may refuse to diagnose or repair any nonconformity covered by the warranty for the purpose of avoiding liability under this chapter.

(7) For purposes of this chapter, consumers shall have the rights and remedies, including a cause of action, against manufacturers as provided in this chapter.

(8) The warranty period and thirty-day out-of-service period shall be extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood, or other natural disaster.

**NEW SECTION.** Sec. 4. (1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request shall, at the option of the consumer, replace or repurchase the new motor vehicle.

The replacement motor vehicle shall be identical or reasonably equivalent to the motor vehicle to be replaced. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. Refunds shall be made to the consumer and lienholder of record, if any, as his or her interests may appear.

(2) Reasonable number of attempts shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period, if: (a) The same serious safety defect has been subject to repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(3) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter, but may pursue rights and remedies in other proceedings in accordance with the manufacturer-dealer franchise agreement. Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter.

**NEW SECTION.** Sec. 5. (1) A manufacturer shall be prohibited from reselling any motor vehicle determined or adjudicated as having a serious safety defect unless the serious safety defect has been corrected and the manufacturer warrants upon the resale that the defect has been corrected.

(2) After the replacement or repurchase of a motor vehicle with a nonconformity uncorrected pursuant to this chapter, the manufacturer shall notify the attorney general and the department of licensing, by certified

mail, upon receipt of the manufacturer's motor vehicle. If such nonconformity is corrected, the manufacturer shall notify the attorney general and the department of licensing of such correction.

(3) Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle with an uncorrected nonconformity and which was previously returned after a final determination, adjudication, or settlement under this chapter or under a similar statute of any other state, the manufacturer, its agent, or the new motor vehicle dealer shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity in a manner to be specified by the attorney general, and the department of licensing shall place on the certificate of title information indicating the vehicle was returned under this chapter.

(4) Upon receipt of the manufacturer's notification under subsection (2) of this section that the nonconformity has been corrected and upon the manufacturer's request and payment of any fees, the department of licensing shall issue a new title with information indicating the vehicle was returned under this chapter and that the nonconformity has been corrected. Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle for which a new title has been issued under this subsection, the manufacturer shall warrant upon the resale that the nonconformity has been corrected, and the manufacturer, its agent, or the new motor vehicle dealer shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity and indicating that it has been corrected in a manner to be specified by the attorney general.

**NEW SECTION.** Sec. 6. (1) Except as provided in section 15 of this act, the attorney general shall contract with one or more private entities to establish new motor vehicle arbitration boards to settle disputes between consumers and manufacturers as provided in this chapter. The entities shall not be affiliated with any manufacturer or new motor vehicle dealer and shall have available the services of persons with automotive technical expertise to assist in resolving disputes under this chapter. Payment to the entities for the arbitration services shall be made from the new motor vehicle arbitration account.

(2) The attorney general shall adopt rules for the uniform conduct of the arbitrations by the boards, which rules shall include but not be limited to the following procedures:

(a) At all arbitration proceedings, the parties are entitled to present oral and written testimony, to present witnesses and evidence relevant to the dispute, to cross-examine witnesses, and to be represented by counsel.

(b) A dealer, or a manufacturer or other party shall produce records and documents requested by a party which the board finds are reasonably related to the dispute. If a dealer, or a manufacturer or other party refuses to comply with the board's determination, a party may request the attorney

general to issue a subpoena on behalf of the board. A party may also request the attorney general to issue a subpoena on behalf of the board for the records and documents of other persons.

(c) A party may obtain written affidavits from employees and agents of a dealer, a manufacturer or other party, or from other potential witnesses, and may submit such affidavits for consideration by the board.

(d) Records of the board proceedings shall be open to the public. The hearings shall be open to the public to the extent practicable.

(3) A consumer shall exhaust the new motor vehicle arbitration board remedy or informal dispute resolution settlement procedure under section 14 of this act before filing any superior court action.

(4) The attorney general shall maintain records of each dispute submitted to the new motor vehicle arbitration board, including an index of new motor vehicles by year, make, and model.

(5) The attorney general shall compile aggregate annual statistics for all disputes submitted to, and decided by, the new motor vehicle arbitration board, as well as annual statistics for each manufacturer that include, but shall not be limited to, the number and percent of: (a) Replacement motor vehicle requests; (b) purchase price refund requests; (c) replacement motor vehicles obtained in prehearing settlements; (d) purchase price refunds obtained in prehearing settlements; (e) replacement motor vehicles awarded in arbitration; (f) purchase price refunds awarded in arbitration; (g) board decisions neither complied with during the forty calendar day period nor petitioned for appeal within the thirty calendar day period; (h) board decisions appealed categorized by consumer or manufacturer; (i) the nature of the court decisions and who the prevailing party was; (j) appeals that were held by the court to be brought without good cause; and (k) appeals that were held by the court to be brought solely for the purpose of harassment. The statistical compilations shall be public information.

(6) The attorney general shall submit biennial reports of the information in this section to the senate and house of representatives committees on commerce and labor, with the first report due January 1, 1990.

(7) The attorney general shall adopt rules to implement this chapter. Such rules shall include uniform standards by which the boards shall make determinations under this chapter, including but not limited to rules which provide:

(a) A board shall find that a nonconformity exists if it determines that the consumer's new motor vehicle has a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of the vehicle.

(b) A board shall find that a reasonable number of attempts to repair a nonconformity have been undertaken if: (i) The same serious safety defect has been subject to repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty; (ii) the same nonconformity has been subject to diagnosis or repair four or



more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (iii) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(c) A board shall find that a manufacturer has failed to comply with section 4 of this act if it finds that the manufacturer, its agent, or the new motor vehicle dealer has failed to correct a nonconformity after a reasonable number of attempts and the manufacturer has failed, within forty days of the consumer's written request, to repurchase the vehicle or replace the vehicle with a vehicle identical or reasonably equivalent to the vehicle being replaced.

(8) The attorney general shall provide consumers with information regarding the procedures and remedies under this chapter.

**NEW SECTION.** Sec. 7. (1) A consumer may request arbitration under this chapter by submitting the request to the attorney general. Within ten days after receipt of an arbitration request, the attorney general shall make a reasonable determination of the cause of the request for arbitration and provide necessary information to the consumer regarding the consumer's rights and remedies under this chapter. The attorney general shall assign the dispute to a board, except that if it clearly appears from the materials submitted by the consumer that the dispute is not eligible for arbitration, the attorney general may refuse to assign the dispute and shall explain any required procedures to the consumer.

(2) Manufacturers shall submit to arbitration if such arbitration is requested by the consumer within thirty months from the date of original delivery of the new motor vehicle to the consumer and if the consumer's dispute is deemed eligible for arbitration by the board.

(3) The new motor vehicle arbitration board may reject for arbitration any dispute that it determines to be frivolous, fraudulent, filed in bad faith, res judicata or beyond its authority. Any dispute deemed by the board to be ineligible for arbitration due to insufficient evidence may be reconsidered by the board upon the submission of other information or documents regarding the dispute that would allegedly qualify for relief under this chapter. Following a second review, the board may reject the dispute for arbitration if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. A rejection by the board is subject to review by the attorney general or may be appealed under section 8 of this act.

A decision to reject any dispute for arbitration shall be sent by certified mail to the consumer and the manufacturer, and shall contain a brief explanation as to the reason therefor.

(4) The arbitration board shall award the remedies under section 4 of this act if it finds a nonconformity and that a reasonable number of attempts have been undertaken to correct the nonconformity.

(5) It is an affirmative defense to any claim under this chapter that: (a) The alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle; or (b) the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

(6) The board shall have thirty calendar days from the date the board receives the consumer's request for arbitration to hear the dispute. If the board determines that additional information is necessary, the board may continue the arbitration proceeding on a subsequent date within ten calendar days of the initial hearing. The board shall decide the dispute within sixty calendar days from the date the board receives the consumer's request for arbitration.

The decision of the board shall be sent by certified mail to the consumer and the manufacturer, and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter.

(7) The consumer may accept the arbitration board decision or appeal to superior court, pursuant to section 8 of this act. Upon acceptance by the consumer, the arbitration board decision shall become final. The consumer shall send written notification of acceptance to the arbitration board who shall immediately send a copy of the consumer's acceptance to the manufacturer by certified mail, return receipt requested.

(8) Upon receipt of the consumer's acceptance, the manufacturer shall have forty calendar days to comply with the arbitration board decision or thirty calendar days to file a petition of appeal in superior court. At the time the petition of appeal is filed, the manufacturer shall send, by certified mail, a conformed copy of such petition to the attorney general. If the attorney general receives no notice of petition of appeal after forty calendar days, the attorney general shall contact the consumer to verify compliance.

(9) If, at the end of the forty calendar day period, neither compliance with, nor a petition to appeal the board's decision has occurred, the attorney general may impose a fine of one thousand dollars per day until compliance occurs or a maximum penalty of one hundred thousand dollars accrues unless the manufacturer can provide clear and convincing evidence that any delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the attorney general shall initiate proceedings against the manufacturer for failure to

pay any fine that accrues until compliance with the board's decision occurs or the maximum penalty of one hundred thousand dollars results.

**NEW SECTION.** Sec. 8. (1) The consumer or the manufacturer may request a trial de novo of the arbitration decision, including a rejection, in superior court.

(2) If the manufacturer appeals, the court may require the manufacturer to post security for the consumer's financial loss due to the passage of time for review.

(3) If the consumer prevails, recovery shall include the monetary value of the award, attorneys' fees and costs incurred in the superior court action, and, if the board awarded the consumer replacement or repurchase of the vehicle and the manufacturer did not comply, continuing damages in the amount of twenty-five dollars per day for all days beyond the forty calendar day period following the manufacturer's receipt of the consumer's acceptance of the board's decision in which the manufacturer did not provide the consumer with the free use of a comparable loaner replacement motor vehicle. If it is determined by the court that the manufacturer acted without good cause in bringing the appeal or brought the appeal solely for the purpose of harassment, the court may triple, but at least shall double, the amount of the total award.

**NEW SECTION.** Sec. 9. A five-dollar arbitration fee shall be collected by the new motor vehicle dealer from the consumer at completion of sale. The fee shall be forwarded to the department of licensing for deposit in the new motor vehicle arbitration account hereby created in the state treasury. Moneys in the account shall be used for the purposes of this chapter, subject to appropriation.

At the end of each fiscal year, the attorney general shall prepare a report listing the annual revenue generated and the expenses incurred in implementing and operating the arbitration program under this chapter.

**NEW SECTION.** Sec. 10. A violation of this chapter shall constitute an unfair or deceptive trade practice affecting the public interest under chapter 19.86 RCW. All public and private remedies provided under that chapter shall be available to enforce this chapter.

**NEW SECTION.** Sec. 11. Any agreement entered into by a consumer for the purchase of a new motor vehicle that waives, limits, or disclaims the rights set forth in sections 2 through 12 of this act shall be void as contrary to public policy. Said rights shall extend to a subsequent transferee of such new motor vehicle.

**NEW SECTION.** Sec. 12. Nothing in this chapter limits the consumer from pursuing other rights or remedies under any other law.

Sec. 13. Section 5, chapter 240, Laws of 1983 and RCW 19.118.050 are each amended to read as follows:

It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if during the term of such express warranties or during the period of one year following the date of original delivery of the motor vehicle to a buyer: (1) The same nonconformity has been subject to diagnosis or repair four or more times by the manufacturer or its agents; ((or)) (2) ((the vehicle is out of service by reason of repair for a cumulative total of more than thirty days since the delivery of the vehicle to the buyer)) a serious safety defect has been subject to repair two or more times, and the defect continues to exist; or (3) the new motor vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days. The thirty-day period includes each calendar day or portion thereof during which the service shop is open for business, but does not include periods during which repairs cannot be made due to ~~((conditions beyond the control of the service facility and does not include periods during which the buyer has been provided with a comparable replacement vehicle by the dealer or manufacturer))~~ reasons specified in section 3(8) of this 1987 act.

This section shall expire December 31, 1988.

**NEW SECTION.** Sec. 14. (1) If a manufacturer has established an informal dispute resolution settlement procedure which substantially complies with the applicable provision of Title 15, Code of Federal Regulations Part 703, as from time to time amended, a consumer may choose to first submit a dispute under this chapter to the informal dispute resolution settlement procedure.

(2) After the new motor vehicle arbitration board has been established and is operational and until December 31, 1988, consumers who have a pending case in the informal dispute resolution settlement procedure in this section may choose to transfer the case to be heard before the new motor vehicle arbitration board.

**NEW SECTION.** Sec. 15. If the attorney general is unable, or will be unable, to contract with private entities to conduct arbitrations under the procedures and standards in this chapter, by January 1, 1988, the attorney general shall establish one or more new motor vehicle arbitration boards. Each such board shall consist of three members appointed by the attorney general, only one of whom may be directly involved in the manufacture, distribution, sale, or service of any motor vehicle. Board members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to RCW 43.03.240.

**NEW SECTION.** Sec. 16. A new section is added to chapter 82.32 RCW to read as follows:

If a manufacturer makes a refund of sales tax to a consumer upon return of a new motor vehicle under chapter 19.118 RCW, the department

shall credit or refund to the manufacturer the amount of the tax refunded, upon receipt of documentation as required by the department.

**NEW SECTION.** Sec. 17. Sections 2 through 12, 14, and 15 of this act are each added to chapter 19.118 RCW.

**NEW SECTION.** Sec. 18. By January 1, 1990, the appropriate standing committees of the house of representatives and the senate shall review sections 2 through 12 and 14 through 16 of this act. The committees shall receive input from consumers, manufacturers, dealers, private entities who have established boards, board members, the attorney general, and other interested persons and shall consider, among other issues, the effectiveness of the remedies available to consumers and the role of the attorney general.

**NEW SECTION.** Sec. 19. Sections 2 through 12 and 14 through 16 of this act shall expire on June 30, 1992, unless extended for an additional fixed period of time. By January 1, 1992, the legislative budget committee shall conduct a review of such provisions under the standards in chapter 43.131 RCW and report to the legislature.

**NEW SECTION.** Sec. 20. (1) There is appropriated from the new motor vehicle arbitration account to the attorney general for the biennium ending June 30, 1989, the sum of two million dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

(2) Before January 1, 1988, the attorney general may expend funds appropriated under this section to establish the new motor vehicle arbitration boards.

**NEW SECTION.** Sec. 21. The following acts or parts of acts are each repealed effective January 1, 1988:

- (1) Section 2, chapter 240, Laws of 1983 and RCW 19.118.020;
- (2) Section 3, chapter 240, Laws of 1983, section 1, chapter 148, Laws of 1984 and RCW 19.118.030;
- (3) Section 4, chapter 240, Laws of 1983, section 2, chapter 148, Laws of 1984 and RCW 19.118.040; and
- (4) Section 6, chapter 240, Laws of 1983 and RCW 19.118.060.

**NEW SECTION.** Sec. 22. (1) Section 9 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1987.

(2) Sections 2 through 8, 10 through 12, and 14 through 16 of this act shall take effect January 1, 1988, except that the attorney general may take such actions as are necessary to ensure the new motor vehicle arbitration boards are established and operational.

**NEW SECTION.** Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

---

## CHAPTER 345

[Substitute Senate Bill No. 5061]

### TRAFFIC INFRACTIONS—FAILURE TO COMPLY WITH TRAFFIC LAWS— NONRESIDENTS MAY BE REQUIRED TO POST BONDS

AN ACT Relating to failure to comply with traffic infraction laws; amending RCW 46.64.020 and 46.64.015; adding a new section to chapter 46.64 RCW; and prescribing penalties.

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

Sec. 1. Section 46.64.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 213, Laws of 1986 and RCW 46.64.020 are each amended to read as follows:

(1) Any person wilfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of traffic infraction, as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel: PROVIDED FURTHER, That a person charged under RCW 46.20.021 with driving with an expired driver's license may respond by mailing to the court within fifteen days of the violation, a copy of the person's currently valid driver's license. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who wilfully fails to respond as provided in this title is guilty of a misdemeanor regardless of the disposition of the notice of infraction.

(2) Any person who accumulates two or more charges of failure to appear on his or her driving record in any four-year period as a result of non-compliance with the traffic infraction laws shall be guilty of failure to comply, a gross misdemeanor.

The arresting officer may determine probable cause for arrest under this subsection by verification of the person's driving record obtained from the department of licensing.

Sec. 2. Section 46.64.015, chapter 12, Laws of 1961 as last amended by section 11, chapter 303, Laws of 1985 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 or her 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 or her 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, and if the arrested person is a nonresident of the state, shall also post a bond, cash security, or bail as required under section 3 of this 1987 act. 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 or her 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(3), as now or hereafter amended;

(3) When the arrested person is a nonresident and is being detained for a hearing under section 3 of this 1987 act.

**NEW SECTION.** Sec. 3. A new section is added to chapter 46.64 RCW to read as follows:

Any nonresident of the state of Washington who is issued a notice of infraction or a citation for a traffic offense may be required to post either a bond or cash security in the amount of the infraction penalty or to post bail. The court shall by January 1, 1990, accept, in lieu of bond or cash security, valid major credit cards issued by a bank or other financial institution or automobile club card guaranteed by an insurance company licensed to conduct business in the state. If payment is made by credit card the court is authorized to impose, in addition to any penalty or fine, an amount equal to the charge to the court for accepting such cards. If the person cannot post the bond, cash security, or bail, he or she shall be taken to a magistrate or judge for a hearing at the first possible working time of the court. If the

person refuses to comply with this section, he or she shall be guilty of a misdemeanor. This section does not apply to residents of states that have entered into a reciprocal agreement as outlined in RCW 46.23.020.

Passed the Senate April 23, 1987.

Passed the House April 21, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 346

[Substitute House Bill No. 614]

### ABSENTEE VOTING

AN ACT Relating to absentee voting; amending RCW 29.36.010, 29.36.013, 29.36.030, 29.36.050, 29.36.060, 29.36.070, 29.36.075, 29.36.097, 29.36.100, 29.36.150, 29.36.160, and 29.62.020; adding new sections to chapter 29.01 RCW; adding a new section to chapter 29.36 RCW; creating new sections; repealing RCW 29.36.020, 29.36.040, 29.36.065, 29.36.077, 29.36.095, 29.36.110, 29.39.010, 29.39.020, 29.39.030, 29.39.040, 29.39.050, 29.39.060, 29.39.070, 29.39.080, 29.39.090, 29.39.100, 29.39.110, 29.39.120, 29.39.130, 29.39.140, 29.39.150, 29.39.160, 29.39.170, 29.39.180, 29.39.190, 29.39.200, 29.39.210, and 29.39.900; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. By this act the legislature intends to combine and unify the laws and procedures governing absentee voting. These amendments are intended: (1) To clarify and incorporate into a single chapter of the Revised Code of Washington the preexisting statutes under which electors of this state qualify for absentee ballots under state law, federal law, or a combination of both state and federal law, and (2) to insure uniformity in the application, issuance, receipt, and canvassing of these absentee ballots. Nothing in this act is intended to impose any new requirement on the ability of the registered voters or electors of this state to qualify for, receive, or cast absentee ballots in any primary or election.

**NEW SECTION.** Sec. 2. "ELECTOR" DEFINED. "Elector" means any person who possesses all of the qualifications to vote under Article VI of the state Constitution.

**NEW SECTION.** Sec. 3. "DATE OF MAILING" DEFINED. For registered voters voting by absentee or voting by mail, "date of mailing" means the date of the postal cancellation on the envelope in which the ballot is returned to the election official by whom it was issued. For all other absentee voters, "date of mailing" means the date stated by the voter on the envelope in which the ballot is returned to the election official by whom it was issued.

**NEW SECTION.** Sec. 4. "DISABLED VOTER" DEFINED. "Disabled voter" means any registered voter who qualifies for special parking privileges under RCW 46.16.381, or who is defined as blind under RCW



74.18.020, or who qualifies to require assistance with voting under RCW 29.51.200.

**NEW SECTION.** Sec. 5. "OUT-OF-STATE VOTER" DEFINED. "Out-of-state voter" means any elector of the state of Washington outside the state but not outside the territorial limits of the United States or the District of Columbia.

**NEW SECTION.** Sec. 6. "OVERSEAS VOTER" DEFINED. "Overseas voter" means any elector of the state of Washington outside the territorial limits of the United States or the District of Columbia.

**NEW SECTION.** Sec. 7. "REGISTERED VOTER" DEFINED. "Registered voter" means any elector who possesses all of the statutory qualifications to vote under chapters 29.07 and 29.10 RCW. The terms "registered voter" and "qualified elector" are synonymous.

**NEW SECTION.** Sec. 8. "SERVICE VOTER" DEFINED. "Service voter" means any elector of the state of Washington who is a member of the armed forces under 42 U.S.C. Sec. 1973 ff-6 while in active service, is a student or member of the faculty at a United States military academy, is a member of the merchant marine of the United States, or is a member of a religious group or welfare agency officially attached to and serving with the armed forces of the United States.

Sec. 9. Section 29.36.010, chapter 9, Laws of 1965 as last amended by section 14, chapter 167, Laws of 1986 and RCW 29.36.010 are each amended to read as follows:

Any (~~duy~~) registered voter of the state or any out-of-state voter, overseas voter, or service voter may vote ((an)) by absentee ballot ((for)) in any general election, special election, or primary ((or election)) in the manner provided in this chapter. Out-of-state voters, overseas voters, and service voters are authorized to cast the same ballots, including those for special elections, as a registered voter of the state would receive under this chapter.

(1) Except as provided in subsections (2) and (3) of this section ((and)), in RCW 29.36.013, and in section 21 of this act, a registered voter or elector 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 before any election or primary. An application for an absentee ballot made under the authority of any federal statute or regulation shall be considered and given the same effect as an application for an absentee ballot under this chapter.

(2) For any registered voter, an application ((honored)) for an absentee ballot for a primary ((ballot)) shall ((also)) be honored as an application for ((a)) an absentee ballot for the following general election if the voter so indicates on his or her application. For any out-of-state voter, overseas voter, or service voter, an application for an absentee ballot for a

primary election shall also be honored as an application for an absentee ballot for the following general election.

(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) ~~((The))~~ An application for an absentee ballot must be signed by the registered voter~~((, and except as provided under chapter 29.39 RCW,))~~ or elector. An application for an absentee ballot by a registered voter is not valid unless the voter's signature on the application is substantially the same as that voter's signature on his or her registration record. An application for an absentee ballot shall state the address to which the absentee ballot should be sent. An application for an absentee ballot from an out-of-state voter, overseas voter, or service voter shall state the address of that elector's last residence for voting purposes in the state of Washington and either the application or the oath on the return envelope shall include a declaration of the other qualifications of the applicant as an elector of this state. An application for an absentee ballot from any other voter shall state the address at which that voter is currently registered to vote in the state of Washington or the county auditor shall verify such information from the voter registration records of the county.

(5) An application for an absentee ballot shall be mailed or delivered to the county auditor of the county in which the voter is registered ~~((either in person, by mail, or by messenger))~~ or resides. An absentee ballot application from a registered voter within this state shall be sent directly to the auditor of the county in which the voter is registered. An absentee ballot application from a registered voter who is temporarily outside this state or from an out-of-state voter, overseas voter, or service voter may be sent either to the appropriate county auditor or to the secretary of state, who shall promptly forward the application to the appropriate county auditor. No person, organization, or association may distribute absentee ballot applications within this state that contain~~((s))~~ any return address other than that of ~~((a))~~ the appropriate county auditor.

Sec. 10. Section 2, chapter 273, Laws of 1985 as amended by section 1, chapter 22, Laws of 1986 and RCW 29.36.013 are each amended 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 or a blind person as defined in RCW 74.18.020:))~~

Sec. 11. Section 29.36.030, chapter 9, Laws of 1965 as last amended by section 77, chapter 361, Laws of 1977 ex. sess. and RCW 29.36.030 are each amended to read as follows:

Upon receipt of ~~((the voter's))~~ a signed application for an absentee ballot from a registered voter, the ((officer having jurisdiction of the election, or his duly authorized representative,)) county auditor shall verify the applicant's signature. If the application is complete and correct and the applicant is qualified to vote under federal or state law, the county auditor shall issue an absentee ballot for the primary or election ((concerned)) for which the absentee ballot was requested. Otherwise, the county auditor shall notify the applicant of the reason or reasons why the application cannot be accepted.

At each general election in ~~((the))~~ an even-numbered year, each absentee voter shall also be given a separate ballot containing the names of the candidates that have filed for the office of precinct committeeman ((provided that)) unless fewer than two ((or more)) candidates have filed for the same political party in the absentee voter's precinct ((and providing)). The ballot shall provide space for writing in the name of additional candidates.

~~((In addition, if other elections, including special or general, are also being held on the same day and it can be determined that the absentee voter is qualified to vote at such elections, such additional absentee ballots shall be automatically issued to the end that, whenever possible, each absentee voter receives the ballots for all elections he would have received if he had been able to vote in person:~~

~~The election officer, or his duly authorized representative, shall include the following additional items when issuing an absentee ballot:~~

- ~~(1) Instructions for voting;~~
- ~~(2) A size #9 envelope, capable of being sealed and free of any identification marks, for the purpose of containing the voted absentee ballot;~~
- ~~(3) A size #10 envelope, capable of being sealed and preaddressed to the issuing officer, for the purpose of returning the #9 envelope containing the marked absentee ballot;~~

Upon the left hand portion of the face of the larger envelope shall also be printed a blank statement in the following form:

State of ..... }  
County of ..... } ss.

I, ....., do solemnly swear under the penalty as set forth in RCW 29.36.110 (see below), that I am a resident of and qualified voter in ..... precinct of ..... city in ..... county, Washington; that I have the legal right to vote at the election to be held in said precinct on the ..... day of ....., 19... That I have not voted another ballot and have herein enclosed my ballot for such election:

(signed) .....  
Voter

(date of oath) .....

**PENALTY PROVISION:** Any person who violates any of the provisions, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment:)) When mailing an absentee ballot to a registered voter temporarily outside the state or to an out-of-state voter, overseas voter, or service voter, the county auditor shall send a copy of the state voters' and candidates' pamphlet with the absentee ballot. The county auditor shall mail all absentee ballots and related material to voters outside the territorial limits of the United States and the District of Columbia under 39 U.S.C. 3406.

**NEW SECTION, Sec. 12.** The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The larger return envelope shall contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The return envelope shall provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter shall be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope shall affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter shall be instructed to either return the ballot to the county

auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

Sec. 13. Section 29.36.050, chapter 9, Laws of 1965 and RCW 29.36.050 are each amended to read as follows:

~~((No))~~ A registered voter ~~((to whose permanent registration card there is attached a duplicate of an absentee voter's certificate of registration for any election))~~ shall not be allowed to vote ~~((at such election))~~ in the precinct ~~((from))~~ in which he or she is registered at any election or primary for which that voter has cast an absentee ballot. A registered voter who has requested an absentee ballot for a primary or special or general election but chooses to vote at the voter's precinct polling place in that primary or election shall cast a ballot in the manner prescribed by RCW 29.10.127 for challenged ballots. The canvassing board shall not count the ballot if it finds that the voter has also voted by absentee ballot in that primary or election.

Sec. 14. Section 29.36.060, chapter 9, Laws of 1965 as last amended by section 78, chapter 361, Laws of 1977 ex. sess. and RCW 29.36.060 are each amended to read as follows:

The opening and ~~((canvassing of absentee ballots cast at))~~ subsequent processing of return envelopes for any primary or election ~~((, special or general))~~ may begin on or after the tenth day prior to such primary or election ~~((: PROVIDED, That))~~. The opening of the ~~((inner))~~ security envelopes and ~~((actual counting of such))~~ tabulation of absentee ballots shall not commence until after 8:00 o'clock p.m. on the day of the primary or election ~~((but must be completed on or before the tenth day following the primary or election: PROVIDED, That when a state general election is held, the canvassing period shall be extended to and including the fifteenth day following such election))~~.

After opening the return envelopes, the county canvassing board ~~((, or its duly authorized representatives, may elect not to initial the inner envelope but instead))~~ shall place all ~~((such))~~ of the ballot envelopes in containers that can be secured with ~~((a))~~ numbered ~~((metal))~~ seals ~~((, and such))~~. These sealed containers shall be stored in ~~((the most))~~ a secure ~~((vault available within the courthouse))~~ location until after 8:00 o'clock p.m. of the day of the primary or election ~~((: PROVIDED, That in the instance of punchcard))~~. Absentee ballots ~~((, such ballots))~~ that are to be tabulated on an electronic vote tallying system may be taken from the inner envelopes and all the normal procedural steps may be performed ~~((necessary))~~ to prepare ~~((punchcard))~~ these ballots for ~~((computer count and then placed in said sealed))~~ tabulation before sealing the containers.

The canvassing board ~~((or its duly authorized representatives))~~ shall examine the postmark, ~~((receipt mark and))~~ statement, and signature on ~~((the outer))~~ each return envelope containing the security envelope and absentee ballot ~~((and))~~. They shall verify that the voter's signature ~~((thereon))~~

is the same as that on the original application(~~(-PROVIDED, That))~~ by that voter. For absentee voters other than out-of-state voters, overseas voters, and service voters, if the postmark is illegible, the date on the ~~((outer))~~ return envelope(;) to which ((a person)) the voter attests ((to as provided in RCW 29.36.030 as now or hereafter amended)) shall ~~((be the date for determining))~~ determine the validity, as to the time of voting, of ~~((any))~~ that absentee ballot under ((the provisions of)) this chapter. ((The board then shall open the outer envelopes not later than the tenth day following any primary or special election, and the fifteenth day following any general election, and remove therefrom the inner envelope containing the ballot.

~~The inner envelopes shall be initialed by the canvassing board or its duly authorized representatives. The inner envelopes thus initialed must be filed by the county auditor under lock and key. The outer envelopes to which must be attached the corresponding original absentee voter's application shall be sealed securely in one package and shall be kept by the auditor for future use in case any question should arise as to the validity of the vote.)~~ For out-of-state voters, overseas voters, and service voters, a variation between the signature of the voter on the return envelope and that on the application due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

Sec. 15. Section 29.36.070, chapter 9, Laws of 1965 as amended by section 2, chapter 73, Laws of 1974 ex. sess. and RCW 29.36.070 are each amended to read as follows:

~~((Upon the canvass of the votes, if there are on file one or more absentee ballot inner envelopes, the canvassing authority shall cause such envelopes to be opened and the absentee precinct committeeman ballot, if any, shall be physically separated from the remainder of the absentee ballot. The absentee precinct committeeman ballot shall be, subject to the provisions of RCW 29.36.075 and 29.36.077, counted separately.))~~ The ((remainder of the)) absentee ballots shall be grouped and counted by congressional and legislative district without regard ((as)) to precinct ((by legislative districts if the election is a state primary or state election, special or general)).

~~These ((ballots shall be made a part of the)) returns ((and handled accordingly))~~ shall be added to the total of the votes cast at all polling places.

Sec. 16. Section 29.36.075, chapter 9, Laws of 1965 as amended by section 1, chapter 136, Laws of 1983 and RCW 29.36.075 are each amended to read as follows:

In counties that do not tabulate absentee ballots on electronic vote tallying systems, canvassing boards ((of any primary or election, including a state primary or state general election, shall)) may not tabulate or record votes cast by absentee ballots on any uncontested office except write-in votes for the office of precinct committeepersons. In all counties, write-in

votes for uncontested precinct committeepersons' races shall be canvassed and included with the official vote count.

Each registered voter casting an absentee ballot (~~((not counted as provided in this section, nevertheless;))~~) shall be credited with voting on his (~~((permanent voting history))~~) or her voter registration record. (~~((Further, such uncounted))~~) Absentee ballots shall be retained for the same length of time and in the same manner as ((paper)) ballots cast ((in-person-as-provided-by-RCW-29.54.070)) at the precinct polling places.

Sec. 17. Section 1, chapter 61, Laws of 1973 1st ex. sess. and RCW 29.36.097 are each amended to read as follows:

Each county auditor shall maintain in his or her office, open for public inspection, (~~((lists))~~) a record of the applications he or she has received for absentee ballots under ((the provisions of)) this chapter ((and of chapter 29.39 RCW)).

~~((Such))~~ The information on the applications shall be ((listed)) recorded and lists of this information shall be available no later than twenty-four hours after their receipt ((and the lists thereof shall be available until the day of the election for which the absentee ballot application was made)).

~~((The lists))~~ This information about absentee voters shall be ((organized first)) available according to the date of application((-then)) and by legislative district((-if appropriate, and then by precinct. They)). It shall ((also indicate)) include the name of each applicant, the address and precinct in which the voter maintains a voting residence, the date on which an absentee ballot was issued to this voter, if applicable, the type of absentee ballot, and the address to which the ballot was or is to be mailed, if applicable.

The auditor shall make copies of ~~((such lists))~~ these records available to the public for the actual cost of production or copying (~~((such list))~~).

Sec. 18. Section 29.36.100, chapter 9, Laws of 1965 and RCW 29.36.100 are each amended to read as follows:

The ~~((vote))~~ qualifications of any ((absent)) absentee voter may be challenged ((for any cause)) at the time the ((same)) signature on the return envelope is verified and the ballot is ((canvassed)) processed by the canvassing board ((which shall have all)). The board has the ((power and)) authority ((given by law to officers of election)) to determine the legality of ~~((such))~~ any absentee ballot challenged under this section.

Sec. 19. Section 8, chapter 71, Laws of 1983 1st ex. sess. and RCW 29.36.150 are each amended to read as follows:

The secretary of state shall adopt rules ~~((and regulations))~~ not inconsistent with the provisions of this chapter to:

(1) (~~Ensure that~~) Establish standards and procedures (~~are established~~) to prevent fraud and to facilitate the accurate processing and canvassing of absentee ballots and mail ballots;

(2) (~~Ensure that~~) Establish standards and procedures (~~are established~~) to guarantee the secrecy of (the) absentee ballots and mail ballots;

(3) (~~Ensure that~~) Provide uniformity (~~exists~~) among the counties of the state in the conduct of absentee voting and mail ballot elections; and

(4) Facilitate the operation of the provisions of this chapter regarding out-of-state voters, overseas voters, and service voters.

The secretary of state shall produce and furnish envelopes and instructions for out-of-state voters, overseas voters, and service voters to the county auditors.

Sec. 20. Section 9, chapter 71, Laws of 1983 1st ex. sess. and RCW 29.36.160 are each amended to read as follows:

A person who (~~willfully~~) willfully violates any provision of this chapter regarding the assertion or declaration of qualifications to receive or cast an absentee ballot, unlawfully casts a vote by absentee ballot, or willfully violates any provision regarding the conduct of mail ballot special elections under RCW 29.36.120 through 29.36.139 is guilty of a class C felony. Except as provided in chapter 29.85 RCW a person who willfully violates any other provision of this chapter is guilty of a misdemeanor.

NEW SECTION. Sec. 21. (1) As provided in this section, county auditors shall provide special absentee ballots to be used for state primary or state general elections. A special absentee ballot shall only be provided to a voter who completes an application stating that:

(a) The voter believes that she or he will be residing or stationed or working outside the continental United States; and

(b) The voter believes that she or he will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot may not be filed earlier than ninety days before the applicable state primary or general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the state primary or general election ballot. The voter may use the special absentee ballot to write in the name of any eligible candidate for each office and vote on any measure.

(2) With any special absentee ballot issued under this section, the county auditor shall include a listing of any candidates who have filed before the time of the application for offices that will appear on the ballot at that primary or election and a list of any issues that have been referred to the ballot before the time of the application.

(3) Write-in votes on special absentee ballots shall be counted in the same manner provided by law for the counting of other write-in votes. The



county auditor shall process and canvass the special absentee ballots provided under this section in the same manner as other absentee ballots under chapters 29.36 and 29.62 RCW.

(4) A voter who requests a special absentee ballot under this section may also make application for an absentee ballot under RCW 29.36.010. If the regular absentee ballot is properly voted and returned, the special absentee ballot shall be deemed void and the county auditor shall reject it in whole when special absentee ballots are canvassed.

**\*Sec. 22. Section 29.62.020, chapter 9, Laws of 1965 and RCW 29.62-.020 are each amended to read as follows:**

**((Øn)) No later than the tenth day after ((each)) a special election or primary ((or as soon as he has received the returns from all the precincts included therein)) and no later than the fifteenth day after a general election, the county auditor shall ((call a meeting of)) convene the county canvassing board ((at his office on a day and hour certain, for the purpose of canvassing the votes cast therein)) to process the absentee ballots and canvass the votes cast at that primary or election. On the tenth day after a special election or a primary and on the fifteenth day after a general election, the canvassing board shall complete the canvass and certify the results. All properly and timely voted absentee ballots which have been received on or before the date on which the primary or election is certified shall be included in the canvass. Meetings of the county canvassing board are public meetings under chapter 42.30 RCW. The county canvassing board shall consist of the county auditor, the chairman of the ((board of)) county ((commissioners)) legislative authority, and the prosecuting attorney or designated representatives of those officials.**

**\*Sec. 22 was vetoed, see message at end of chapter.**

**NEW SECTION.** Sec. 23. Sections 2 through 8 of this act are each added to chapter 29.01 RCW. Section 21 of this act is added to chapter 29.36 RCW.

**NEW SECTION.** Sec. 24. The following acts or parts of acts are each repealed:

(1) Section 29.36.020, chapter 9, Laws of 1965, section 38, chapter 202, Laws of 1971 ex. sess. and RCW 29.36.020;

(2) Section 29.36.040, chapter 9, Laws of 1965 and RCW 29.36.040;

(3) Section 2, chapter 140, Laws of 1973 and RCW 29.36.065;

(4) Section 29.36.077, chapter 9, Laws of 1965 and RCW 29.36.077;

(5) Section 29.36.095, chapter 9, Laws of 1965, section 39, chapter 202, Laws of 1971 ex. sess., section 3, chapter 73, Laws of 1974 ex. sess. and RCW 29.36.095;

(6) Section 29.36.110, chapter 9, Laws of 1965 and RCW 29.36.110;

(7) Section 29.39.010, chapter 9, Laws of 1965, section 4, chapter 109, Laws of 1967 ex. sess., section 1, chapter 56, Laws of 1973 and RCW 29-.39.010;

- (8) Section 29.39.020, chapter 9, Laws of 1965 and RCW 29.39.020;
- (9) Section 29.39.030, chapter 9, Laws of 1965, section 5, chapter 109, Laws of 1967 ex. sess., section 4, chapter 4, Laws of 1973 and RCW 29.39.030;
- (10) Section 29.39.040, chapter 9, Laws of 1965 and RCW 29.39.040;
- (11) Section 29.39.050, chapter 9, Laws of 1965 and RCW 29.39.050;
- (12) Section 29.39.060, chapter 9, Laws of 1965 and RCW 29.39.060;
- (13) Section 29.39.070, chapter 9, Laws of 1965 and RCW 29.39.070;
- (14) Section 29.39.080, chapter 9, Laws of 1965 and RCW 29.39.080;
- (15) Section 29.39.090, chapter 9, Laws of 1965 and RCW 29.39.090;
- (16) Section 29.39.100, chapter 9, Laws of 1965 and RCW 29.39.100;
- (17) Section 29.39.110, chapter 9, Laws of 1965 and RCW 29.39.110;
- (18) Section 29.39.120, chapter 9, Laws of 1965, section 2, chapter 178, Laws of 1971 ex. sess., section 6, chapter 127, Laws of 1974 ex. sess. and RCW 29.39.120;
- (19) Section 29.39.130, chapter 9, Laws of 1965 and RCW 29.39.130;
- (20) Section 29.39.140, chapter 9, Laws of 1965 and RCW 29.39.140;
- (21) Section 29.39.150, chapter 9, Laws of 1965 and RCW 29.39.150;
- (22) Section 29.39.160, chapter 9, Laws of 1965 and RCW 29.39.160;
- (23) Section 29.39.170, chapter 9, Laws of 1965, section 79, chapter 361, Laws of 1977 ex. sess. and RCW 29.39.170;
- (24) Section 29.39.180, chapter 9, Laws of 1965 and RCW 29.39.180;
- (25) Section 29.39.190, chapter 9, Laws of 1965 and RCW 29.39.190;
- (26) Section 29.39.200, chapter 9, Laws of 1965 and RCW 29.39.200;
- (27) Section 1, chapter 109, Laws of 1984 and RCW 29.39.210; and
- (28) Section 29.39.900, chapter 9, Laws of 1965 and RCW 29.39.900.

NEW SECTION. Sec. 25. This act shall take effect on January 1, 1988.

Passed the House April 21, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 13, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 13, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 22, Substitute House Bill No. 614, entitled:

"AN ACT Relating to absentee voting."

Section 22 contains identical language to a bill I have already signed into law, Substitute Senate Bill No. 5045, section 2. I would note the language is identical except that the bill already signed into law has an additional new paragraph not contained in section 22 of Substitute House Bill No. 614. To avoid confusion in the law, I have vetoed section 22.

With the exception of section 22, Substitute House Bill No. 614 is approved."

## CHAPTER 347

[Substitute House Bill No. 984]

## HORSE RACING—SATELLITE LOCATIONS—PARIMUTUEL WAGERING

AN ACT Relating to satellite extensions of licensed facilities; amending RCW 67.16.170, 67.16.175, and 67.16.105; adding new sections to chapter 67.16 RCW; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 67.16 RCW to read as follows:

(1) A racing association licensed by the commission to conduct a race meet may seek approval from the commission to conduct parimutuel wagering on its program at a satellite location or locations within the state of Washington. The sale of parimutuel pools at satellite locations shall be conducted only during the licensee's race meet and simultaneous to all parimutuel wagering activity conducted at the licensee's racing facility in the state of Washington. The commission's authority to approve satellite wagering at a particular location is subject to the following limitations:

(a) The commission may approve only one satellite location in each county in the state; however, the commission may grant approval for more than one licensee to conduct wagering at each satellite location.

(b) The commission shall not allow a licensee to conduct satellite wagering at a satellite location within fifty air miles of the licensee's racing facility.

(c)(i) The commission may allow a licensee to conduct satellite wagering at a satellite location within fifty air miles of the racing facility of another licensee who conducts race meets of thirty days or more, but only if the satellite location is the racing facility of another licensee who conducts race meets of thirty days or more and only if the licensee seeking to conduct satellite wagering suspends its program during the conduct of the meets of all licensees within fifty air miles.

(ii) Subject to subsection (1)(c)(i) of this section, the commission may allow a licensee to conduct satellite wagering at a satellite location within fifty air miles of the racing facility of another licensee who conducts race meets of under thirty days, but only if the licensee seeking to conduct satellite wagering suspends its satellite program during the conduct of the meets of all licensees within fifty air miles.

(2) Subject to local zoning and other land use ordinances, the commission shall be the sole judge of whether approval to conduct wagering at a satellite location shall be granted.

(3) The licensee shall combine the parimutuel pools of the satellite location with those of the racing facility for the purpose of determining odds and computing payoffs. The amount wagered at the satellite location shall

be combined with the amount wagered at the racing facility for the application of take out formulas and distribution as provided in RCW 67.16.102, 67.16.105, 67.16.130, 67.16.170, 67.16.175, and sections 5 and 6 of this act. A satellite extension of the licensee's racing facility shall be subject to the same application of the rules of racing as the licensee's racing facility.

Sec. 2. Section 5, chapter 31, Laws of 1979 as last amended by section 9, chapter 146, Laws of 1985 and RCW 67.16.170 are each amended to read as follows:

Except as provided for satellite wagers in section 6 of this 1987 act, race meets which have gross receipts of all parimutuel machines for each authorized day of racing may retain the following from the daily gross receipts of all parimutuel machines:

(1) On a daily handle of two hundred thousand dollars or less, the licensee shall retain fourteen and one-half percent of such gross receipts;

(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 shall retain eleven percent of such gross receipts.

Sec. 3. Section 1, chapter 135, Laws of 1981 as last amended by section 1, chapter 43, Laws of 1986 and RCW 67.16.175 are each amended to read as follows:

(1) Except as provided for satellite wagers in sections 5 and 6 of this 1987 act, daily gross receipts of all parimutuel machines from wagers on exotic races shall be distributed according to this section:

(a) In addition to the amounts set forth in RCW 67.16.105, an additional two and five-tenths percent of gross receipts on races with two or more selections and three and five-tenths percent of gross receipts on races with three or more selections shall be paid to the commission. The commission shall retain twenty-two percent of the additional percentages from exotic races and shall forward the balance to the state treasurer daily for deposit in the general fund.

(b) In addition to the amounts authorized to be retained in RCW 67.16.170, race meets may retain an additional 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 (2) of this section.

(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. 4. Section 6, chapter 31, Laws of 1979 as last amended by section 7, chapter 146, Laws of 1985 and RCW 67.16.105 are each amended to read as follows:

Except as provided for satellite wagers in section 5 of this 1987 act, 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.

NEW SECTION. Sec. 5. A new section is added to chapter 67.16 RCW to read as follows:

(1) The licensee shall pay to the commission daily for each authorized day of racing the following applicable percentage of all daily gross receipts of all parimutuel machines from satellite wagers on all races:

(a) On a daily handle of two hundred thousand dollars or less, the licensee shall pay to the commission one-half percent of the daily gross receipts of parimutuel machines from satellite wagers;

(b) On a daily handle of two hundred thousand one dollars to four hundred thousand dollars, the licensee shall pay to the commission one-half percent of daily gross receipts of parimutuel machines from satellite wagers; and

(c) On a daily handle of four hundred thousand one dollars or more, the licensee shall pay to the commission three percent of daily gross receipts of parimutuel machines from satellite wagers.

(2) In addition to the amounts set forth in subsection (1) of this section, the licensee shall pay daily to the commission an additional one percent of gross receipts on all parimutuel machines from satellite wagers on exotic races.

(3) As used in this section, "exotic races" has the meaning defined in RCW 67.16.175.

NEW SECTION. Sec. 6. A new section is added to chapter 67.16 RCW to read as follows:

(1) The licensee may retain for each authorized day of racing the following applicable percentage of all daily gross receipts of all parimutuel machines from satellite wagers:

(a) On a daily handle of two hundred thousand dollars or less, the licensee shall retain fourteen and one-half percent of such gross receipts;

(b) On a daily handle of two hundred thousand one dollars to four hundred thousand dollars, the licensee shall retain fourteen and one-half percent of such gross receipts; and

(c) On a daily handle of four hundred thousand one dollars or more, the licensee shall retain twelve percent of such gross receipts.

(2) In addition to the amounts set forth in subsection (1) of this section, the licensee may retain an additional four and one-half percent of the daily gross receipts on all parimutuel machines from satellite wagers on exotic races requiring two selections and an additional eight and one-half percent on daily gross receipts of parimutuel machines from satellite wagers on exotic races requiring three or more selections, to be used as provided in subsection (3) of this section.

(3) Of the amounts retained in subsection (2) 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.

(4) As used in this section, "exotic races" has the meaning defined in RCW 67.16.175.

**NEW SECTION.** Sec. 7. A new section is added to chapter 67.16 RCW to read as follows:

The commission is authorized to establish and collect an annual fee for each separate satellite location. The fee to be collected from the licensee shall be set to reflect the commission's expected costs of approving, regulating, and monitoring each satellite location, provided commission revenues generated under section 5 of this act from the licensee shall be credited annually towards the licensee's fee assessment under this section.

**NEW SECTION.** Sec. 8. A new section is added to chapter 67.16 RCW to read as follows:

Sections 1 and 5 through 7 of this act shall expire on October 31, 1991, unless extended by law for an additional fixed period of time and shall be subject to review under chapter 43.131 RCW.

Passed the House April 25, 1987.

Passed the Senate April 6, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 348

[Substitute Senate Bill No. 5530]

## BUSINESS ASSISTANCE CENTER—SERVICES TO BUSINESSES REVISED

AN ACT Relating to small business; amending RCW 43.31.085, 43.175.010, 43.175.020, and 43.31.025; adding new sections to chapter 43.31 RCW; adding new sections to chapter 43.131 RCW; creating new sections; and repealing RCW 43.31.—, 43.31.085, 43.31.—, 43.—.31.—, 43.175.010, 43.175.020, 43.175.901, and 43.175.900.

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

**NEW SECTION.** Sec. 1. The Washington state legislature finds that businesses are an integral part of the state's economy which promote economic development and are a primary source of employment opportunities for the state's citizens. The legislature further recognizes the ability of state government to assist businesses and especially small businesses by coordinating existing business programs and expanding effective business services.

**NEW SECTION.** Sec. 2. There is established within the department the business assistance center to assist businesses; to provide comprehensive referral services to businesses and especially small businesses on government assistance programs; and to cooperate with local associate development organizations in providing business assistance services.

Sec. 3. Section 11, chapter 466, Laws of 1985 and RCW 43.31.085 are each amended to read as follows:

The ~~((department shall create an office of small business and through the office of small))~~ business assistance center shall:

(1) Serve as ~~((an))~~ the state's lead agency and advocate for the development and conservation of ~~((small))~~ businesses ~~((and))~~.

(2) Coordinate the delivery of state programs to assist ~~((small))~~ businesses.

~~((2))~~ (3) Provide comprehensive referral services to businesses requiring government assistance.

(4) Serve as the ~~((small))~~ business ombudsman within state government and advise the governor and the legislature of the need for new legislation to improve the effectiveness of state programs to assist ~~((small))~~ businesses.

(5) Aggressively promote business awareness of the state's business programs and distribute information on the services available to businesses.

(6) Develop, in concert with local economic development and business assistance organizations, coordinated processes that complement both state and local activities and services.

(7) The business assistance center shall work with other federal, state, and local agencies and organizations to ensure that business assistance services including small business, trade services, and distressed area programs are provided in a coordinated and cost-effective manner.

NEW SECTION. Sec. 4. The center shall report to the governor and the legislature annually outlining: The center's activities; the center's effectiveness and accomplishments; the degree of coordination between the center and other state programs assisting businesses; and recommendations on expanding or improving the center's services.

NEW SECTION. Sec. 5. There is established the business assistance center coordinating task force. The members of the task force shall be appointed by the governor from the appropriate state agencies providing business assistance services. The task force, in consultation with the small business improvement council and business organizations, shall assist and advise the department in the development of the initial work plan, goals, and objectives of the center. The task force will also facilitate and ensure interagency coordination regarding the business assistance center on a continuing basis.

Sec. 6. Section 7, chapter 282, Laws of 1984 as amended by section 62, chapter 466, Laws of 1985 and RCW 43.175.010 are each amended to read as follows:

(1) There is established the governor's small business improvement council to consist of at least fifteen but not more than thirty members, including one member of each caucus in the house of representatives and the senate, to be appointed by the governor. In making the appointments, the governor shall consider the recommendations of business organizations and persons operating small businesses (~~(- At least fifteen percent of the members of the council shall be)~~), and provide for the representation of women or members of minority groups, and ((at least one member of the council shall represent)) agribusiness concerns. The governor shall appoint ex officio nonvoting members to the council from the various state agencies with business assistance services or responsibilities. Members of the governor's small business improvement council shall be appointed for terms of four years, but the governor may modify the terms of the initial members as necessary to achieve staggered terms.

(2) Members of the governor's small business improvement council shall (~~(not be compensated or)~~) be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 subject to legislative appropriation.

(3) The (~~(department of trade and economic development or its successor agency)~~) office of the governor shall provide staff support and administrative assistance to the council.

Sec. 7. Section 8, chapter 282, Laws of 1984 as amended by section 63, chapter 466, Laws of 1985 and RCW 43.175.020 are each amended to read as follows:

The governor's small business improvement council shall seek to: Identify regulatory, administrative, and legislative proposals that will improve



the entrepreneurial environment for small businesses; and advise and comment on state business programs and the business assistance center on program policies, and services to assist small businesses. In consultation with the ~~((department of trade and economic development))~~ business assistance center and the appropriate standing committees of the senate and house of representatives, the governor's small business improvement council shall submit its proposals and recommendations to the governor and the legislature prior to the convening of each regular session of the legislature.

Sec. 8. Section 3, chapter 466, Laws of 1985 and RCW 43.31.025 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Department" means the department of trade and economic development.

(2) "Director" means the director of trade and economic development.

(3) "Office" means the ~~((office of small))~~ business assistance center within the department of trade and economic development.

(4) "Small business" means any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

NEW SECTION. Sec. 9. The office of small business is hereby abolished and its powers, duties, and functions are hereby transferred to the business assistance center. All references to the office of small business in the Revised Code of Washington shall be construed to mean the business assistance center.

NEW SECTION. Sec. 10. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of small business shall be delivered to the custody of the business assistance center. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of small business shall be made available to the business assistance center. All funds, credits, or other assets held by the office of small business shall be assigned to the business assistance center.

Any appropriations made to the office of small business shall, on the effective date of this section, be transferred and credited to the business assistance center.

Whenever any question arises as to the transfer of any personnel, 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. 11. All employees of the office of small business are transferred to the jurisdiction of the business assistance center. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the business assistance center to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

**NEW SECTION.** Sec. 12. All rules and all pending business before the office of small business shall be continued and acted upon by the business assistance center. All existing contracts and obligations shall remain in full force and shall be performed by the business assistance center.

**NEW SECTION.** Sec. 13. The transfer of the powers, duties, functions, and personnel of the office of small business shall not affect the validity of any act performed before the effective date of this section.

**NEW SECTION.** Sec. 14. If apportionments of budgeted funds are required because of the transfers directed by sections 10 through 13 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION.** Sec. 15. Nothing contained in sections 9 through 14 of this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

**NEW SECTION.** Sec. 16. A new section is added to chapter 43.131 RCW to read as follows:

The business assistance center and its powers and duties shall be terminated on June 30, 1992, as provided in section 17 of this act.

**NEW SECTION.** Sec. 17. 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, 1993:

- (1) Section 2, chapter —, Laws of 1987 and RCW 43.31.—(section 2 of this act);
- (2) Section 11, chapter 466, Laws of 1985, section 3, chapter —, Laws of 1987 and RCW 43.31.085;
- (3) Section 4, chapter —, Laws of 1987 and RCW 43.31.—(section 4 of this act); and
- (4) Section 5, chapter —, Laws of 1987 and RCW 43.31.—(section 5 of this act).

**NEW SECTION.** Sec. 18. A new section is added to chapter 43.131 RCW to read as follows:

The business improvements council and its powers and duties shall be terminated on June 30, 1992, as provided in section 19 of this act.

**NEW SECTION.** Sec. 19. 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, 1993:

(1) Section 7, chapter 282, Laws of 1984, section 62, chapter 466, Laws of 1985, section 6, chapter —, Laws of 1987 and RCW 43.175.010;

(2) Section 8, chapter 282, Laws of 1984, section 63, chapter 466, Laws of 1985, section 7, chapter —, Laws of 1987 and RCW 43.175.020; and

(3) Section 17, chapter 282, Laws of 1984 and RCW 43.175.901.

**NEW SECTION.** Sec. 20. Section 13, chapter 282, Laws of 1984 and RCW 43.175.900 are each repealed.

**NEW SECTION.** Sec. 21. Sections 2, 4, and 5 of this act are each added to chapter 43.31 RCW.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 349

[Engrossed Senate Bill No. 5463]

### INTERNATIONAL EDUCATION IN THE COMMON SCHOOLS

AN ACT Relating to educational opportunities; and adding a new chapter to Title 28A RCW.

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

**NEW SECTION.** Sec. 1. The legislature finds that the economy of the state of Washington more than that of any other state in the union is dependent on foreign trade, particularly with Pacific Rim countries. If Washington's status as a leading state in international trade is to be maintained and strengthened, students of this state need to be better prepared. The legislature also finds that parents and our public education system can work cooperatively to prepare children as they begin to face complex questions of world order and stability. It is, therefore, the intent of the legislature to provide students with enhanced opportunities to increase their awareness of and understanding about other nations and the relationships of those countries with Washington state.

**NEW SECTION.** Sec. 2. (1) The superintendent of public instruction shall establish an advisory committee to advise the superintendent on international education issues as such issues relate to the development of model curriculum or curriculum guidelines for grades kindergarten through twelve. The advisory committee shall be of such size as determined by the superintendent of public instruction. The superintendent of public instruction is encouraged to include parents; teachers; administrators; multicultural curriculum specialists; representatives of private enterprise; representatives of foreign trade or policy organizations, representatives of local and state ethnic minority groups, associations, or agencies; and representatives of cultural associations.

(2) The superintendent of public instruction shall establish a working committee to develop international education model curriculum or curriculum guidelines. The working committee shall follow the same procedures as those established by the superintendent of public instruction for the implementation of RCW 28A.03.425. Upon completion, the model curriculum or curriculum guidelines shall be made available for consideration and use by school districts.

(3) In cooperation with the advisory committee, the superintendent of public instruction shall conduct a study of the feasibility of establishing an international education curriculum resource center and submit a report to the legislature including findings and recommendations by January 1, 1988.

**NEW SECTION.** Sec. 3. (1) The superintendent of public instruction may grant funds to selected school districts for the purposes of developing and implementing international education programs. The grants shall be in such amounts as determined by the superintendent of public instruction. The sum of all grants awarded shall not exceed the amount appropriated by the legislature for such purposes.

(2) The grant program shall center on the use of the international education model curriculum or curriculum guidelines developed in section 2 of this act. Districts may use the international education model curriculum or curriculum guidelines developed under section 2 of this act as a guideline for creating their own model curriculum for participation in the grant program.

(3) School districts may apply singularly or a group of school districts may apply together to participate in the program.

(4) School districts applying for the international education grant program shall submit a plan which includes:

(a) Participation by the school district in both the model curriculum or curriculum guidelines development activities and the grant program activities provided for by this chapter;

(b) The application or intent to conduct a foreign language program including either Japanese or Mandarin Chinese beginning in the ninth grade;

(c) A staff in-service training program addressing the implementation of international education curriculum;

(d) A goal to enlist participation where possible by private enterprise, cultural and ethnic associations, foreign trade or policy organizations, the local community, exchange students and students who have participated in exchange programs, and parents;

(e) Evaluation of the pilot program.

(5) To the extent possible, selected school districts shall represent the various geographical locations, school or school district sizes, and grade levels in the state.

(6) By January 1, 1988, the superintendent of public instruction shall select five school district grantees for the program. The program shall be implemented beginning with the 1988-89 school year.

(7) The program in international education shall be considered a social studies offering for the purpose of RCW 28A.05.060(1).

NEW SECTION. Sec. 4. The superintendent of public instruction shall adopt rules under chapter 34.04 RCW to carry out the purposes of sections 1 through 3 of this act.

NEW SECTION. Sec. 5. The superintendent of public instruction shall submit a report to the legislature, including its findings and specific recommendations evaluating the progress of the grant program, by January 1, 1991.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 28A RCW.

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.

Passed the Senate April 26, 1987.

Passed the House April 26, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

---

## CHAPTER 350

[House Bill No. 551]

### AQUATIC LANDS—DISTRIBUTION OF PROCEEDS FROM SALE OR LEASE MODIFIED—CAPITOL PURCHASE AND DEVELOPMENT ACCOUNT CREATED

AN ACT Relating to the use of proceeds from the sale or lease of aquatic lands and the sale of materials therefrom; amending RCW 79.24.580; adding a new section to chapter 43.79 RCW; and providing an effective date.

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

Sec. 1. Section 9, chapter 167, Laws of 1961 as last amended by section 79, chapter 57, Laws of 1985 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))~~ To the state building bond redemption fund such amounts necessary to retire bonds issued pursuant to RCW 79.24.630 through 79.24.647 prior to January 1, 1987, and for which tide and harbor area revenues have been pledged, and (2) all moneys not deposited for the purposes of subsection (1) of this section shall be deposited in the aquatic lands enhancement account 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 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))~~.

NEW SECTION. Sec. 2. A new section is added to chapter 43.79 RCW to read as follows:

The capitol purchase and development account is hereby created in the state treasury.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1989.

Passed the House April 22, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

---

## CHAPTER 351

[Substitute House Bill No. 506]

### CHILDREN'S TRUST FUND—CHILD ABUSE PREVENTION—REVISIONS

AN ACT Relating to child abuse; amending RCW 43.121.020, 43.121.050, and 43.121.100; adding a new section to chapter 43.121 RCW; adding a new section to chapter 70.58 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 children are society's most valuable resource and that child abuse and neglect is a threat to the physical, mental, and emotional health of children. The legislature further finds that assisting community-based private nonprofit and public organizations, agencies, or school districts in identifying and establishing needed primary prevention programs will reduce the incidence of child abuse and neglect, and the necessity for costly subsequent intervention in family life by the state. Child abuse and neglect prevention programs can be most effectively and economically administered through the use of trained volunteers and the cooperative efforts of the communities, citizens, and the state. The legislature finds that the Washington council for prevention of child abuse is an effective counsel for reducing child abuse but limited resources have prevented the council from funding promising prevention concepts state-wide.

It is the intent of the legislature to establish a cost-neutral revenue system for the children's trust fund which is designed to fund primary prevention programs and innovative prevention related activities such as research or public awareness campaigns. The fund shall be supported through revenue created by the sale of heirloom birth certificates. This concept has proven to be a cost-effective approach to funding child abuse prevention in the state of Oregon. The legislature believes that this is an innovative way of using private dollars to supplement our public dollars to reduce child abuse and neglect.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.121 RCW to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Child" means an unmarried person who is under eighteen years of age.

(2) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment.

(3) "Secondary prevention" means services and programs that identify and assist families under such stress that abuse or neglect is likely or families display symptoms associated with child abuse or neglect.

Sec. 3. Section 2, chapter 4, Laws of 1982 as amended by section 1, chapter 261, Laws of 1984 and RCW 43.121.020 are each amended to read as follows:

(1) There is established in the executive office of the governor a Washington council for the prevention of child abuse and neglect subject to the jurisdiction of the governor. (~~As used in this chapter, "council" means the Washington council for the prevention of child abuse and neglect.~~)

(2) The council shall be composed of the chairperson and ten other members as follows:

(a) The chairperson and four other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. A minimum of two of the designees shall reside east of the Cascade mountain range. Members appointed by the governor shall serve for two-year terms, except that the chairperson and two other members designated by the governor shall initially serve for three years. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee and the superintendent of public instruction or the superintendent's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate.

Sec. 4. Section 5, chapter 4, Laws of 1982 and RCW 43.121.050 are each amended to read as follows:

To carry out the purposes of this chapter, the council on child abuse and neglect may:

(1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect. Contracts also may be awarded for research programs related to primary and secondary prevention of child abuse and neglect, and to develop and strengthen community child abuse and neglect prevention networks. Each contract entered into by the council shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects with continuation based upon goal attainment. Contracts for services to prevent child abuse and child neglect shall be awarded on the basis of probability of success based in part upon sound research data.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with applicable state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) Establish fee schedules to provide for the recipients of services to reimburse the state general fund for the cost of services received.



(5) Adopt its own bylaws.

(6) Adopt rules under chapter 34.04 RCW as necessary to carry out the purposes of this chapter.

Sec. 5. Section 10, chapter 4, Laws of 1982 as amended by section 3, chapter 261 Laws of 1984 and RCW 43.121.100 are each amended to read as follows:

The council may accept contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations. All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds.

NEW SECTION. Sec. 6. A new section is added to chapter 70.58 RCW to read as follows:

(1) In addition to the original birth certificate, the state registrar shall issue upon request and upon payment of a fee of twenty-five dollars a birth certificate representing that the birth of the person named thereon is recorded in the office of the registrar. The certificate issued under this section shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the governor. It shall have the same status as evidence as the original birth certificate.

(2) Of the funds received under subsection (1) of this section, the amount needed to reimburse the registrar for expenses incurred in administering this section shall be credited to the state registrar account. The remainder shall be credited to the children's trust fund established under RCW 43.121.100.

Passed the House March 6, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

CHAPTER 352

[Substitute House Bill No. 391]  
DEEDS OF TRUST—REVISIONS

AN ACT Relating to deeds of trust; and amending RCW 61.24.010, 61.24.030, 61.24-.040, 61.24.090, and 61.24.130.

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

Sec. 1. Section 1, chapter 74, Laws of 1965 as last amended by section 1, chapter 161, Laws of 1981 and RCW 61.24.010 are each amended to read as follows:

(1) The terms "record" and "recorded" as used in this chapter, shall include the appropriate registration proceedings, in the instance of registered land.

(2) The trustee of a deed of trust under this chapter shall be:

(a) Any domestic corporation incorporated under Title 23A, 30, 31, 32, or 33 RCW; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or its agents; or

(c) Any attorney who is an active member of the Washington state bar association at the time he is named trustee; or

(d) Any professional corporation incorporated under chapter 18.100 RCW, all of whose shareholders are licensed attorneys; or

(e) Any agency or instrumentality of the United States government; or

~~((f))~~ (f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(3) The trustee shall resign at the request of the beneficiary and may resign at its own election. Upon the resignation, incapacity, disability, or death of the trustee, the beneficiary shall nominate in writing a successor trustee. Upon recording in the mortgage records of the county or counties in which the trust deed is recorded, of the appointment of a successor trustee, the successor trustee shall be vested with all powers of the original trustee.

Sec. 2. Section 3, chapter 74, Laws of 1965 as last amended by section 3, chapter 193, Laws of 1985 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 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: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.12.010;

(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. 3. Section 4, chapter 74, Laws of 1965 as last amended by section 4, chapter 193, Laws of 1985 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 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 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 following persons or their legal representatives, if any, at such address:

(i) The grantor or the grantor's successor in interest;

(ii) The beneficiary ((or mortgage)) of any deed of trust or mortgagee of any 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;

((iii)) (iii) 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;

((iiii)) (iv) 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

((ivv)) (v) 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 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 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 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;

(d) Cause a copy of the notice 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 has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in RCW 61.24.040(1)(f) to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of 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 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 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 the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the ..... day of ....., 19... The 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.., (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 any time after the ..... day of ....., 19.. (11 days before the sale date), and before the sale by the Grantor or 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 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 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 possession of proof of such service or posting.

VII.

The Trustee whose name and address 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 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

```

[Individual or corporate acknowledgment]

(2) In addition to providing the grantor or the grantor's successor in interest the notice 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 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

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to . . . . ., the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured,

your property will be sold at auction on the ..... day of ....., 19..

To cure the default(s), you must bring 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 arrears 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.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

You may reinstate your 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 set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and 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 the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your 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 the secured obligation and your Deed of Trust 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 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 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 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 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.

Sec. 4. Section 9, chapter 74, Laws of 1965 as last amended by section 6, chapter 161, Laws of 1981 and RCW 61.24.090 are each amended to read as follows:

(1) At any time prior to the eleventh day before the date set by the trustee for the sale in the recorded notice of sale, or in the event the trustee continues the sale pursuant to RCW 61.24.040(6), at any time prior to the eleventh day before the actual sale, the grantor or his successor in interest, any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record on the trust property or any part thereof, shall be entitled to cause a discontinuance of the sale proceedings by curing the default or defaults set forth in the notice, which in the case of a default by failure to pay, shall be by paying to the trustee:

(a) The entire amount then due under the terms of the deed of trust and the obligation secured thereby, other than such portion of the principal as would not then be due had no default occurred, and

(b) The expenses actually incurred by the trustee enforcing the terms of the note and deed of trust, including a reasonable trustee's fee, together with the trustee's reasonable attorney's fees, together with costs of recording the notice of discontinuance of notice of trustee's sale.

(2) Any person entitled to cause a discontinuance of the sale proceedings shall have the right, before or after reinstatement, to request any court, excluding a small claims court, for disputes within the jurisdictional limits of that court, to determine the reasonableness of any fees demanded or paid as a condition to reinstatement. The court shall make such determination as it deems appropriate, which may include an award to the prevailing party of its costs and reasonable attorneys' fees, and render judgment accordingly. An action to determine fees shall not forestall any sale or affect its validity.

(3) Upon receipt of such payment the proceedings shall be discontinued, the deed of trust shall be reinstated and the obligation shall remain as though no acceleration had taken place.

~~((3))~~ (4) In the case of a default which is occasioned by other than failure to make payments, the person or persons causing the said default shall pay the expenses incurred by the trustee and the trustee's fees as set forth in subsection (1)(b) of this section.

~~((4))~~ (5) Any person having a subordinate lien of record on the trust property and who has cured the default or defaults pursuant to this section shall thereafter have included in his lien all payments made to cure any defaults, including interest thereon at eight percent per annum, payments made for trustees' costs and fees incurred as authorized herein, and his reasonable attorney's fees and costs incurred resulting from any judicial action commenced to enforce his rights to advances under this section.

~~((5))~~ (6) If the default is cured and the obligation and the deed of trust reinstated in the manner hereinabove provided, the trustee shall properly execute, acknowledge and cause to be recorded a notice of discontinuance of trustee's sale under such deed of trust. A notice of discontinuance of trustee's sale when so executed and acknowledged is entitled to be recorded and shall be sufficient if it sets forth a record of the deed of trust and the auditor's file number under which the deed of trust is recorded, and a reference to the notice of sale and the auditor's file number under which the notice of sale is recorded, and a notice that such sale is discontinued.

Sec. 5. Section 13, chapter 74, Laws of 1965 as last amended by section 8, chapter 161, Laws of 1981 and RCW 61.24.130 are each amended to read as follows:

(1) Nothing contained in this chapter shall prejudice the right of the grantor, ~~((his))~~ the grantor's successor in interest, or any person who has an interest in, lien, or claim of lien against the property or some part thereof, to restrain, on any proper ground, a trustee's sale. ~~((In the event that the property secured by the deed of trust is a single family dwelling occupied by the grantor or his successor in interest, and the court finds that there is proper ground to restrain a trustee's sale, the court shall require the party seeking to restrain the sale to enter into a bond in at least the amount of two hundred fifty dollars with surety to the satisfaction of the clerk of the superior court to the adverse party affected thereby, conditioned to pay all damages and costs which may accrue by reason of the injunction or restraining order. In addition, the court shall require as a condition of continuing the restraining order that the party seeking to restrain the sale shall pay to the clerk of the court the sums that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed. In the case of a default in making the monthly payment of principal and interest and reserves, such sums shall be the monthly payment of principal, interest, and reserves paid to the clerk of the court every thirty days.))~~ The court shall require as a condition of granting the restraining order or injunction that the applicant pay to the clerk of the court the sums that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed:

(a) In the case of default in making the periodic payment of principal, interest, and reserves, such sums shall be the periodic payment of principal, interest, and reserves paid to the clerk of the court every thirty days.

(b) In the case of default in making payment of an obligation then fully payable by its terms, such sums shall be the amount of interest accruing monthly on said obligation at the nondefault rate, paid to the clerk of the court every thirty days.

In the case of default in performance of any nonmonetary obligation secured by the deed of trust, the court shall impose such conditions as it deems just.

In addition, the court may condition granting the restraining order or injunction upon the giving of security by the applicant, in such form and amount as the court deems proper, for the payment of such costs and damages, including attorneys' fees, as may be later found by the court to have been incurred or suffered by any party by reason of the restraining order or injunction. The court may consider, upon proper showing, the grantor's equity in the property in determining the amount of said security.

(2) No court may grant a restraining order or injunction to restrain a trustee's sale unless the person seeking the restraint gives five days notice to the trustee and the beneficiary of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. No judge may act upon such application unless it is accompanied by proof, evidenced by return of a sheriff, the sheriff's deputy, or by any person eighteen years of age or over who is competent to be a witness, that the notice has been served on the trustee.

(3) If the restraining order or injunction is dissolved after the date of the trustee's sale set forth in the notice as provided in RCW 61.24.040(1)(f) and after the period for continuing sale as allowed by RCW 61.24.040(6), the court granting such restraining order or injunction, or before whom the order or injunction is returnable, has the right to set a new sale date which shall be not less than forty-five days from the date of the order dissolving the restraining order. At least thirty days before the new sale date, the trustee shall:

(a) Comply with the requirements of RCW 61.24.040(1)(a) through (f); and

(b) Cause a copy of the notice of trustee's sale as provided in RCW 61.24.040(1)(f) to be published once weekly during the three weeks preceding the time of sale in a legal newspaper in each county in which the property or any part thereof is situated.

(4) If a trustee's sale has been stayed as a result of the filing of a petition in federal bankruptcy court and, after the period for continuing sale as allowed by RCW 61.24.040(6), an order is entered in federal bankruptcy court granting relief from the stay or closing or dismissing the case, or discharging the debtor with the effect of removing the stay, the trustee may set a new sale date which shall not be less than forty-five days after the date of the bankruptcy court's order. The trustee shall:

(a) Comply with the requirements of RCW 61.24.040(1) (a) through (f) at least thirty days before the new sale date; and

(b) Cause a copy of the notice as provided 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 sale and once between the eleventh and seventh day before the sale.

Passed the House March 12, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

---

## CHAPTER 353

[Substitute House Bill No. 601]

### CONVERSION OF GOODS, MERCHANDISE, OR SERVICES—LIABILITY AND REMEDIES REVISED

AN ACT Relating to hotels, motels, boarding houses, and lodging houses; and amending RCW 4.24.230.

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

Sec. 1. Section 1, chapter 59, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 126, Laws of 1981 and RCW 4.24.230 are each amended to read as follows:

(1) An adult or emancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller, and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof shall be liable in addition to actual damages, for a penalty to the owner or seller in the amount of the retail value thereof not to exceed one thousand dollars, plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars, plus all reasonable attorney's fees and court costs expended by the owner or seller. A customer who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section. A person who shall receive any food, money, credit, lodging, or accommodation at any hotel, motel, boarding house, or lodging house, and then leaves without paying the proprietor, manager, or authorized employee thereof, is subject to liability under this section.

(2) The parent or legal guardian having the custody of an unemancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof, shall be liable as a penalty to the owner or seller for the retail value of such goods, wares, or merchandise not to exceed five hundred dollars plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars, plus all reasonable attorney's fees and court costs expended by the owner or

seller. The parent or legal guardian having the custody of an unemancipated minor, who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section. The parent or legal guardian having the custody of an unemancipated minor, who receives any food, money, credit, lodging, or accommodation at any hotel, motel, boarding house, or lodging house, and then leaves without paying the proprietor, manager, or authorized employee thereof, is subject to liability under this section. For the purposes of this subsection, liability shall not be imposed upon any governmental entity (~~(or private agency which has been)~~), private agency, or foster parent assigned responsibility for the minor child pursuant to court order or action of the department of social and health services.

(3) Judgments, but not claims, arising under this section may be assigned.

(4) A conviction for violation of chapter 9A.56 RCW or RCW 9.45-.040 shall not be a condition precedent to maintenance of a civil action authorized by this section.

(5) An owner or seller demanding payment of a penalty under subsection (1) or (2) of this section shall give written notice to the person or persons from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of a penalty described in subsection (1) of (2) of this section.

Passed the House April 21, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

---

## CHAPTER 354

[Substitute House Bill No. 116]

### LAND USE PLANNING—BINDING SITE PLANS—VACATIONS OR ALTERATIONS OF SUBDIVISIONS—SURVEYS—HEARINGS

AN ACT Relating to the administrative approval of plats; amending RCW 58.17.040 and 58.17.060; adding a new section to chapter 58.17 RCW; and repealing RCW 58.11.010, 58.11.020, 58.11.030, 58.11.040, 58.11.050, 58.12.010, 58.12.020, 58.12.030, 58.12.040, 58.12.050, 58.12.060, 58.12.065, 58.12.070, and 58.12.080.

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

Sec. 1. Section 2, chapter 121, Laws of 1983 and RCW 58.17.040 are each amended to read as follows:

The provisions of this chapter shall not apply to:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions of land into lots or tracts each of which is one-hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: **PROVIDED**, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;
- (3) Divisions made by testamentary provisions, or the laws of descent;
- (4) Divisions of land into lots or tracts classified for industrial or commercial use when the ~~((governing body of the))~~ city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations~~((: PROVIDED, That when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed for record in the county auditor's office on each lot, parcel, or tract created pursuant to the binding site plan. PROVIDED FURTHER, That the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot, parcel, or tract. AND PROVIDED FURTHER, That sale or transfer of such a lot, parcel, or tract in violation of the binding site plan, or without obtaining binding site plan approval, shall be considered a violation of chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in chapter 58.17 RCW))~~;
- (5) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the ~~((governing body of the))~~ city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;
- (6) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site; and
- (7) A division which is made by subjecting a portion of a parcel or tract of land to chapter 64.32 RCW if a city, town, or county has approved a binding site plan for all of such land.

**NEW SECTION.** Sec. 2. A new section is added to chapter 58.17 RCW to read as follows:

A city, town, or county may adopt by ordinance procedures for the divisions of land by use of a binding site plan as an alternative to the procedures required by this chapter. The ordinance shall be limited and only



apply to one or more of the following: (1) The use of a binding site plan to divisions for sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040(4); (2) divisions of property for lease as provided for in RCW 58.17.040(5); and (3) divisions of property as provided for in RCW 58.17.040(7). Such ordinance may apply the same or different requirements and procedures to each of the three types of divisions and shall provide for the alteration or vacation of the binding site plan, and may provide for the administrative approval of the binding site plan.

The ordinance shall provide that after approval of the general binding site plan for industrial or commercial divisions subject to a binding site plan, the approval for improvements and finalization of specific individual commercial or industrial lots shall be done by administrative approval.

The binding site plan, after approval, and/or when specific lots are administratively approved, shall be filed with the county auditor with a record of survey. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. The number of lots, tracts, parcels, sites, or divisions shall not exceed the number of lots allowed by the local zoning ordinances.

All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in chapter 58.17 RCW.

**NEW SECTION.** Sec. 3. A new section is added to chapter 58.17 RCW to read as follows:

Whenever any person is interested in the vacation of any subdivision or portion thereof, or any area designated or dedicated for public use, that person shall file an application for vacation with the legislative authority of the city, town, or county in which the subdivision is located. The application shall set forth the reasons for vacation and shall contain signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

When the vacation application is specifically for a county road or city or town street, the procedures for road vacation or street vacation in chapter 36.87 or 35.79 RCW shall be utilized for the road or street vacation. When

the application is for the vacation of the plat together with the roads and/or streets, the procedure for vacation in this section shall be used, but vacations of streets may not be made that are prohibited under RCW 35.79.030, and vacations of roads may not be made that are prohibited under RCW 36.87.130.

The legislative authority of the city, town, or county shall give notice as provided in RCW 58.17.080 and 58.17.090 and shall conduct a public hearing on the application for a vacation and may approve or deny the application for vacation of the subdivision after determining the public use and interest to be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, town, or county, shall be deeded to the city, town, or county unless the legislative authority shall set forth findings that the public use would not be served in retaining title to those lands.

Title to the vacated property shall vest with the rightful owner as shown in the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side thereof, as determined by the legislative authority. When the road or street that is to be vacated was contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

This section shall not be construed as applying to the vacation of any plat of state granted-tide or shore lands.

**NEW SECTION.** Sec. 4. A new section is added to chapter 58.17 RCW to read as follows:

When any person is interested in the alteration of any subdivision or the altering of any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to request the alteration to the legislative authority of the city, town, or county where the subdivision is located. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

Upon receipt of an application for alteration, the legislative body shall provide notice of the application to all owners of property within the subdivision, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

The legislative body shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

After approval of the alteration, the legislative body shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the legislative authority, shall be filed with the county auditor to become the lawful plat of the property.

This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shore lands.

Sec. 5. Section 6, chapter 271, Laws of 1969 ex. sess. as amended by section 3, chapter 134, Laws of 1974 ex. sess. and RCW 58.17.060 are each amended to read as follows:

The legislative body of a city, town, or county shall adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions (~~(-or revision thereof)~~) or alteration or vacation thereof. When an alteration or vacation involves a public dedication, the alteration or vacation shall be processed as provided in section 3 or 4 of this 1987 act. Such regulations shall be adopted by ordinance and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of a short plat, or alteration or vacation thereof, for record in the office of the county auditor: **PROVIDED,** That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat: **PROVIDED FURTHER,** That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

An ordinance requiring a survey shall require that the survey be completed and filed with the application for approval of the short subdivision.

**NEW SECTION.** Sec. 6. A new section is added to chapter 58.17 RCW to read as follows:

Whenever a survey of a proposed subdivision or short subdivision reveals a discrepancy, the discrepancy shall be noted on the face of the final plat or short plat. Any discrepancy shall be disclosed in a title report prepared by a title insurer and issued after the filing of the final plat or short plat. As used in this section, "discrepancy" means: (1) A boundary hiatus; (2) an overlapping boundary; or (3) a physical appurtenance, which indicates encroachment, lines of possession, or conflict of title.

**NEW SECTION.** Sec. 7. A new section is added to chapter 58.17 RCW to read as follows:

Any hearing required by section 3 or 4 of this act or RCW 58.17.060 may be administered by a hearings examiner as provided in RCW 58.17.330.

**NEW SECTION.** Sec. 8. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 114, Laws of 1953 and RCW 58.11.010;
- (2) Section 2, page 27, Laws of 1857, section 2, page 432, Laws of 1862, section 2, page 410, Laws of 1869, section 2334, Code of 1881 and RCW 58.11.020;
- (3) Section 3, page 27, Laws of 1857, section 3, page 433, Laws of 1862, section 3, page 410, Laws of 1869, section 2335, Code of 1881 and RCW 58.11.030;
- (4) Section 2336, Code of 1881 and RCW 58.11.040;
- (5) Section 5, page 28, Laws of 1857, section 5, page 433, Laws of 1862, section 5, page 411, Laws of 1869, section 2337, Code of 1881 and RCW 58.11.050;
- (6) Section 1, chapter 92, Laws of 1903, section 1, chapter 139, Laws of 1927 and RCW 58.12.010;
- (7) Section 2, chapter 92, Laws of 1903 and RCW 58.12.020;
- (8) Section 3, chapter 92, Laws of 1903 and RCW 58.12.030;
- (9) Section 4, chapter 92, Laws of 1903 and RCW 58.12.040;
- (10) Section 5, chapter 92, Laws of 1903 and RCW 58.12.050;
- (11) Section 6, chapter 92, Laws of 1903, section 1, chapter 136, Laws of 1909 and RCW 58.12.060;
- (12) Section 7, chapter 92, Laws of 1903 and RCW 58.12.065;
- (13) Section 8, chapter 92, Laws of 1903 and RCW 58.12.070; and
- (14) Section 9, chapter 92, Laws of 1903 and RCW 58.12.080.

Passed the House April 25, 1987.

Passed the Senate April 25, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 355

[House Bill No. 698]

COLLECTION OF SPECIAL ASSESSMENTS—LOCAL GOVERNMENTS MAY  
CONTRACT WITH COUNTY TREASURER

AN ACT Relating to collections by county treasurers; and adding a new section to chapter 84.56 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 84.56 RCW to read as follows:

A local government authorized both to impose and to collect any special assessments, excise taxes, or rates or charges may contract with the county treasurer or treasurers within which the local government is located to collect the special assessments, excise taxes, rates, or charges. If such a contract is entered into, notice of the special assessments, excise taxes, or rates or charges due may be included on the notice of property taxes due, may be included on a separate notice that is mailed with the notice of property taxes due, or may be sent separately from the notice of property taxes due. County treasurers may impose an annual fee for collecting special assessments, excise taxes, or rates or charges not to exceed one percent of the dollar value of special assessments, excise taxes, or rates or charges collected.

Passed the House March 12, 1987.

Passed the Senate April 26, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 356

[House Bill No. 992]

## TERMINATION OF RESIDENTIAL HEATING SERVICES

AN ACT Relating to termination by cities or towns of utility service for residential heating; and amending RCW 35.21.300.

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

Sec. 1. Section 35.21.300, chapter 7, Laws of 1965 as last amended by section 1, chapter 245, Laws of 1986 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, 1990, ((electricity)) utility service for residential space heating may be terminated between November 15 and March 15 only as provided in subsections (2)

and (3) 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, 1990:

(a) ~~((Electricity))~~ 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, including a security deposit. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) Provides self-certification of household income for the prior twelve months to a grantee of the department of community development which administers federally funded energy assistance programs. The grantee shall determine 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 shall provide a dollar figure that is seven percent of household income. The grantee may verify information in the self-certification;

(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 available 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. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. 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, a description of the customer's duties in this section;

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

(iii) 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

(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 section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected.

(3) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(4) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

Passed the House March 16, 1987.

Passed the Senate April 24, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 357

[Substitute House Bill No. 388]

### WASTEWATER TREATMENT PLANTS—OPERATOR CERTIFICATION

AN ACT Relating to certification and regulation of operators of domestic waste treatment plants; amending RCW 70.95B.020, 70.95B.030, 70.95B.040, 70.95B.050, 70.95B.080, 70.95B.090, 70.95B.110, and 70.95B.120; and adding a new section to chapter 70.95B RCW.

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

Sec. 1. Section 2, chapter 139, Laws of 1973 and RCW 70.95B.020 are each amended to read as follows:

As used in this chapter unless context requires another meaning:

(1) "Director" means the director of the department of ecology.

(2) "Department" means the department of ecology.

(3) "Board" means the water and wastewater operator certification board of examiners established by RCW 70.95B.070.

(4) "Certificate" means a certificate of competency issued by the director stating that the operator has met the requirements for the specified operator classification of the certification program.

(5) "~~(Waste)~~ Wastewater treatment plant" means a facility used ~~((in the collection, transmission, storage, pumping, treatment or discharge of))~~ to treat any liquid or waterborne waste ~~((, whether))~~ of domestic origin or a combination of domestic, commercial or industrial ~~((waste))~~ origin, and which by its design requires the presence of an operator for its operation. It shall not include any facility used exclusively by a single family residence ~~((nor))~~, septic tanks with subsoil absorption ~~((nor))~~, industrial wastewater ~~((works))~~ treatment plants, or wastewater collection systems.

(6) "Operator in responsible charge" means an individual ~~((employed or appointed by any county, sewer district, municipality, public or private corporation, company, institution, person, or the state of Washington))~~ who is designated by the ~~((employing or appointing officials))~~ owner as the person on-site in responsible charge of the ~~((actual))~~ routine operation of a ~~((waste))~~ wastewater treatment plant.

(7) "Nationally recognized association of certification authorities" shall mean that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems and wastewater facilities and certification of operators, facilitates reciprocity between state programs and assists authorities in establishing new certification programs and updating existing ones.

(8) "Wastewater collection system" means any system of lines, pipes, manholes, pumps, liftstations, or other facilities used for the purpose of collecting and transporting wastewater.

(9) "Operating experience" means routine performance of duties, on-site in a wastewater treatment plant, that affects plant performance or effluent quality.

(10) "Owner" means in the case of a town or city, the city or town acting through its chief executive officer or the lessee if operated pursuant to a lease or contract; in the case of a county, the chairman of the county legislative authority or the chairman's designee; in the case of a sewer district, board of public utilities, association, municipality or other public body, the president or chairman of the body or the president's or chairman's designee; in the case of a privately owned wastewater treatment plant, the legal owner.

(11) "Wastewater certification program coordinator" means an employee of the department who is appointed by the director to serve on the board and who administers the wastewater treatment plant operators' certification program.

Sec. 2. Section 3, chapter 139, Laws of 1973 and RCW 70.95B.030 are each amended to read as follows:



As provided for in this chapter, the ~~((operator in responsible charge of the day-to-day operation of a waste treatment plant shall be certified. When a waste treatment plant is normally operated for more than one shift, the man responsible for each shift operation shall also be certified. Operating personnel not required to be certified by this chapter are encouraged to become certified hereunder on a voluntary basis))~~ individual on-site at a wastewater treatment plant who is designated by the owner as the operator in responsible charge of the operation and maintenance of the plant on a routine basis shall be certified at a level equal to or higher than the classification rating of the plant being operated.

If a wastewater treatment plant is operated on more than one daily shift, the operator in charge of each shift shall be certified at a level no lower than one level lower than the classification rating of the plant being operated and shall be subordinate to the operator in responsible charge who is certified at a level equal to or higher than the plant. This requirement for shift operator certification shall be met by January 1, 1989.

Operators not required to be certified by this chapter are encouraged to become certified on a voluntary basis.

Sec. 3. Section 4, chapter 139, Laws of 1973 and RCW 70.95B.040 are each amended to read as follows:

The director, with the approval of the board, shall adopt and enforce such rules and regulations as may be necessary for the administration of this chapter. The rules and regulations shall include, but not be limited to, provisions for the qualification and certification of operators for different classifications of ~~((waste))~~ wastewater treatment plants.

Sec. 4. Section 5, chapter 139, Laws of 1973 and RCW 70.95B.050 are each amended to read as follows:

The director shall classify all ~~((waste))~~ wastewater treatment plants with regard to the size, type, and other conditions affecting the complexity of such treatment plants and the skill, knowledge, and experience required of an operator to ~~((supervise the operation of))~~ operate such facilities to protect the public health and the state's water resources.

Sec. 5. Section 8, chapter 139, Laws of 1973 and RCW 70.95B.080 are each amended to read as follows:

Certificates shall be issued without examination under the following conditions:

(1) Certificates, in appropriate classifications, shall be issued without application fee to operators who, on July 1, 1973, hold certificates of competency attained by examination under the voluntary certification program sponsored jointly by the state department of social and health services, health services division, and the Pacific Northwest pollution control association.

(2) Certificates, in appropriate classifications, shall be issued to persons certified by a governing body or owner to have been the operator in responsible charge of a waste treatment plant on July 1, 1973. A certificate so issued will be valid only for the existing plant.

(3) A nonrenewable certificate, temporary in nature, may be issued for a period not to exceed twelve months, to an operator ~~((to))~~ who fills a vacated position required to ~~((have))~~ be filled by a certified operator. Only one such certificate may be issued subsequent to each instance of vacation of any such position.

Sec. 6. Section 9, chapter 139, Laws of 1973 and RCW 70.95B.090 are each amended to read as follows:

The issuance and renewal of a certificate shall be subject to the following conditions:

(1) A certificate shall be issued if the operator has satisfactorily passed a written examination, or has met the requirements of RCW 70.95B.080, and has met the requirements specified in the rules and regulations as authorized by this chapter, and has paid the department an application fee ~~((of ten dollars))~~. Such application fee shall not exceed fifty dollars.

(2) The term for all certificates shall be from the first of January of the year of issuance until the thirty-first of December of the ~~((same))~~ renewal year. The renewal period, not to exceed three years, shall be set by agency rule. Every certificate shall be renewed ~~((annually))~~ upon the payment of a ~~((five dollar))~~ renewal fee and satisfactory evidence presented to the director that the operator demonstrates continued professional growth in the field. Such renewal fee shall not exceed thirty dollars.

(3) ~~((An))~~ Individuals who fail~~((s))~~ to renew ~~((the))~~ their certificates before ~~((the end of certification))~~ December 31 of the renewal year, upon notice by the director shall have ~~((his))~~ their certificates suspended for ~~((thirty))~~ sixty days. If, during the suspension period, the renewal is not completed, the director shall give notice of revocation to the employer and to the operator and the certificate will be revoked ten days after such notice is given. An operator whose certificate has been revoked must reapply for certification and will be requested to meet the requirements of a new applicant.

Sec. 7. Section 11, chapter 139, Laws of 1973 and RCW 70.95B.110 are each amended to read as follows:

To carry out the provisions and purposes of this chapter, the director is authorized and empowered to:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as ~~((he))~~ the director deems appropriate with other state, federal, or interstate agencies, municipalities, education institutions, or other organizations or individuals.

(2) Receive financial and technical assistance from the federal government and other public or private agencies.

(3) Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations.

(4) Upon request, furnish reports, information, and materials relating to the certification program authorized by this chapter to federal, state, or interstate agencies, municipalities, education institutions, and other organizations and individuals.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this chapter.

Sec. 8. Section 12, chapter 139, Laws of 1973 and RCW 70.95B.120 are each amended to read as follows:

On and after one year following July 1, 1973, it shall be unlawful for any person, firm, corporation, municipal corporation, or other governmental subdivision or agency to operate a ~~((waste))~~ wastewater treatment plant unless the ~~((operator of the plant or system is))~~ individuals identified in RCW 70.95B.030 are duly certified by the director under the provisions of this chapter or any lawful rule, order, or regulation of the department. It shall also be unlawful for any person to perform the duties of an operator as defined in this chapter, or in any lawful rule, order, or regulation of the department, without being duly certified under the provisions of this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 70.95B RCW to read as follows:

Effective January 1, 1988, the department shall establish rules for the collection of fees for the issuance and renewal of certificates as provided for in RCW 70.95B.090. Beginning January 1, 1992, these fees shall be sufficient to recover the costs of the certification program.

Passed the House April 21, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 358

[Engrossed Substitute House Bill No. 578]

### TAXING DISTRICT BOUNDARIES

AN ACT Relating to the date boundaries of taxing districts are established for the levy of property taxes; and amending RCW 84.09.030.

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

Sec. 1. Section 84.09.030, chapter 15, Laws of 1961 as last amended by section 9, chapter 203, Laws of 1984 and RCW 84.09.030 are each amended to read as follows:

For the purposes of property taxation and the levy of property taxes the boundaries of counties, cities and all other taxing districts shall be the established official boundaries of such districts existing on the first day of March of the year in which the levy is made, and no such levy shall be made for any taxing district whose boundaries were not duly established on the first day of March of such year (~~(; PROVIDED, That for the year 1981 only the boundaries of library districts shall be the established official boundaries existing on the first day of October. PROVIDED FURTHER, That for the year 1984 only, boundaries of public hospital districts shall be the established official boundaries existing on the first day of April))~~). However, the boundaries of a taxing district shall be established on the first day of June of the year in which the property tax levy is made whenever the taxing district has incorporated that year and has boundaries coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year, or the boundaries of a taxing district have been altered that year by removing or adding territory with boundaries coterminous with the boundaries of another taxing district to the taxing district as they existed on the first day of March of that year. In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in such boundaries, is required by law to be filed in the office of the county auditor or other county official, said instrument shall be filed in triplicate. The officer with whom such instrument is filed shall transmit two copies to the county assessor.

Passed the House April 21, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 359

[Substitute House Bill No. 773]

### VOTER REGISTRATION VALIDITY INQUIRIES—CORRECTIONS AND CANCELLATIONS

AN ACT Relating to voter registration; and adding new sections to chapter 29.10 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 29.10 RCW to read as follows:

(1) Whenever any vote-by-mail ballot, notification to voters following precincting of the county, notification to voters of selection to serve on jury duty, or initial voter identification card is returned by the postal service as undeliverable, the county auditor shall, in every instance, inquire into the validity of the registration of that voter.

(2) The county auditor shall initiate his or her inquiry by sending, by first-class mail, a written notice to the challenged voter at the address indicated on the voter's permanent registration record. The county auditor shall not request any restriction on the forwarding of such notice by the postal service. The notice shall contain the nature of the inquiry and provide a suitable form for reply. The notice shall also contain a warning that the county auditor must receive a response within sixty days from the date of mailing or the individual's voter registration will be canceled.

(3) The voter, in person or in writing, may state that the information on the permanent voter registration record is correct or may request a change in the information on the permanent registration record no later than the sixtieth day after the date of mailing the inquiry.

(4) Upon the timely receipt of a response signed by the voter, the county auditor shall consider the inquiry satisfied and will make the corrections requested by the voter on the permanent registration record. The county auditor shall cancel the registration of a voter who fails to respond to the notice of inquiry within sixty days after the date of mailing.

(5) The county auditor shall notify the voter whose registration has been canceled by mail as prescribed in RCW 29.10.080. A voter may respond no later than the forty-fifth day after the date of mailing of the notice of cancellation. Upon receipt of the voter response, the auditor shall reinstate the voter.

NEW SECTION. Sec. 2. A new section is added to chapter 29.10 RCW to read as follows:

Any voter whose registration has been canceled under section 1 of this act and who, within a period of four years following the date of the cancellation, either applies for an absentee ballot or presents himself or herself at the polling place and offers to vote shall be permitted to vote a challenged ballot. The ballot shall be separated from other ballots and the final disposition of the challenge shall be determined by the county canvassing board in accordance with RCW 29.10.127. The voter shall be permitted to appear in person before the canvassing board and present testimony and evidence supporting his or her right to vote. If the canvassing board determines that the voter's registration was improperly canceled, the ballot shall be counted and the voter's registration shall be reinstated.

Passed the House April 25, 1987.

Passed the Senate April 25, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 360

[House Bill No. 748]

URBAN ARTERIAL BOARD—REGIONAL APPORTIONMENT PERCENTAGE  
CALCULATIONS—CERTAIN COUNTY PROJECTS TO HAVE VALUE  
ENGINEERING STUDIES

AN ACT Relating to the urban arterial board; and amending RCW 47.26.190 and 47.26.450.

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

Sec. 1. Section 25, chapter 83, Laws of 1967 ex. sess. as last amended by section 4, chapter 315, Laws of 1981 and RCW 47.26.190 are each amended to read as follows:

(1) At the beginning of each biennium the urban arterial board shall establish apportionment percentages for the five regions defined in RCW 47.26.050 in the following manner (~~prescribed in RCW 47.26.060 for that biennium, except calculations of needs shall be based upon a projection of category A needs for the ensuing six year period as determined by the department of transportation~~);

(a) One-third in the ratio which the population of the urban areas of each region bears to the total population of all of the urban areas of the state as last determined by the office of financial management;

(b) One-third in the ratio which the vehicle to mile ratio traveled on the classified arterial system prescribed in RCW 47.26.180, within the urban areas of each region bears to the total vehicle to mile ratio traveled on all classified urban arterials; and

(c) One-third in the ratio which the city and county urban arterial needs within the urban areas of each region bears to the total urban arterial needs on city and county urban arterial within all urban areas of the state as last revised by the urban arterial board. Except as otherwise provided in subsection (3) of this section, such apportionment percentages shall be used once each calendar quarter by the urban arterial board to apportion funds credited to the urban arterial trust account which are available for expenditure for urban arterial projects: PROVIDED, That any funds ((apportioned to a region and expended for a project which was initially authorized by the urban arterial board in a biennium prior to the 1981-1983 biennium will be apportioned in accordance with apportionment percentages for the five regions which were established in the prior biennium)) credited to the urban arterial trust account subsequent to July 1, 1987, resulting from bond sales in accordance with RCW 47.26.420 through 47.26.427 shall be apportioned according to the percentages for the five regions established for the biennium when the bonding authority was obligated to projects by the urban arterial board.

(2) All amounts credited to the urban arterial trust account, except those provided for in subsection (3) of this section and ~~((except proceeds from the sale of first authorization bonds and))~~ any excise tax revenues that may be required to repay the three series of urban arterial bonds or the interest thereon when due, after apportionment to each region, shall be divided on the basis of relative population established at the beginning of each biennium by the office of financial management between (a) the group of cities and that portion of those counties within federally approved urban areas and (b) the group of incorporated cities outside the boundaries of federally approved urban areas: PROVIDED, That funds credited to the urban arterial trust account subsequent to July 1, 1987, resulting from the sale of bonds in accordance with RCW 47.26.420 through 47.26.427 shall be divided on the basis of relative population percentages established for the biennium when the bonding authority was obligated to projects by the urban arterial board. Within each region, funds divided between the groups identified under (a) and (b) ~~((above))~~ of this subsection shall then be allocated by the urban arterial board to incorporated cities and counties, as the case may be, for the construction of specific urban arterial projects in accordance with the procedures set forth in RCW 47.26.240.

(3) At the beginning of each biennium the urban arterial board shall establish apportionment percentages for each of the five regions for the apportionment of the proceeds from the sale of fifteen million dollars of series II bonds and sixteen million dollars of series III bonds authorized by RCW 47.26.420, as now or hereafter amended, in the ratio which the population of the incorporated cities and towns lying outside the boundaries of federally approved urban areas of each region bears to the total population of all incorporated cities and towns of the state lying outside the boundaries of federally approved urban areas, as such populations are determined at the beginning of each biennium by the office of financial management. Such apportionment percentages shall be used once each calendar quarter by the urban arterial board to apportion funds credited to the urban arterial trust account which are available for expenditure for urban arterial projects under this subsection: PROVIDED, That any funds ~~((apportioned to a region and expended for a project which was initially authorized by the urban arterial board in a biennium prior to the 1981-1983 biennium will be apportioned in accordance with apportionment percentages for the five regions which were established in the prior biennium))~~ credited to the urban arterial trust account subsequent to July 1, 1987, resulting from the sale of bonds in accordance with RCW 47.26.420 through 47.26.427 shall be apportioned with percentages for the five regions established for the biennium when the bonding authority was obligated to projects by the urban arterial board. Funds apportioned to each region shall be allocated by the urban arterial

board to incorporated cities lying outside the boundaries of federally approved urban areas, for the construction of specific urban arterial projects in accordance with the procedures set forth in RCW 47.26.240.

Sec. 2. Section 6, chapter 171, Laws of 1969 ex. sess. as amended by section 3, chapter 126, Laws of 1973 1st ex. sess. and RCW 47.26.450 are each amended to read as follows:

At the time the urban arterial board reviews the six-year program of each county and city each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 47.26.440, the portion of the urban arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve urban arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 47.26.240. In the case of projects whose total cost exceeds one million dollars as reflected in the six-year program, the agency with jurisdiction shall furnish to the board a value engineering study performed by an interagency team approved by the board, to determine whether the proposed improvement provides a cost-effective solution for the project before the board may approve urban arterial trust funds for either the preliminary or construction phase of the project. The board may authorize a variance from the value engineering study upon a determination that the study is not warranted. The board may also require a value engineering study for a project whose total cost is less than one million dollars upon a determination by the board that the study is warranted.

The board shall authorize urban arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve urban arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The urban arterial board may, within the constraints of available urban arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting local government that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the local government was developed. Such proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 47.26.220.

Passed the House April 21, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.



## CHAPTER 361

[House Bill No. 1199]

## SERVICE OF PROCESS—LOCAL GOVERNMENTS AND CORPORATIONS

AN ACT Relating to the designation of certain individuals who may receive service of process for certain corporations and local governments; and amending RCW 4.28.080.

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

Sec. 1. Section 7, chapter 127, Laws of 1893 as last amended by section 1, chapter 120, Laws of 1977 ex. sess. and RCW 4.28.080 are each amended to read as follows:

The summons shall be served by delivering a copy thereof, as follows:

(1) If the action be against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7) If against a foreign or alien insurance company, as provided in chapter 48.05 RCW.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

(10) If the suit be against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his usual abode with some person of suitable age and discretion then resident therein.

Service made in the modes provided in this section shall be taken and held to be personal service.

Passed the House April 21, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 362

[Engrossed Substitute Senate Bill No. 5024]

### CONTRACTORS—REGISTRATION CONDITIONS AND REQUIREMENTS— ADVERTISING

AN ACT Relating to registration of contractors; amending RCW 18.27.020, 18.27.030, 18.27.100, and 18.27.040; and adding new sections to chapter 18.27 RCW.

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

Sec. 1. Section 2, chapter 77, Laws of 1963 as last amended by section 1, chapter 197, Laws of 1986 and RCW 18.27.020 are each amended to read as follows:

(1) Every contractor shall register with the department.

(2) It is a misdemeanor for any contractor having knowledge of the registration requirements of this chapter to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended; or

(c) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) All misdemeanor actions under this chapter shall be prosecuted in the county where the infraction occurs.

Sec. 2. Section 3, chapter 77, Laws of 1963 as amended by section 3, chapter 153, Laws of 1973 1st ex. sess. and RCW 18.27.030 are each amended to read as follows:

An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

- (1) Employer social security number.
- (2) Industrial insurance number.
- (3) Employment security department number.
- (4) State excise tax registration number.
- (5) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.
- (6) The name and address of each partner if the applicant be a firm or partnership, or the name and address of the owner if the applicant be an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The information contained in such application shall be a matter of public record and open to public inspection.

Registration shall be denied if the applicant has been previously registered as a sole proprietor, partnership or corporation, and was a principal or officer of the corporation, and if the applicant has unsatisfied final judgments or summons and complaints not dismissed that were filed pursuant to RCW 18.27.040, and that were incurred during a previous registration under this chapter.

Sec. 3. Section 10, chapter 77, Laws of 1963 as last amended by section 1, chapter 68, Laws of 1980 and RCW 18.27.100 are each amended to read as follows:

Except as provided in RCW 18.27.020 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity of a contractor under any other name unless such name also is registered hereunder. All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents (~~((prepared by a contractor))~~) which show a contractor's name or address shall show the contractor's name or address as registered hereunder. The alphabetized listing of contractors appearing in the advertising section of telephone books or other directories and all advertising (~~((prepared by a contractor))~~), including by airwave transmission, which shows or announces the contractor's name or address shall show or announce the contractor's current registration number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials (~~((prepared by a contractor and))~~) used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. No contractor shall advertise that he is bonded and insured

because of the bond required to be filed and sufficiency of insurance as provided in this chapter. A contractor shall not falsify a registration number and use it in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto. Any person who is found to be in violation of this section by the director at a hearing held in accordance with the administrative procedure act, chapter 34.04 RCW, shall be required to pay a penalty of not more than ((one)) five thousand dollars as determined by the director. However, the penalty under this section shall not apply to a violation determined to be an inadvertent error.

NEW SECTION. Sec. 4. A new section is added to chapter 18.27 RCW to read as follows:

When determining a violation of RCW 18.27.100, the director and administrative law judge shall hold responsible the person who purchased the advertising.

NEW SECTION. Sec. 5. A new section is added to chapter 18.27 RCW to read as follows:

(1) If, upon investigation, the director or the director's designee has probable cause to believe that a person holding a registration, an applicant for registration, or an unregistered person acting in the capacity of a contractor who is not otherwise exempted from this chapter, has violated RCW 18.27.100 by unlawfully advertising for work covered by this chapter in an alphabetical or classified directory, the department may issue a citation under chapter 34.04 RCW containing an order of correction. Such order shall require the violator to cease the unlawful advertising.

(2) If the person to whom a citation is issued under subsection (1) of this section notifies the department in writing that he or she contests the citation, the department shall afford an opportunity for a hearing, under chapter 34.04 RCW, within thirty days after receiving the notification.

Sec. 6. Section 4, chapter 77, Laws of 1963 as last amended by section 18, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.040 are each amended to read as follows:

(1) Each applicant shall, at the time of applying for or renewing a certificate of registration, file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the department running to the state of Washington if a general contractor, in the sum of six thousand dollars; if a specialty contractor, in the sum of four thousand dollars, conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing labor or material or renting or supplying

equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of negligent or improper work or breach of contract in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) Any contractor registered as of the effective date of this 1983 act who maintains such registration in accordance with this chapter shall be in compliance with this chapter until the next annual renewal of the contractor's certificate of registration. At that time, the contractor shall provide a bond, cash deposit, or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall renew the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit upon such bond in the superior court of the county in which the work is done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon such bond or deposit shall be commenced by filing the complaint with the clerk of the appropriate superior court within one year from the date of expiration of the certificate of registration in force at the time the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was completed. Service of process in an action upon such bond shall be exclusively by service upon the department. Three copies of the complaint and a fee of ten dollars to cover the handling costs shall be served by registered or certified mail upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the ten-dollar fee and three copies of the complaint. Such service shall constitute service on the registrant and the surety for suit upon the bond and the department shall transmit the complaint or a copy thereof to the registrant at the address listed in his application and to the surety within forty-eight hours after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and

pending at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (a) Labor, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Material and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover.

(5) In the event that any final judgment shall impair the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the department shall suspend the registration of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims shall have been furnished. If such bond becomes fully impaired, a new bond must be furnished at the increased rates prescribed by this section as now or hereafter amended.

(6) In lieu of the surety bond required by this section the contractor may file with the department a deposit consisting of cash or other security acceptable to the department.

(7) Any person having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(8) The director may promulgate rules necessary for the proper administration of the security.

Passed the Senate April 25, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 363

[Engrossed Substitute House Bill No. 217]

## SUPERIOR COURTS—CONVICTED DEFENDANT COSTS—PROBATE ACCOUNTS AND REPORTS FILING REQUIREMENTS—CLERK DUTIES RE DAILY RECORDS, CHILD SUPPORT, AND MAINTENANCE—WEIGHTED CASELOAD ANALYSIS

AN ACT Relating to superior court; and amending RCW 10.01.160, 11.76.100, 26.09.120, 36.23.030, 36.48.090, and 2.56.030.

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

Sec. 1. Section 1, chapter 96, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 389, Laws of 1985 and RCW 10.01.160 are each amended to read as follows:

(1) The court may require a convicted defendant to pay costs.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a convicted defendant to pay.

(3) The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the court which sentenced him for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

Sec. 2. Section 11.76.100, chapter 145, Laws of 1965 and RCW 11.76.100 are each amended to read as follows:

In rendering his accounts or reports the personal representative shall produce receipts or canceled checks for the expenses and charges which he shall have paid, which receipts shall be filed and remain in court until the probate has been completed and the personal representative has been discharged; however, he may be allowed any item of expenditure, not exceeding twenty dollars, for which no receipt is produced, if such item be supported by his own oath, but such allowances without receipts shall not exceed the sum of three hundred dollars in any one estate.

Sec. 3. Section 36.23.030, chapter 4, Laws of 1963 as amended by section 2, chapter 34, Laws of 1967 ex. sess. and RCW 36.23.030 are each amended to read as follows:

The clerk of the superior court at the expense of the county shall keep the following records:

(1) A record in which he shall enter all appearances and the time of filing all pleadings in any cause;

(2) A docket in which before every session, he shall enter the titles of all causes pending before the court at that session in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the character of the action, the pleadings on which it stands at the commencement of the session. One copy of this docket shall be furnished for the use of the court and another for the use of the members of the bar;

(3) A record for each session in which he shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him to make out a complete cost bill;

(4) A record in which he shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, which ~~((shall))~~ may, as provided by local court rule, be signed by the judge; but the court shall have full control of all entries in said record at any time during the session in which they were made;

(5) An execution docket and also one for a final record in which he shall make a full and perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders, or decisions as the court may require;

(6) A journal in which shall be entered all orders, decrees, and judgments made by the court and the minutes of the court in probate proceedings;

(7) A record of wills and bonds shall be maintained. Originals shall be placed in the original file and shall be preserved or duplicated pursuant to RCW 36.23.065;

(8) A record of letters testamentary, administration and guardianship in which all letters testamentary, administration and guardianship shall be recorded;

(9) A record of claims shall be entered in the appearance docket under the title of each estate or case, stating the name of each claimant, the amount of his claim and the date of filing of such;

(10) A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, and the date of filing each paper;



(11) Such other records as are prescribed by law and required in the discharge of the duties of his office.

Sec. 4. Section 36.48.090, chapter 4, Laws of 1963 as last amended by section 1, chapter 227, Laws of 1979 ex. sess. and RCW 36.48.090 are each amended to read as follows:

Whenever the clerk of the superior court has funds held in trust for any litigant or for any purpose, they shall be deposited in a separate fund designated "clerk's trust fund," and shall not be commingled with any public funds. However, in the case of child support payments, the clerk may send the checks or drafts directly to the recipient or endorse the instrument to the recipient and the clerk is not required to deposit such funds. In processing child support payments, the clerk shall comply with RCW 26.09-.120. The clerk may invest the funds in any of the investments authorized by RCW 36.29.020. The clerk shall place the income from such investments in the county current expense fund to be used by the county for general county purposes unless (1) the funds being held in trust in a particular matter are two thousand dollars or more, and (2) a litigant in the matter has filed a written request that such investment be made of the funds being held in trust and the income be paid to the beneficiary. In such an event, any income from such investment shall be paid to the beneficiary of such trust upon the termination thereof: PROVIDED, That five percent of the income shall be deducted by the clerk as an investment service fee and placed in the county current expense fund to be used by the county for general county purposes.

In any matter where funds are held in the clerk's trust fund, any litigant who is not represented by an attorney and who has appeared in matters where the funds held are two thousand dollars or more shall receive written notice of the provisions of this section from the clerk.

Sec. 5. Section 12, chapter 157, Laws of 1973 1st ex. sess. as amended by section 3, chapter 45, Laws of 1983 1st ex. sess. and RCW 26.09.120 are each amended to read as follows:

(1) The court may, upon its own motion or upon motion of either party, order support or maintenance payments to be made to:

(a) The person entitled to receive the payments; or

(b) The department of social and health services pursuant to chapters 74.20 and 74.20A RCW; or

(c) The clerk of court as trustee for remittance to the person entitled to receive the payments.

(2) If payments are made to the clerk of court:

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

(b) The parties affected by the order shall inform the clerk of the court of any change of address or of other conditions that may affect the administration of the order; and

(c) The clerk may by local court rule accept only certified funds or cash as payment. In all cases, the clerk shall accept only certified funds or cash for five years after one check has been returned for nonsufficient funds or account closure.

Sec. 6. Section 3, chapter 259, Laws of 1957 as amended by section 1, chapter 132, Laws of 1981 and RCW 2.56.030 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system; ((and))

(10) Submit annually, as of February 1st, to the chief justice and the judicial council, a report of the activities of the administrator's office for the preceding calendar year;

(11) Administer programs and standards for the training and education of judicial personnel;

(12) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration and the judicial council, both of which shall make recommendations to the legislature by January 1, 1989. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective; and

(13) Attend to such other matters as may be assigned by the supreme court of this state.

Passed the House April 20, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

---

## CHAPTER 364

[Engrossed House Bill No. 338]

### TRANSPORTATION COMMISSION'S AUTHORITY EXPANDED CONCERNING PLANNERS, CONSULTANTS AND TECHNICAL PERSONNEL

AN ACT Relating to the transportation commission; amending RCW 47.01.061; and reenacting and amending RCW 43.10.067.

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

Sec. 1. Section 43.10.067, chapter 8, Laws of 1965 as last amended by section 108, chapter 7, Laws of 1985 and by section 2, chapter 133, Laws of 1985 and RCW 43.10.067 are each reenacted and 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, 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 ((and)), RCW 44.28.140, and 47.01.061 shall not be affected hereby.

Sec. 2. Section 6, chapter 151, Laws of 1977 ex. sess. as last amended by section 94, chapter 287, Laws of 1984 and RCW 47.01.061 are each amended to read as follows:

The commission shall meet at such times as it deems advisable but at least once every month. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary, and shall elect one of its members chairman for a term of one year. The chairman shall be able to vote on all matters before the commission. The commission may from time to time retain planners, consultants, and other technical personnel to advise it in the performance of its duties.

The commission shall submit to each regular session of the legislature held in an odd-numbered year its own budget proposal necessary for the commission's operations separate from that proposed for the department.

Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the secretary of transportation, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

Passed the House March 19, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 365

[Substitute Senate Bill No. 5405]

### HAZARDOUS SUBSTANCE INFORMATION—CONSUMER PRODUCTS EXCLUSION

AN ACT Relating to hazardous substance information; and adding a new section to chapter 49.70 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 49.70 RCW to read as follows:

(1) It is the intent of the legislature that this chapter shall not apply to products that are generally made available to the noncommercial consumer: **PROVIDED**, That such "consumer" products used by employees in the workplace are used in substantially the same manner, form, and concentration as they are used by noncommercial consumers, and that the product exposure is not substantially greater to the employee than to the noncommercial consumer during normal and accepted use of that product.

(2) The department shall adopt rules in accordance with chapter 34.04 RCW to implement this section. This section shall not affect the department's authority to implement and enforce the Washington industrial safety and health act, chapter 49.17 RCW, at least as effectively as the federal occupational safety and health act.

Passed the Senate April 20, 1987.

Passed the House April 14, 1987.

Approved by the Governor May 13, 1987.

Filed in Office of Secretary of State May 13, 1987.

## CHAPTER 366

[Engrossed House Bill No. 432]

### FRATERNAL BENEFIT SOCIETIES

AN ACT Relating to fraternal benefit societies; adding a new chapter to Title 48 RCW; repealing RCW 48.36.010, 48.36.020, 48.36.030, 48.36.040, 48.36.050, 48.36.060, 48.36.070, 48.36.080, 48.36.090, 48.36.100, 48.36.120, 48.36.130, 48.36.140, 48.36.150, 48.36.160, 48.36.170, 48.36.180, 48.36.190, 48.36.200, 48.36.210, 48.36.220, 48.36.230, 48.36.240, 48.36.250, 48.36.260, 48.36.270, 48.36.280, 48.36.290, 48.36.300, 48.36.310, 48.36.320, 48.36.330, 48.36.340, 48.36.350, 48.36.370, 48.36.380, 48.36.390, 48.36.400, 48.36.410, 48.36.420, 48.36.430, and 48.36.440; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. Any incorporated society, order, or supreme lodge, without capital stock, including one exempted under the provisions of section 37(1)(b) of this act whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which provides benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

**NEW SECTION.** Sec. 2. (1) A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated, or admitted in accordance with its laws, rules, and ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society.

(2) A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of the children, nor shall they have a voice or vote in the management of the society.

**NEW SECTION.** Sec. 3. A society has a representative form of government when:

(1) It has a supreme governing body constituted in one of the following ways:

(a) The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws; or

(b) The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society;

(2) The officers of the society are elected either by the supreme governing body or by the board of directors;

(3) Only benefit members are eligible for election to the supreme governing body and the board of directors; and

(4) Each voting member shall have one vote. No vote may be cast by proxy.

**NEW SECTION.** Sec. 4. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Benefit contract" means the agreement for provision of benefits authorized by section 16 of this act, as that agreement is described in section 19(1) of this act.

(2) "Benefit member" means an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.

(3) "Certificate" means the document issued as written evidence of the benefit contract.

(4) "Premiums" means premiums, rates, dues or other required contributions by whatever name known, which are payable under the certificate.

(5) "Laws" means the society's articles of incorporation, constitution, and bylaws, however designated.

(6) "Rules" means all rules, regulations, or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

(7) "Society" means fraternal benefit society, unless otherwise indicated.

(8) "Lodge" means subordinate member units of the society, known as camps, courts, councils, branches, or by any other designation.

**NEW SECTION.** Sec. 5. (1) A society shall operate for the benefit of members and their beneficiaries by:

(a) Providing benefits as specified in section 16 of this act; and

(b) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, which may also be extended to others.

These purposes may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

(2) Every society may adopt laws and rules for the government of the society, the admission of its members, and the management of its affairs. It may change, alter, add to, or amend such laws and rules and has such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

**NEW SECTION.** Sec. 6. (1) A society shall specify in its laws or rules:

(a) Eligibility standards for each and every class of membership, provided that if benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age fifteen and not greater than age twenty-one;

(b) The process for admission to membership for each membership class; and

(c) The rights and privileges of each membership class, provided that only benefit members shall have the right to vote on the management of the insurance affairs of the society.

(2) A society may also admit social members who have no voice or vote in the management of the insurance affairs of the society.

(3) Membership rights in the society are personal to the member and are not assignable.

(4) A society may provide in its laws or rules for grievance or complaint procedures for members.

**NEW SECTION.** Sec. 7. (1) The principal office of any domestic society shall be located in this state. The meetings of its supreme governing body may be held in any state, district, province, or territory where the society has at least one subordinate lodge, or in such other location as determined by the supreme governing body, and all business transacted at the meetings is as valid in all respects as if the meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

(2) (a) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. Required reports, notices, and statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

(b) Not later than June 1st of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society or, in lieu thereof, the synopsis may be published in the society's official publication.

**NEW SECTION.** Sec. 8. (1) The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(2) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, the person in connection with or arising out of any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, or threat thereof, in which the person may be involved by reason of the fact that the person is or was a director, officer, employee, or agent of the society or of any firm, corporation or organization which the person served in any capacity at the request of the society. A person shall not be so indemnified or reimbursed (a) in relation to any matter in such action, suit, or proceeding as to which the person shall finally be adjudged to be or have been guilty of breach of a duty as a director, officer, employee, or agent of the society; or (b) in relation to any matter in the action, suit, or proceeding, or threat thereof, which has been made the subject of a compromise settlement; unless in either case the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that their conduct was unlawful. The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in (a) or (b) of this subsection may only be made by the supreme governing body or board of directors



by a majority vote of a quorum consisting of persons who were not parties to the action, suit, or proceeding or by a court of competent jurisdiction. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to the person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which the person may be entitled as a matter of law and shall inure to the benefit of the person's heirs, executors, and administrators.

(3) A society may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the society, or who is or was serving at the request of the society as a director, officer, employee, or agent of any other firm, corporation, or organization against any liability asserted against the person and incurred by the person in any capacity or arising out of the person's status as such, whether or not the society would have the power to indemnify the person against the liability under this section.

**NEW SECTION.** Sec. 9. The laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

**NEW SECTION.** Sec. 10. A domestic society organized on or after the effective date of this section shall be formed as follows, but not until it has surplus in the minimum amount of total capital and surplus required by RCW 48.05.340:

(1) Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign, and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. The purposes shall not include more liberal powers than are granted by this chapter;

(c) The names and residences of the incorporators and the names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all the officers shall be elected by the supreme governing body, which election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

(2) The articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society, and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year shall be filed with the commissioner, who may require further information as the commissioner deems necessary. The bond with sureties approved by the commissioner shall be in an amount, not less than three hundred thousand dollars nor more than one million five hundred thousand dollars as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain, and file the articles of incorporation and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members as hereinafter provided.

(3) No preliminary certificate of authority granted under the provisions of this section shall be valid after one year from its date or after a further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the five hundred applicants required by subsection (4) of this section have been secured and the organization has been completed under this chapter. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business under this chapter.

(4) Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount collected. No society shall incur any liability other than for the return of the advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

(a) Actual bona fide applications for benefits have been secured on not less than five hundred applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(b) At least ten subordinate lodges have been established into which the five hundred applicants have been admitted;

(c) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of the applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted, and premiums therefor; and

(d) It has been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of the society, that at least five hundred applicants have each paid in cash at least one regular monthly premium and the total amount of collected premiums equals at least one hundred fifty thousand dollars. The advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, the premiums shall be returned to the applicants.

(5) The commissioner may make such examination and require such further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of this chapter, the commissioner shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate of authority shall be prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

(6) Any incorporated society authorized to transact business in this state at the time this chapter becomes effective shall not be required to reincorporate.

**NEW SECTION.** Sec. 11. (1) A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting thereof or, if its laws so provide, by referendum. The referendum may be held in accordance with the provisions of its laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members, or by the vote of local lodges. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission, a majority of the members voting shall have signified their consent to the amendment by one of the specified methods.

(2) No amendment to the laws of any domestic society shall take effect unless approved by the commissioner. The commissioner shall approve the amendment if the commissioner finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects, and purposes of the society. Unless the commissioner disapproves any amendment within sixty days after the filing of same, the amendment shall be considered approved. The approval or disapproval by the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case the commissioner disapproves the amendment, the reasons for the disapproval shall be stated in the written notice.

(3) Within ninety days from the approval by the commissioner, all amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official publication of

the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that the amendments or synopsis thereof, have been furnished to the addressee.

(4) Every foreign or alien society authorized to do business in this state shall file with the commissioner a certified copy of all amendments of, or additions to, its laws within ninety days after their enactment.

(5) Printed copies of the laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of their legal adoption.

**NEW SECTION.** Sec. 12. (1) A society may create, maintain, and operate, or establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 5(1)(b) of this act. The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held or leased by the society for this purpose shall be reported in every annual statement.

(2) No society shall own or operate funeral homes or undertaking establishments.

**NEW SECTION.** Sec. 13. (1) A domestic society may, by a reinsurance agreement, transfer any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the commissioner, but no domestic society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on the transferred risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a transferring society for reinsurance made, transferred, renewed, or otherwise becoming effective after the effective date of this section, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the transferring society under the contract or contracts reinsured without diminution because of the insolvency of the transferring society.

(2) Notwithstanding the limitation in subsection (1) of this section, a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 14 of this act.

**NEW SECTION.** Sec. 14. (1) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the commissioner:

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing their financial condition on a date fixed by

the commissioner but not earlier than December 31st next preceding the date of the contract;

(c) A certificate of the officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme governing body of each society, such vote being conducted at a regular or special meeting of each such body, or, if the society's laws so permit, by mail; and

(d) Evidence that at least sixty days prior to the action of the supreme governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

(2) If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to that effect. Upon approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event, the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval is filed with the commissioner of this state or, if the laws of the state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of insurance of the state or territory and a certificate of such approval is filed with the commissioner of this state.

(3) Upon the consolidation or merger becoming effective, all the rights, franchises, and interests of the consolidated or merged societies in and to every species of property, real, personal, or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after the consolidation or merger.

(4) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that the notice or document has been duly addressed and mailed, shall be prima facie evidence that the notice or document has been furnished to the addressees.

**NEW SECTION.** Sec. 15. Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of the insurance laws of this state for mutual life insurance companies. A plan of conversion shall be prepared in writing

by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of such plan, or if the society is organized under the direct election method pursuant to section 3(1)(b) of this act, the plan of conversion shall be submitted by mail to the benefit members or the plan may be published in the official publication authorized by section 7(2)(a) of this act. The affirmative vote of two-thirds of the benefit members voting thereon shall be necessary for the approval of the plan. No conversion shall take effect unless and until approved by the commissioner who may give approval if the commissioner finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

**NEW SECTION.** Sec. 16. (1) A society may provide the following contractual benefits in any form:

- (a) Death benefits;
- (b) Endowment benefits;
- (c) Annuity benefits;
- (d) Temporary or permanent disability benefits;
- (e) Hospital, medical, or nursing benefits;
- (f) Monument or tombstone benefits to the memory of deceased members; and
- (g) Such other benefits as authorized for life insurers and which are not inconsistent with this chapter.

(2) A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subsection (1) of this section, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

**NEW SECTION.** Sec. 17. (1) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(2) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion paid shall not exceed the sum of one thousand dollars.

(3) If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of the benefit, except to the extent that funeral benefits may be paid under this section, shall be payable to the personal representative of the deceased insured, provided that if the owner of the certificate is other than the insured, the proceeds shall be payable to the owner.

NEW SECTION. Sec. 18. No money or other benefit, charity, relief, or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment, or other process, or to be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

NEW SECTION. Sec. 19. (1) Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided. The certificate, together with any riders or endorsements attached thereto, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments, shall constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

(2) Except as provided in section 22 of this act, any changes, additions, or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate, shall bind the owner and the beneficiaries, and shall govern and control the benefit contract in all respects the same as though the changes, additions, or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

(3) Any person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules of the society to the same extent as though the age of majority had been attained at the time of application.

(4) Except as provided in section 22 of this act, a society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its board of directors or corresponding body may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board, and that if the payment is not made, either (a) it shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for

certificate loans under the certificates; or (b) in lieu of or in combination with (a) of this subsection, the owner may accept a proportionate reduction in benefits under the certificate. The society may specify the manner of the election and which alternative is to be presumed if no election is made.

(5) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

(6) No certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner in the manner provided for like policies issued by life insurers in this state. Every life, accident, health, or disability insurance certificate and every annuity certificate issued on or after one year from the effective date of this section shall be approved by the commissioner and shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificates shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.

(7) Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other respects for the regulation, government, and control of such certificates and all rights, obligations, and liabilities incident thereto and connected therewith. Ownership rights prior to the transfer shall be specified in the certificate.

(8) A society may specify the terms and conditions on which benefit contracts may be assigned.

**NEW SECTION.** Sec. 20. (1) For certificates issued prior to one year after the effective date of this section, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall comply with the provisions of law applicable immediately prior to the effective date of this section.

(2) For certificates issued on or after one year from the effective date of this section for which reserves are computed on the commissioner's 1941



standard ordinary mortality table, the commissioner's 1941 standard industrial table or the commissioner's 1958 standard ordinary mortality table, or the commissioner's 1980 standard mortality table, or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon such tables.

(3) For annuity certificates issued on or after one year from the effective date of this section, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing annuities.

**NEW SECTION.** Sec. 21. A society shall invest its funds only in investments that are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country, or province in which it is incorporated, shall be deemed to have met the requirements of this section for the investment of funds.

**NEW SECTION.** Sec. 22. (1) All assets shall be held, invested, and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment on the surrender of any part thereof, except as provided in the benefit contract.

(2) A society may create, maintain, invest, disburse, and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society.

(3) A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to all the provisions of law regulating life insurers establishing such accounts and issuing such contracts, as provided in chapter 48.18A RCW. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, or any rules issued thereunder, the society may adopt special procedures for the conduct of the business and affairs of a separate account, may, for persons having beneficial interests therein, provide special voting and other rights, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account, and may issue contracts on a variable basis to which section 19 (2) and (4) of this act shall not apply.

**NEW SECTION.** Sec. 23. Societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state unless they are expressly designated therein, or unless it is specifically made applicable by this chapter.

**NEW SECTION.** Sec. 24. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax, other than taxes on real estate and office equipment.

**NEW SECTION.** Sec. 25. (1) Standards of valuation for certificates issued prior to one year after the effective date of this section shall be those provided by the laws applicable immediately prior to the effective date of this section.

(2) The minimum standards of valuation for certificates issued on or after one year from the effective date of this section shall be based on the following tables:

(a) For certificates of life insurance: The commissioner's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial mortality table, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1980 standard ordinary mortality table, or any more recent table made applicable to life insurers;

(b) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits, and for noncancellable accident and health benefits: Such tables as are authorized for use by life insurers in this state.

All of the above shall be under valuation methods and standards, including interest assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

(3) The commissioner may, in the commissioner's discretion, accept other standards for valuation if the commissioner finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in the commissioner's discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(4) Any society, with the consent of the commissioner of insurance of the state of domicile of the society and under the conditions, if any, which the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves required by this section, but the contractual rights of any benefit member shall not be affected thereby.

**NEW SECTION.** Sec. 26. (1) Every society transacting business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the commissioner, file with the

commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and pay a fee of ten dollars for filing. The statement shall be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(2) As part of the required annual statement, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December 31st last preceding, provided the commissioner may, in the commissioner's discretion for cause shown, extend the time for filing the valuation for not more than two calendar months. The valuation shall be done in accordance with the standards specified in section 25 of this act. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(3) A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars for each day during which the neglect continues, and, upon notice by the commissioner, its authority to do business in this state shall cease while the default continues.

**NEW SECTION.** Sec. 27. Societies which are now authorized to transact business in this state may continue the business until April 1, 1988. The authority of the societies and all societies licensed under this chapter, may be renewed annually, but in all cases to terminate on April 1st each year. However, a license so issued shall continue in full force and effect until the new license is issued or specifically refused. For each license or renewal the society shall pay the commissioner the fee established pursuant to RCW 48.14.010, subject to the retaliatory provision of RCW 48.14.040. A certified copy or duplicate of the license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

**NEW SECTION.** Sec. 28. (1) The commissioner, or any person the commissioner may appoint, may examine any domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized by chapter 48.03 RCW. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers shall also be applicable to the examination of societies.

(2) The expense of each examination and of each valuation, including the compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued. The payments shall be made upon receipt of statements furnished by the commissioner.

**NEW SECTION.** Sec. 29. No foreign or alien society shall transact business in this state without a license issued by the commissioner. Any society desiring admission to this state shall comply substantially with the requirements and limitations of this chapter applicable to domestic societies. A society may be licensed to transact business in this state upon filing with the commissioner:

- (1) A duly certified copy of its articles of incorporation;
- (2) A copy of its bylaws, certified by its secretary or corresponding officer;
- (3) A power of attorney to the commissioner as prescribed in section 41 of this act;
- (4) A statement of its business under oath by its president and secretary, or corresponding officers, in a form prescribed by the commissioner, verified by an examination made by the supervising insurance official of its home state or other state, territory, province, or country, satisfactory to the commissioner;
- (5) Certification from the proper official of its home state, territory, province, or country that the society is legally incorporated and licensed to transact business;
- (6) Copies of its certificate forms; and
- (7) Such other information as the commissioner may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter.

**NEW SECTION.** Sec. 30. (1) When the commissioner, upon investigation, finds that a domestic society:

- (a) Has exceeded its powers;
  - (b) Has failed to comply with any provision of this chapter;
  - (c) Is not fulfilling its contracts in good faith;
  - (d) Has a membership of less than four hundred after an existence of one year or more; or
  - (e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public, or the business;
- the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for the commissioner's dissatisfaction. The commissioner shall immediately issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After the notice the society shall have thirty days in which to comply with the commissioner's request for correction. If the society fails to comply, the commissioner shall notify the society of such findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of is corrected, or why other appropriate action should not be commenced against the society.

(2) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts to the attorney general who shall, if the attorney general deems the circumstances warrant, commence an action to enjoin the society from transacting business or other appropriate action.

(3) The court shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be enjoined, liquidated, or a receiver appointed, the court shall enter the necessary order. No society so enjoined shall have the authority to do business until:

(a) The commissioner finds that the violation complained of has been corrected;

(b) The costs of such action have been paid by the society if the court finds that the society was in default as charged;

(c) The court has dissolved its injunction; and

(d) The commissioner has reinstated the certificate of authority.

(4) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

(5) No action under this section shall be maintained in any court of this state unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as the receiver.

(6) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner of insurance, hearing by the court, injunction, and receivership, shall be applicable to a society which voluntarily discontinues business.

**NEW SECTION.** Sec. 31. (1) When the commissioner, upon investigation, finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this chapter;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public;

the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for the commissioner's dissatisfaction. The commissioner shall immediately issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After the notice the society shall have thirty days in which to comply with the commissioner's request for correction. If the society fails to comply, the commissioner shall notify the society of such findings of noncompliance and

require the society to show cause on a date named why its license should not be suspended, revoked, or refused. If on such date the society does not present good and sufficient reasons why its authority to do business in this state should not be suspended, revoked, or refused, the commissioner may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to the commissioner that the suspension or refusal should be withdrawn or the commissioner may revoke the authority of the society to do business in this state.

(2) Nothing in this section shall prevent a society from continuing, in good faith, all contracts made in this state during the time the society was legally authorized to transact business herein.

NEW SECTION. Sec. 32. No application or petition for injunction against any domestic, foreign, or alien society, or lodge thereof, shall be maintained in any court of this state unless made by the attorney general upon request of the commissioner.

NEW SECTION. Sec. 33. (1) Agents of societies shall be licensed in accordance with the applicable provisions of chapter 48.17 RCW regulating the licensing, revocation, suspension, or termination of licenses of resident and nonresident agents. Persons who are so authorized by a fraternal benefit society for a period of one year immediately prior to June 13, 1963, shall not be required to take and pass an examination as required by RCW 48.17.110.

(2) The following individuals shall not be deemed an agent of a fraternal benefit society within the provisions of subsection (1) of this section:

(a) Any regular salaried officer or employee of a licensed society who devotes substantially all of their services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes, or intends to devote, less than fifty percent of their time to the solicitation and procurement of insurance contracts for such society: PROVIDED, That any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars shall be conclusively presumed to be devoting, or intending to devote, fifty percent of the person's time to the solicitation or procurement of insurance contracts for such society.

NEW SECTION. Sec. 34. (1) Except as provided in subsection (2) of this section, every society authorized to do business in this state shall be subject to the provisions of chapter 48.30 RCW relating to unfair trade practices.

(2) Nothing in chapter 48.30 RCW shall be construed as applying to or affecting the right of any society to determine its eligibility requirements

for membership, or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

**NEW SECTION.** Sec. 35. (1) Every society authorized to do business in this state shall:

(a) Appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served;

(b) Agree in writing that any lawful process against it which is served on the commissioner shall be of the same legal force and validity as if served upon the society; and

(c) Agree that the authority shall continue in force so long as any liability remains outstanding in this state.

Copies of such appointment, certified by said commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original.

(2) Service shall only be made upon the commissioner, or if absent, upon the person in charge of the commissioner's office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, the commissioner shall forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No service shall require a society to file its answer, pleading, or defense in less than forty days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner the fee established pursuant to RCW 48.05.210.

**NEW SECTION.** Sec. 36. (1) any person who wilfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be fined not less than one hundred dollars nor more than five hundred dollars or imprisonment in the county jail not less than thirty days nor more than one year, or both.

(2) Any person who wilfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of false swearing and shall be subject to the penalties under RCW 9A.72.040.

(3) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state shall be guilty of a misdemeanor and upon conviction be fined not less than fifty dollars nor more than two hundred dollars.

(4) Any person guilty of a wilful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, shall upon conviction, be subject to a fine not exceeding two hundred dollars.

NEW SECTION. Sec. 37. (1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of Masons, Odd Fellows, Improved Order of Red Men, Fraternal Order of Eagles, Loyal Order of Moose, or Knights of Pythias, exclusive of the insurance department of the Supreme Lodge of Knights of Pythias, the Grand Aerie Fraternal Order of Eagles, and the Junior Order of United American Mechanics, exclusive of the beneficiary degree of insurance branch of the National Council Junior Order United American Mechanics, or similar societies which do not issue insurance certificates;

(b) Orders, societies, or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies, or associations;

(c) Any association of local lodges of a society now doing business in this state which provides death benefits not exceeding three hundred dollars to any one person, or disability benefit not exceeding three hundred dollars in any one year to any one person, or both; or any contracts of reinsurance business on such plan in this state;

(d) Domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house, or corporation;

(e) Domestic lodges, orders, or associations of a purely religious, charitable, and benevolent description, which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred fifty dollars to any one person in any one year: PROVIDED, That any such domestic order or society which has more than five hundred members and provides for death or disability benefits, and any such domestic lodge, order, or society which issues to any person a certificate providing for the payment of benefits, shall not be exempt by the provisions of this section, but shall comply with all the requirements of this chapter.

The commissioner may require from any society such information as will enable the commissioner to determine whether the society is exempt from the provisions of this chapter.

(2) No society, which is exempt by the provisions of this section from the requirements of this chapter shall give or allow or promise to give or allow to any person any compensation for procuring new members.

(3) Any fraternal benefit society, heretofore organized and incorporated and operating as set forth in sections 1, 2, and 3 of this act, providing for benefits in case of death or disability resulting solely from accidents, but



which does not obligate itself to pay other death or sick benefits, may be licensed under the provisions of this chapter, and shall have all the privileges and shall be subject to all the provisions and regulations of this chapter, except that the provisions of this chapter requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

(4) The commissioner may require from any society or association, by examination or otherwise, such information as will enable the commissioner to determine whether the society or association is exempt from the provisions of this chapter.

(5) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state.

**NEW SECTION.** Sec. 38. Any corporation, society, order, or voluntary association operating as set forth in sections 1, 2, and 3 of this act, organized during the war in which the United States entered on April 6, 1917, with the purposes of assisting the government of the United States in maintaining and increasing the production of commodities essential for the prosecution of that war, and of developing loyalty to the United States, or whose membership is limited to veterans of that war, may be licensed under the provisions of this chapter and shall have all the privileges and shall be subject to all the provisions and regulations of this chapter, except that the provisions of this chapter requiring death benefits of at least one thousand dollars, medical examinations, and valuations of benefit certificates, shall not apply to such society, but the society may provide benefits in case of death or disability resulting solely from accidents in an amount not exceeding one thousand dollars and may also provide for death or funeral benefits, or both, not exceeding one hundred dollars each, and for sick or disability benefits not exceeding five hundred dollars to any one person, in any one year. Any corporation, society, order, or voluntary association organized under the provisions of this section shall file with the insurance commissioner a copy of all its rates and policy forms. Rates and policy forms must be approved by the insurance commissioner before becoming effective. All rates and forms approved by the commissioner shall be observed by the society until amended rates or forms shall have been filed with and approved by the insurance commissioner.

**NEW SECTION.** Sec. 39. (1) A domestic mutual property insurer which is affiliated with and is comprised exclusively of members of a specified fraternal society that conducts its business and secures its membership on the lodge system, having ritualistic work and ceremonies, is herein designated as a fraternal mutual insurer.

(2) Only fraternal mutual property insurers which were authorized insurers immediately prior to October 1, 1947, may hereafter be so authorized.

(3) A fraternal mutual insurer shall be subject to the applicable provisions of this title governing domestic mutual insurers except only as to the provisions relative to taxes, fees, and licenses. The bylaws of such insurer shall be as adopted or amended by majority vote of its members present at a duly held meeting of its members, and a copy thereof shall be filed with the commissioner. Such an insurer shall pay for its annual license and filing its annual statement, the sum of ten dollars. Such an insurer shall pay the expense of examinations of it by the commissioner. The payment shall be made upon receipt of statements furnished by the commissioner.

(4) A fraternal mutual insurer may insure corporations, associations, and firms owned by and affiliated with such society and operated for the benefit of its members, and may insure corporations and firms a majority of whose shareholders or members are members of such society.

(5) A fraternal mutual insurer shall participate in and accept its equitable share of insurance to be issued to applicants under any assigned risk plan operating pursuant to RCW 48.22.020, and may participate in and accept its equitable share of insurance to be issued to applicants under any similar plan lawfully existing in any state in which the insurer is authorized to transact insurance, notwithstanding that the applicants are not otherwise qualified for insurance under subsection (4) of this section. Applicants who are not qualified by membership or otherwise for acceptance by the insurer, shall be so assigned to the insurer except to make up the deficiency, if any, between the number of qualified applicants available for assignment and the maximum quota of applicants to be assigned to the insurer within the current period.

(6) A fraternal mutual insurer doing business on the assessment premium plan:

(a) Shall be exempt also from the provisions of this chapter governing financial qualifications;

(b) Shall not be authorized to transact any kind of insurance other than property insurance, nor have authority to accept reinsurance.

(7) A fraternal mutual insurer doing business on the cash premium plan:

(a) May be authorized to transact additional kinds of insurance, other than life or title insurance, subject to the same requirements as to surplus funds and reserves as apply to domestic mutual insurers on the cash premium plan;

(b) May accept reinsurance only of such kinds of insurance as it is authorized to transact direct and only from insurers likewise affiliated with and composed solely of the members of the same designated fraternal society.

**NEW SECTION.** Sec. 40. (1) A mutual life insurer which is affiliated with and insures exclusively members of a specified fraternal society, which

society conducts its business and secures its membership on the lodge system, having ritualistic work and ceremonies, is herein designated as a fraternal mutual life insurer.

(2) Such an insurer shall be subject to the applicable provisions of this title governing mutual life insurers except only as to the provisions relative to annual meeting, taxes, fees, and licenses. Such an insurer shall pay for its annual license and filing its annual statement, the sum of ten dollars. Such an insurer shall pay the expense of examinations of it by the commissioner, upon statement furnished by the commissioner.

**NEW SECTION.** Sec. 41. All decisions and findings of the commissioner made under the provisions of this chapter shall be subject to review as provided in chapter 34.04 RCW.

**NEW SECTION.** Sec. 42. Sections 1 through 41 of this act shall constitute a new chapter in Title 48 RCW.

**NEW SECTION.** Sec. 43. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 44. The following acts or parts of acts are each repealed:

(1) Section .32.01, chapter 79, Laws of 1947, section 20, chapter 339, Laws of 1981 and RCW 48.36.010;

(2) Section .32.02, chapter 79, Laws of 1947 and RCW 48.36.020;

(3) Section .32.03, chapter 79, Laws of 1947 and RCW 48.36.030;

(4) Section .32.04, chapter 79, Laws of 1947 and RCW 48.36.040;

(5) Section .32.05, chapter 79, Laws of 1947, section 1, chapter 96, Laws of 1977 ex. sess. and RCW 48.36.050;

(6) Section .32.06, chapter 79, Laws of 1947, section 29, chapter 190, Laws of 1949 and RCW 48.36.060;

(7) Section .32.07, chapter 79, Laws of 1947, section 30, chapter 190, Laws of 1949, section 14, chapter 197, Laws of 1953, section 25, chapter 303, Laws of 1955 and RCW 48.36.070;

(8) Section .32.08, chapter 79, Laws of 1947 and RCW 48.36.080;

(9) Section .32.09, chapter 79, Laws of 1947, section 2, chapter 96, Laws of 1977 ex. sess. and RCW 48.36.090;

(10) Section .32.10, chapter 79, Laws of 1947 and RCW 48.36.100;

(11) Section .32.12, chapter 79, Laws of 1947, section 3, chapter 96, Laws of 1977 ex. sess. and RCW 48.36.120;

(12) Section .32.13, chapter 79, Laws of 1947 and RCW 48.36.130;

(13) Section .32.14, chapter 79, Laws of 1947 and RCW 48.36.140;

(14) Section .32.15, chapter 79, Laws of 1947, section 16, chapter 241, Laws of 1969 ex. sess. and RCW 48.36.150;

(15) Section .32.16, chapter 79, Laws of 1947 and RCW 48.36.160;

- (16) Section .32.17, chapter 79, Laws of 1947, section 22, chapter 195, Laws of 1963, section 21, chapter 339, Laws of 1981 and RCW 48.36.170;
- (17) Section .32.18, chapter 79, Laws of 1947 and RCW 48.36.180;
- (18) Section .32.19, chapter 79, Laws of 1947 and RCW 48.36.190;
- (19) Section .32.20, chapter 79, Laws of 1947 and RCW 48.36.200;
- (20) Section .32.21, chapter 79, Laws of 1947 and RCW 48.36.210;
- (21) Section .32.22, chapter 79, Laws of 1947 and RCW 48.36.220;
- (22) Section .32.23, chapter 79, Laws of 1947, section 1, chapter 79, Laws of 1973, section 4, chapter 96, Laws of 1977 ex. sess. and RCW 48-36.230;
- (23) Section .32.24, chapter 79, Laws of 1947 and RCW 48.36.240;
- (24) Section .32.25, chapter 79, Laws of 1947 and RCW 48.36.250;
- (25) Section .32.26, chapter 79, Laws of 1947 and RCW 48.36.260;
- (26) Section .32.27, chapter 79, Laws of 1947 and RCW 48.36.270;
- (27) Section .32.28, chapter 79, Laws of 1947 and RCW 48.36.280;
- (28) Section .32.29, chapter 79, Laws of 1947 and RCW 48.36.290;
- (29) Section .32.30, chapter 79, Laws of 1947 and RCW 48.36.300;
- (30) Section .32.31, chapter 79, Laws of 1947 and RCW 48.36.310;
- (31) Section .32.32, chapter 79, Laws of 1947 and RCW 48.36.320;
- (32) Section .32.33, chapter 79, Laws of 1947 and RCW 48.36.330;
- (33) Section .32.34, chapter 79, Laws of 1947 and RCW 48.36.340;
- (34) Section .32.35, chapter 79, Laws of 1947, section 31, chapter 190, Laws of 1949, section 27, chapter 303, Laws of 1955 and RCW 48.36.350;
- (35) Section .32.37, chapter 79, Laws of 1947, section 155, chapter 3, Laws of 1983 and RCW 48.36.370;
- (36) Section .32.38, chapter 79, Laws of 1947, section 16, chapter 197, Laws of 1953 and RCW 48.36.380;
- (37) Section .32.39, chapter 79, Laws of 1947 and RCW 48.36.390;
- (38) Section .32.40, chapter 79, Laws of 1947 and RCW 48.36.400;
- (39) Section .32.41, chapter 79, Laws of 1947, section 32, chapter 190, Laws of 1949, section 23, chapter 195, Laws of 1963 and RCW 48.36.410;
- (40) Section .32.42, chapter 79, Laws of 1947 and RCW 48.36.420;
- (41) Section 24, chapter 195, Laws of 1963 and RCW 48.36.430; and
- (42) Section 10, chapter 163, Laws of 1973 1st ex. sess. and RCW 48-36.440.

**NEW SECTION.** Sec. 45. This act shall take effect January 1, 1988.

Passed the House April 25, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 367

[House Bill No. 707]

## YOUTH EMPLOYMENT—WASHINGTON CONSERVATION CORPS—PROGRAM GOALS PRIORITIZED—CONTRACT REVISIONS

AN ACT Relating to the Washington conservation corps; amending RCW 43.220.030, 43.220.040, 43.220.190, 43.220.210, and 43.220.900; and declaring an emergency.

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

Sec. 1. Section 3, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.030 are each amended to read as follows:

Program goals of the Washington conservation corps include:

(1) Conservation, rehabilitation, and enhancement of the state's natural, historic, environmental, and recreational resources with emphasis given to projects which address the following state-wide priorities:

(a) Timber, fish and wildlife management plan;

(b) Watershed management plan;

(c) 1989 centennial celebration and tourism;

(d) Puget Sound water quality;

(e) United States-Canada fisheries treaty;

(f) Public access to and environmental education about natural resources through recreational facilities;

(g) Recreational trails;

(2) Development of the state's youth resources through meaningful work experiences;

(3) Making outdoor and historic resources of the state available for public enjoyment;

(4) Teaching of the workings of natural, environmental, and biological systems, as well as basic employment skills;

(5) Assisting agencies in carrying out statutory assignments with limited funding resources; and

(6) Providing needed public services in both urban and rural settings.

Sec. 2. Section 4, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.040 are each amended to read as follows:

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

(1) "Public lands" means any lands or waters, or interests therein, owned or administered by any agency or instrumentality of the state, federal, or local government.

(2) "Corps" means the Washington conservation corps.

(3) "Corps member" means an individual enrolled in the Washington conservation corps.

(4) "Corps member leaders" or "specialists" means members of the corps who serve in leadership or training capacities or who provide specialized services other than or in addition to the types of work and services that are performed by the corps members in general.

(5) "Council" means the Washington conservation corps coordinating council.

Sec. 3. Section 20, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.190 are each amended to read as follows:

The agencies listed in RCW 43.220.020 shall convene a conservation corps coordinating council to meet as needed (~~on the call of the employment security department~~) to establish consistent work standards and placement and evaluation procedures of corps programs. The coordinating council shall be composed of administrative personnel of the (~~implementing~~) agencies. The coordinating council shall serve to reconcile problems that arise in the implementation of the corps programs and develop coordination procedures for emergency responses of corps members.

Sec. 4. Section 1, chapter 230, Laws of 1985 and RCW 43.220.210 are each amended to read as follows:

The (~~department of employment security~~) Washington conservation corps coordinating council shall select, review, 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~~).

Up to fifteen percent of funds spent for recruitment, job training and placement services shall, wherever possible, be contracted through local educational institutions and/or nonprofit corporations.

Such contracts may include, but not be limited to, general education development testing, preparation of resumes and job search skills.

All contracts or agreements entered into by agencies listed in RCW 43.220.020 shall be reviewed by the council for compliance with legislative intent as set forth in this section.

Sec. 5. 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~~) 1995, unless extended by law for an additional fixed period of time.

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 26, 1987.

Passed the Senate April 26, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

---

## CHAPTER 368

[Senate Bill No. 5159]

### PUGET ISLAND—WESTPORT FERRY

AN ACT Relating to the Puget Island—Westport ferry; amending RCW 47.56.720; declaring an emergency; and providing an effective date.

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

Sec. 1. Section 1, chapter 254, Laws of 1971 ex. sess. as last amended by section 285, chapter 7, Laws of 1984 and RCW 47.56.720 are each amended to read as follows:

(1) The legislature finds that the ferry operated by Wahkiakum county between Puget Island and Westport on the Columbia river provides service which is primarily local in nature with secondary benefits to the state highway system in providing a bypass for state route 4 and providing the only crossing of the Columbia river between the Astoria—Megler bridge and the Longview bridge.

(2) The department is hereby authorized to enter into a continuing agreement with Wahkiakum county pursuant to which the department shall pay to Wahkiakum county from moneys appropriated for such purpose the sum of one thousand dollars per month to be used in the operation and maintenance of the Puget Island ferry, commencing July 1, 1971.

Subject to the provisions of subsection (4) of this section, the department is authorized to include in the continuing agreement a provision to reimburse Wahkiakum county for ~~((sixty))~~ eighty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry, commencing with the fiscal year ending June 30, ~~((1972))~~ 1987. The state's ~~((sixty))~~ eighty percent share of the annual operating and maintenance deficit shall include the one thousand dollars per month authorized in this subsection.

(3) The annual deficit, if any, incurred in the operation and maintenance of the ferry shall be determined by Wahkiakum county subject to the approval of the department. If ~~((sixty))~~ eighty percent of the deficit for the preceding fiscal year exceeds the total amount paid to the county for that year, the additional amount shall be paid to the county by the department upon the receipt of a properly executed voucher. ~~((PROVIDED, That~~

the)) The total of all payments to the county in any biennium shall not exceed the amount appropriated for that biennium. The fares established by the county shall be comparable to those used for similar runs on the state ferry system.

(4) Whenever, subsequent to June 9, 1977, state route 4 between Cathlamet and Longview is closed to traffic pursuant to chapter 47.48 RCW due to actual or potential slide conditions and there is no suitable, reasonably short alternate state route provided, Wahkiakum county is authorized to operate the Puget Island ferry on a toll-free basis during the entire period of such closure. The state's share of the ferry operations and maintenance deficit during such period shall be one hundred percent.

(5) Whenever state route 4 between Cathlamet and Longview is closed to traffic, as mentioned in subsection (4) hereof, the state of Washington shall provide temporary rest room facilities at the Washington ferry landing terminal.

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, 1987.

Passed the Senate April 24, 1987.

Passed the House April 7, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 369

[Substitute Senate Bill No. 5326]

### PERSONS OF DISABILITY—EMPLOYMENT AND TRAINING INFORMATION CLEARINGHOUSE—TASK FORCE ON DISABILITY TRAINING AND PLACEMENT

AN ACT Relating to employment and training of persons of disability; adding new sections to chapter 50.12 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that improving the economic status of persons of disability, the state's largest social minority with over four hundred thousand people, will require active state involvement. Persons of disability suffer unemployment at almost twice the rate and experience poverty at more than twice the rate of the general population. Employers have experienced confusion about the variety of employment services available to them. Optimum service from, and access to, the state's training and placement programs for persons of disability requires coordination and a clear focus on the stated needs of persons of disability and their prospective employers. It is the purpose of this chapter to guarantee that representatives of the disability community, labor, and the private sector



have an institutionalized means of meeting their respective needs in the training, employment, and economic participation of persons of disability.

**NEW SECTION.** Sec. 2. A new section is added to chapter 50.12 RCW to read as follows:

The employment security department shall establish an information clearinghouse for use by persons of disability and governmental and private employers. The services of the clearinghouse shall include:

(1) Provision of information on private and state services available to assist persons of disability in their training and employment needs;

(2) Provision of information on private, state, and federal incentive programs and services available to employers of persons of disability; and

(3) Publication of a comprehensive list of programs and services in subsections (1) and (2) of this section.

**NEW SECTION.** Sec. 3. A new section is added to chapter 50.12 RCW to read as follows:

In establishing the information clearinghouse, the employment security department shall consult with organizations of private sector employers and persons of disability.

**NEW SECTION.** Sec. 4. There is created the interagency task force on disability training and placement consisting of the commissioner of the employment security department or a designee, the director of the department of social and health services division of vocational rehabilitation, the director of the department of social and health services division of developmental disabilities, the director of the department of personnel or a designee, the director of the developmental disabilities planning council or a designee, the director of the department of services for the blind or a designee, and the executive director of the governor's committee on disability issues and employment.

The commissioner of the employment security department may designate an employee of the department to chair the task force.

**NEW SECTION.** Sec. 5. The interagency task force on disability training and placement shall develop and implement recommendations to promote greater use of persons of disability in the work force, greater interagency program coordination, and improved services to the disability community and prospective and current employers of persons of disability. The task force shall seek the advice and support of organizations of private sector employers and persons of disability in carrying out its responsibilities.

**NEW SECTION.** Sec. 6. The interagency task force on disability training and placement shall make a report on its activities to the governor and the senate and house of representatives commerce and labor committees by December 1st of each year.

**NEW SECTION.** Sec. 7. (1) The interagency task force on disability training and placement and its powers and duties shall terminate June 30, 1989.

(2) Sections 4 through 6 of this act shall expire June 30, 1989.

Passed the Senate April 21, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 370

[Substitute House Bill No. 790]

### TIMESHARE REGULATION

AN ACT Relating to timeshare regulation; amending RCW 64.36.010, 64.36.050, 64.36.090, 64.36.100, 64.36.290, 64.36.310, and 18.85.230; reenacting and amending RCW 42.17.310; adding new sections to chapter 64.36 RCW; and repealing RCW 64.36.080, 64.36.902, and 64.36.903.

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

Sec. 1. Section 1, chapter 22, Laws of 1983 1st ex. sess. as amended by section 1, chapter 358, Laws of 1985 and RCW 64.36.010 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) "Advertisement" means any written, printed, audio, or visual communication which is published in whole or part to sell, offer to sell, or solicit an offer for a timeshare.

(2) "Affiliate of a promoter" means any person who controls, is controlled by, or is under the control of a promoter.

(3) "Commercial promotional programs" mean packaging or putting together advertising or promotional materials involving promises of gifts, prizes, awards, or other items of value to solicit prospective purchasers to purchase a product or commodity.

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

~~((4))~~ (5) "Interval" means that period of time when a timeshare owner is entitled to the possession and use of the timeshare unit.

~~((5))~~ (6) "Offer" means any inducement, solicitation, or attempt to encourage any person to acquire a timeshare. ~~((An offer is made in this state if the offer originates in this state or the principal timeshare property is located in this state.~~

~~((6))~~ (7) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal or commercial entity.

~~((7))~~ (8) "Promoter" means any person directly or indirectly instrumental in organizing, wholly or in part, a timeshare offering.

~~((8))~~ (9) "Purchaser" means any person, other than a promoter, who by means of a voluntary transfer acquires a legal or equitable interest in a timeshare, other than as security for an obligation.

~~((9))~~ (10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a timeshare for value.

~~((10))~~ (11) "Timeshare" means a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land.

~~((11))~~ (12) "Timeshare expenses" means expenditures, fees, charges, or liabilities: (a) Incurred with respect to the timeshares by or on behalf of all timeshare owners in one timeshare property; and (b) imposed on the timeshare units by the entity governing a project of which the timeshare property is a part, together with any allocations to reserves but excluding purchase money payable for timeshares.

~~((12))~~ (13) "Timeshare instrument" means one or more documents, by whatever name denominated, creating or regulating timeshares.

~~((13))~~ (14) "Timeshare owner" means a person who is an owner or co-owner of a timeshare. If title to a timeshare is held in trust, "timeshare owner" means the beneficiary of the trust.

~~((14))~~ (15) "Timeshare salesperson" means any natural person who offers a timeshare unit for sale.

~~((15))~~ (16) "Unit" means the real or personal property, or portion thereof, in which the timeshare exists and which is designated for separate use.

**NEW SECTION.** Sec. 2. A new section is added to chapter 64.36 RCW to read as follows:

(1) Applications, consents to service of process, affidavits, and permits to market shall be signed by the promoter, unless a trustee or person with power of attorney is specifically authorized to make such signatures. If the signature of a person with a power of attorney or trustee is used, the filing of the signature shall include a copy of the authorizations for the signature. No promoter or other person responsible under this chapter shall disclaim responsibility because the signature of a trustee or attorney in fact, or other substitute was used.

(2) If the promoter is a corporation or a general partnership, each natural person therein, with a ten percent or greater interest or share in the promoter, shall, in addition to the promoter, be required to sign as required in this section, but may authorize a trustee or a person with power of attorney to make the signatures.

(3) All persons required to use or authorizing the use of their signatures in this section, individually or otherwise, shall be responsible for affidavits, applications, and permits signed, and for compliance with the provisions of this chapter. Individuals whose signatures are required under

this section shall not disclaim their responsibilities because of any corporate shield.

Sec. 3. Section 6, chapter 22, Laws of 1983 1st ex. sess. and RCW 64.36.050 are each amended to read as follows:

(1) A timeshare offering is registered for a period of one year from the effective date of registration unless the director specifies a different period.

(2) Registration of a timeshare offering may be renewed for additional periods of one year each, unless the director by rule specifies a different period, by filing a renewal application with the director no later than thirty days before the expiration of the period in subsection (1) of this section and paying the prescribed fees. A renewal application shall contain any information the director requires to indicate any (~~substantial~~) material changes in the information contained in the original application.

(3) If a (~~materially adverse~~) material change in the condition of the promoter (~~or~~), the promoter's affiliates, the timeshare project, or the operation or management of the timeshare project occurs during any year, an amendment to the documents filed under RCW 64.36.030 shall be filed, along with the prescribed fees, as soon as reasonably possible and before any further sales occur.

(4) The promoter shall keep the information in the written disclosures reasonably current at all times by amending the registration. If the promoter fails to amend and keep current the written disclosures or the registrations in instances of material change, the director may require compliance under RCW 64.36.100 and assess penalties.

NEW SECTION. Sec. 4. A new section is added to chapter 64.36 RCW to read as follows:

(1) Applicants or registrants under this chapter shall pay fees determined by the director as provided in RCW 43.24.086. These fees shall be prepaid and the director may establish fees for the following:

(a) Processing an original application for registration of a timeshare offering, along with an additional fee for each interval registered or in the timeshare program;

(b) Processing consolidations or adding additional inventory into the program;

(c) Reviewing and granting exemptions;

(d) Processing annual or periodic renewals;

(e) Initially and annually processing and administering any required impound, trust, or escrow arrangement;

(f) The review of advertising or promotional materials;

(g) Registering persons in the business of selling promotional programs for use in timeshare offerings or sales presentations;

(h) Registrations and renewal of registrations of salespersons;

(i) The transfer of salespersons' permits to other promoters;

(j) Administering and processing examinations for salespersons;

(k) Conducting site inspections of registered projects and projects for which registration is pending.

(2) The director may establish penalties for registrants in any situation where a registrant has failed to file an amendment to the registration or the disclosure document in a timely manner for material changes, as required in this chapter and rules adopted under this chapter.

**NEW SECTION.** Sec. 5. A new section is added to chapter 64.36 RCW to read as follows:

(1) The director may require inspections of projects registered under this chapter and promoters and their agents shall cooperate by permitting staff of the department to conduct the inspections.

(2) The director may perform "spot checks" or inspections of sales offices, during tours or sales presentations or normal business hours, for purposes of enforcing this chapter and determining compliance by the operator and salespersons in the sales, advertising, and promotional activities regulated under this chapter. These inspections or spot checks may be conducted during or at the time of sales presentations or during the hours during which sales are ordinarily scheduled.

(3) The department employee making the inspections shall show identification upon request. It is a violation of this chapter for the operator or its sales representatives to refuse an inspection or refuse to cooperate with employees of the department conducting the inspection.

**NEW SECTION.** Sec. 6. A new section is added to chapter 64.36 RCW to read as follows:

(1) If it appears that the operating budget of a project fails to adequately provide for funding of reserve accounts, the director may employ outside professionals or consultants to provide advice or to develop an alternative budget. The promoter shall pay or reimburse the department for the costs incurred for such professional opinions.

(2) Before employing consultants under this section, the director shall provide the applicant with written notice and an opportunity for a hearing under chapter 34.04 RCW.

**NEW SECTION.** Sec. 7. A new section is added to chapter 64.36 RCW to read as follows:

The director or persons to whom the director delegates such powers may enter into assurances of discontinuance in lieu of issuing a statement of charges or a cease and desist order or conducting a hearing under this chapter. The assurances shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or registrant shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation or breaching of an assurance under this section shall be grounds for a suspension, revocation of registration, or imposition of a fine.

NEW SECTION. Sec. 8. A new section is added to chapter 64.36 RCW to read as follows:

A registrant or applicant against whom an administrative or legal proceeding authorized under this chapter has been filed, shall be liable for and reimburse to the state of Washington by payment into the general fund, all administrative and legal costs, including attorney fees, incurred by the department in issuing and conducting administrative or legal proceedings that result in a final legal or administrative determination of any type or degree, in favor of the department or the state of Washington.

Sec. 9. Section 9, chapter 22, Laws of 1983 1st ex. sess. and RCW 64.36.090 are each amended to read as follows:

The director may by order deny, suspend, or revoke a timeshare salesperson's registration or application for registration or a salesperson's license under chapter 18.85 RCW who is selling under this chapter, if the director finds that the order is in the public interest and the applicant or registrant:

(1) Has filed an application for registration as a timeshare salesperson or as a licensee under chapter 18.85 RCW which, as of its effective date, is incomplete in any material respect or contains any statement which is, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) Has violated or failed to comply with any provision of this chapter or a predecessor act or any rule or order issued under this chapter or a predecessor act;

(3) Has been convicted within the past five years of any misdemeanor or felony involving theft, fraud, or any consumer protection statute, or any felony involving moral turpitude;

(4) Is permanently or temporarily enjoined by any court or administrative order from engaging in or continuing any conduct or practice involving any aspect of the timeshare business;

(5) Has engaged in dishonest or unethical practices in the timeshare, real estate, or camp resort business;

(6) Is insolvent either in the sense that the individual's liabilities exceed his or her assets or in the sense that the individual cannot meet his or her obligations as they mature; or

(7) Has not complied with any condition imposed by the director or is not qualified on the basis of such factors as training, experience, or knowledge of the timeshare business or this chapter.

The director may by order summarily postpone or suspend registration of the salesperson pending final determination of any proceeding under RCW 64.36.180.

Sec. 10. Section 10, chapter 22, Laws of 1983 1st ex. sess. and RCW 64.36.100 are each amended to read as follows:

(1) The director may issue an order denying, suspending, or revoking any timeshare application or registration if the director finds that the order is in the public interest and that:

(a) The application, written disclosure, or registration is incomplete or contains any statement which is false or misleading with respect to any material fact;

(b) Any provision of this chapter, the permit to market, or any rule or order lawfully issued under this chapter has been violated by the promoter, its affiliates, or any natural person whose signature is required under this chapter;

(c) The activities of the promoter include, or would include, activities which are ~~((illegal, or))~~ unlawful or in violation of a law, rule, or ordinance in this state or another jurisdiction;

(d) The timeshare offering has worked or tended to work a fraud on purchasers, or would ~~((so operate))~~ likely be adverse to the interests or the economic or physical welfare of purchasers;

(e) The protections and security arrangements to assure future quiet enjoyment required under RCW 64.36.130 have not been provided as required by the director for the protection of purchasers; or

(f) The operating budget proposed by the promoter or promoter-controlled association appears inadequate to meet operating costs or funding of reserve accounts or fees for a consultant to determine adequacy have not been paid by the promoter.

(2) The director shall promptly notify the applicant or registrant of any order denying, suspending, or revoking registration and of the applicant's or registrant's right to request a hearing within fifteen days of notification. If the applicant or registrant does not request a hearing, the order remains in effect until the director modifies or vacates it.

Sec. 11. Section 28, chapter 22, Laws of 1983 1st ex. sess. and RCW 64.36.290 are each amended to read as follows:

(1) All timeshares registered under this chapter are exempt from chapters 21.20, 58.19, and 19.105 RCW.

(2) This chapter shall not apply to any enterprise that has as its primary purpose camping and outdoor recreation and ~~((includes or will include spaces))~~ camping sites designed and promoted for the purpose of purchasers locating a trailer, tent, tent trailer, pick-up camper, or other similar device used for land-based portable housing.

Sec. 12. Section 31, chapter 22, Laws of 1983 1st ex. sess. and RCW 64.36.310 are each amended to read as follows:

(1) No person may publish any advertisement in this state offering a timeshare which is subject to the registration requirements of RCW 64.36-.020 unless a true copy of the advertisement has been filed in the office of the director at least seven days before publication or a shorter period which the director by rule may establish. The right to subsequently publish the

advertisement is subject to the approval of the director within that seven day period.

(2) Nothing in this chapter applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this chapter. This subsection does not apply, however, to any publication devoted primarily to the soliciting of resale timeshare offerings and where the publisher or owner of the publication collects advance fees for the purpose of locating or finding potential resale buyers or sellers.

NEW SECTION. Sec. 13. A new section is added to chapter 64.36 RCW to read as follows:

(1) No person, including a promoter, may advertise, sell, contract for, solicit, arrange, or promise a free gift, an award, a prize, or other item of value in this state as a condition for attending a sales presentation, touring a facility, or performing other activities in connection with the offer or sale of a timeshare under this chapter, without first providing the director with a bond, letter of credit, cash depository, or other security arrangement that will assure performance by the promisor and delivery of the promised gift, award, sweepstakes, prize, or other item of value.

(2) Promoters under this chapter shall be strictly liable for delivering promised gifts, prizes, awards, or other items of value offered or advertised in connection with the marketing of timeshares.

(3) Persons promised but not receiving gifts, prizes, awards, or other items of consideration covered under this section, shall be entitled in any cause of action in the courts of this state in which their causes prevail, to be awarded treble the stated value of the gifts, prizes, or awards, court costs, and reasonable attorney fees.

(4) The director may require that any fees or funds of any description collected from persons in advance, in connection with delivery by the promisor of gifts, prizes, awards, or other items of value covered under this section, be placed in a depository in this state, where they shall remain until performance by the promisor.

(5) The director may require commercial promotional programs to be registered and require the provision of whatever information, including financial information, the department deems necessary for protection of purchasers.

(6) Persons offering commercial promotional programs shall sign and present to the department a consent to service of process, in the manner required of promoters in this chapter.

(7) Registrants or their agents or other persons shall not take possession of promotional materials covered under this section and RCW 64.36-.310, from recipients who have received the materials for attending a sales presentation or touring a project, unless the permission of the recipient is



received and the recipient is provided with an accurate signed copy describing such promotional materials. The department shall adopt rules enforcing this subsection.

**NEW SECTION.** Sec. 14. A new section is added to chapter 64.36 RCW to read as follows:

(1) Concerning any timeshare offered or sited in this state, it is unlawful and a violation of this chapter and chapter 19.86 RCW for any person, developer, promoter, operator, or other person in control of timeshares or the board of directors or appropriate officer of timeshares with such responsibilities, to fail to provide a member/owner of a timeshare with a membership list, including names, addresses, and lot, unit, or interval owned, under the following circumstances:

(a) Upon demand or by rule or order of the director of the department, for whatever purpose deemed necessary to administer this chapter;

(b) Upon written request sent by certified mail being made by a member of the timeshare, to a declarant, promoter, or other person who has established and is yet in control of the timeshare;

(c) Upon written request sent by certified mail of a member of a timeshare to the board of directors or appropriate officer of the timeshare or an affiliated timeshare.

(2) The board of directors of the timeshare may require that any applicant for a membership list, other than the department, pay reasonable costs for providing the list and an affidavit that the applicant will not use and will be responsible for any use of the list for commercial purposes.

(3) Upon request, a member's name shall be excluded from a membership list available to any person other than the director of licensing for purposes of administering statutes that are its responsibility. Such persons shall make their request for exclusion in writing by certified mail to the board of directors or the appropriate officer or director of the timeshare.

(4) It is unlawful for any person to use a membership list obtained under this section or otherwise, for commercial purposes, unless written permission to do so has been received from the board of directors or appropriate officer of the timeshare. Wilful use of a membership list for commercial purposes without such permission shall subject the violator to damages, costs, and reasonable attorneys' fees in any legal proceedings instituted by a member in which the member prevails alleging violation of this section. Members may petition the courts of this state for orders restraining such commercial use.

Sec. 15. Section 4, chapter 25, Laws of 1979 and RCW 18.85.230 are each amended to read as follows:

The director may, upon his own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesman, regardless of whether

the transaction was for his own account or in his capacity as broker, and may temporarily suspend or permanently revoke or deny the license of any holder who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 58.19 RCW or the rules adopted under those chapters;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any salesman who has not been granted a license, or after his license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his own use or to the use of his principal or of any other person, when delivered to him in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his knowledge to, or to produce any document, book or record in his possession for inspection of the director or his authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesman or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesman or associate broker operates, to the advertisement;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker or salesman has an interest unless his interest is clearly stated in the appraisal report;

(17) Misrepresentation of his membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a salesman, associate broker or branch manager of a commission or any valuable consideration for the performance of any acts specified in this 1972 amendatory act, from any person, except the licensed real estate broker with whom he is licensed;

(23) To direct any transaction involving his principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his principal;

(24) Failing to disclose to an owner his intention or true position if he directly or indirectly through third party, purchases for himself or acquires or intends to acquire any interest in, or any option to purchase, property;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his licensed associate brokers and salesmen within the scope of this 1972 amendatory act;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a mobile home and travel trailer dealer or salesman, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so;

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker or salesman; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter.

Sec. 16. Section 31, chapter 1, Laws of 1973 as last amended by section 7, chapter 276, Laws of 1986 and by section 25, chapter 299, Laws of 1986 and RCW 42.17.310 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life,

physical safety, or property: PROVIDED, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: PROVIDED, FURTHER, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) Section 29, chapter 22, Laws of 1983 1st ex. sess. and RCW 64.36.080;

(2) Section 36, chapter 22, Laws of 1983 1st ex. sess., section 2, chapter 358, Laws of 1985 and RCW 64.36.902; and

(3) Section 37, chapter 22, Laws of 1983 1st ex. sess., section 3, chapter 358, Laws of 1985 and RCW 64.36.903.

Passed the House April 21, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

---

## CHAPTER 371

[House Bill No. 277]

### MOTOR VEHICLES—FINANCIAL RESPONSIBILITY PROOF PERIOD ENLARGED

AN ACT Relating to proof of financial responsibility under the motor vehicle code; and amending RCW 46.29.430.

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

Sec. 1. Section 43, chapter 169, Laws of 1963 as amended by section 46, chapter 32, Laws of 1967 and RCW 46.29.430 are each amended to read as follows:

In the event that any person required to give proof of financial responsibility under RCW 46.29.420 fails to give such proof within ~~((ten))~~ twenty days after the department has sent notice as hereinbefore provided, the department shall suspend, or continue in effect any existing suspension or revocation of, the license or any nonresident's driving privilege of such person.

Passed the House April 26, 1987.

Passed the Senate April 26, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

---

## CHAPTER 372

[Substitute House Bill No. 542]

### TRAPPING ON PRIVATE PROPERTY

AN ACT Relating to state trapping activities; amending RCW 77.16.170, 77.21.010, and 77.32.191; adding a new section to chapter 77.32 RCW; and prescribing penalties.

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

Sec. 1. Section 77.16.170, chapter 36, Laws of 1955 as amended by section 85, chapter 78, Laws of 1980 and RCW 77.16.170 are each amended to read as follows:

It is unlawful to take a wild animal from another person's trap without permission, or to spring, pull up, damage, possess, or destroy the trap; however, it is not unlawful for a property owner, lessee, or tenant to remove a trap placed on the owner's, lessee's, or tenant's property by a trapper.

Trappers shall attach to the chain of their traps or devices a legible metal tag with either the game department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

When an individual presents a trapper identification number to the department of game and requests identification of the trapper, the department of game shall provide the individual with the name and address of the trapper. Prior to disclosure of the trapper's name and address, the department of game shall obtain the name and address of the requesting individual in writing and after disclosing the trapper's name and address to the requesting individual, the requesting individual's name and address shall be disclosed in writing to the trapper whose name and address was disclosed.

Sec. 2. Section 77.16.240, chapter 36, Laws of 1955 as last amended by section 1, chapter 31, Laws of 1982 and RCW 77.21.010 are each amended to read as follows:

(1) A person violating RCW 77.16.040, 77.16.050, 77.16.060, 77.16.080, 77.16.210, 77.16.220, 77.16.310, 77.16.320, or 77.32.211, or committing a violation of RCW 77.16.020 or 77.16.120 involving 77.16.210, 77.16.220, 77.16.310, 77.16.320, or 77.32.211, or committing a violation of RCW 77.16.020 or 77.16.120 involving big game or an endangered species is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year or by both the fine and imprisonment. Each subsequent violation within a five-year period of RCW 77.16.040, 77.16.050, or 77.16.060, or of RCW 77.16.020 or 77.16.120 involving big game or an endangered species, as defined by the Washington state game commission under the authority of RCW 77.04.090, shall be prosecuted and punished as a class C felony as defined in RCW 9A.20.020. In connection with each such felony prosecution, the director shall provide the court with an inventory of all articles or devices seized under this title in connection with the violation. Inventoried articles or devices shall be disposed of pursuant to RCW 77.21.040.

(2) A person violating or failing to comply with this title or a rule of the commission for which no penalty is otherwise provided is guilty of a misdemeanor and shall be punished for each offense by a fine of five hundred dollars or by imprisonment for not more than ninety days in the county jail or by both the fine and imprisonment.

(3) A person placing traps on private property without permission of the owner, lessee, or tenant where the land is improved and apparently used, or where the land is fenced or enclosed in a manner designed to exclude intruders or to indicate a property boundary line, or where notice is given by posting in a conspicuous manner, is guilty of the misdemeanor of trespass as defined and established in RCW 9A.52.010 and 9A.52.080 and shall be punished for each offense by a fine of not less than two hundred fifty dollars.

(4) Persons convicted of a violation shall pay the costs of prosecution and the penalty assessment in addition to the fine or imprisonment.

~~((4))~~ (5) The unlawful killing, taking, or possession of each wildlife member constitutes a separate offense.

~~((5))~~ (6) District courts have jurisdiction concurrent with the superior courts of misdemeanors and gross misdemeanors committed in violation of this title or rules of the commission and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this title.

Sec. 3. Section 23, chapter 310, Laws of 1981 as amended by section 4, chapter 464, Laws of 1985 and RCW 77.32.191 are each amended to read as follows:



A state trapping license allows the holder to trap fur-bearing animals throughout the state; however, a trapper may not place traps on private property without permission of the owner, lessee, or tenant where the land is improved and apparently used, or where the land is fenced or enclosed in a manner designed to exclude intruders or to indicate a property boundary line, or where notice is given by posting in a conspicuous manner. A state trapping license is void on April 1st following the date of issuance. The fee for this license is thirty dollars for residents sixteen years of age or older, twelve dollars for residents under sixteen years of age, and one hundred fifty dollars for nonresidents.

**NEW SECTION.** Sec. 4. A new section is added to chapter 77.32 RCW to read as follows:

The commission may revoke the trapper's license of a person placing unauthorized traps on private property and may remove those traps.

Passed the House April 26, 1987.

Passed the Senate April 26, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 373

[House Bill No. 1049]

### DRIVING WHILE INTOXICATED—BLOOD ALCOHOL CONTENT

AN ACT Relating to blood alcohol content; amending RCW 46.61.502, 46.61.504, 46.61.506, 46.61.517, 88.02.095, and 9.41.098; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature finds the existing statutes that establish the criteria for determining when a person is guilty of driving a motor vehicle under the influence of intoxicating liquor or drugs are constitutional and do not require any additional criteria to ensure their legality. The purpose of this act is to provide an additional method of defining the crime of driving while intoxicated. This act is not an acknowledgement that the existing breath alcohol standard is legally improper or invalid.

Sec. 2. Section 1, chapter 176, Laws of 1979 ex. sess. as amended by section 2, chapter 153, Laws of 1986 and RCW 46.61.502 are each amended to read as follows:

A person is guilty of driving while under the influence of intoxicating liquor or any drug if ~~((he))~~ the person drives a vehicle within this state while:

(1) ~~((He))~~ The person has 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of ~~((his))~~ the person's breath(~~(, blood, or other bodily substance))~~ made under RCW 46.61.506 (~~(as now or hereafter amended)~~); or

(2) ~~((He))~~ The person has 0.10 percent or more by weight of alcohol in the person's blood as shown by analysis of the person's blood made under RCW 46.61.506; or

(3) The person is under the influence of or affected by intoxicating liquor or any drug; or

~~(((3)-He))~~ (4) 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.

Sec. 3. Section 2, chapter 176, Laws of 1979 ex. sess. as amended by section 3, chapter 153, Laws of 1986 and RCW 46.61.504 are each amended to read as follows:

A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if ~~((he))~~ the person has actual physical control of a vehicle within this state while:

(1) ~~((He))~~ The person has 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of ~~((his))~~ the person's breath(~~(- blood, or other bodily substance))~~ made under RCW 46.61.506(~~(; as now or hereafter amended))~~); or

(2) ~~((He))~~ The person has 0.10 percent or more by weight of alcohol in the person's blood as shown by analysis of the person's blood made under RCW 46.61.506; or

(3) The person is under the influence of or affected by intoxicating liquor or any drug; or

~~(((3)-He))~~ (4) 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. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, ~~((he))~~ the person has moved the vehicle safely off the roadway.

Sec. 4. Section 3, chapter 1, Laws of 1969 as last amended by section 4, chapter 153, Laws of 1986 and RCW 46.61.506 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the amount of alcohol in the person's blood or breath at the time alleged as shown by analysis of his blood(~~(;))~~ or breath(~~(- or other bodily substance))~~) is less than 0.10 percent by weight of alcohol in his blood or 0.10 grams of alcohol per two hundred ten liters of the person's breath, it is evidence that may be considered with other competent evidence

in determining whether the person was under the influence of intoxicating liquor or any drug.

(2) The breath analysis shall be based upon grams of alcohol per two hundred ten liters of breath. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic content may be performed only by a physician, a registered nurse, or a qualified technician. This limitation shall not apply to the taking of breath specimens.

(5) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(6) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or his attorney.

Sec. 5. Section 27, chapter 165, Laws of 1983 as last amended by section 2, chapter 64, Laws of 1986 and RCW 46.61.517 are each amended to read as follows:

The refusal of a person to submit to a test of the alcoholic content of ((his)) the person's blood or breath under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial.

Sec. 6. Section 2, chapter 267, Laws of 1985 as amended by section 6, chapter 153, Laws of 1986 and RCW 88.02.095 are each amended 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 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath(~~((, blood, or other bodily substance))~~) made under RCW 46.61.506; or

(b) The person has 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's blood made under RCW 46.61.506 ; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

~~((c))~~ (d) 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))~~ breath 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. 7. Section 6, chapter 232, Laws of 1983 as amended by section 1, chapter 153, Laws of 1986 and RCW 9.41.098 are each amended to read as follows:

(1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniform controlled substances act, chapter 69.50 RCW;

(d) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, having 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of ~~((his))~~ the person's breath, blood, or other bodily substance;

(e) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(f) Found in the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a crime of violence or a crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniformed controlled substances act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion shall order destruction of any firearm that is illegal for any person to possess, retention of the firearm as evidence, appropriate use by a law enforcement agency in the state, donation to a historical museum, or sale at a public auction to a commercial seller. The proceeds from any sale shall be divided as follows: The local jurisdiction shall retain its costs, including actual costs of storage and sale, and shall forward the remainder to the state game commission for use in its firearms training program pursuant to RCW 77.32.155. If the court orders delivery to a law enforcement agency and the agency no longer requires use of the firearm, the agency shall dispose of the firearm in a manner which is consistent with this subsection.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting

attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

**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 24, 1987.

Passed the Senate April 23, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

---

## CHAPTER 374

[Substitute House Bill No. 928]

### CLAMS—SUBTIDAL HARVESTING LEASES NEAR RESIDENTIAL ZONES

AN ACT Relating to the commercial harvesting of subtidal hardshell clams; amending RCW 79.96.030; and declaring an emergency.

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

Sec. 1. Section 136, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.96.030 are each amended to read as follows:

(1) The department of natural resources, upon the receipt of an application for a lease for the purpose of planting and cultivating oyster beds or for the purpose of cultivating clams or other edible shellfish, shall notify the director of fisheries of the filing of the application describing the tidelands or beds of navigable waters applied for. The director of fisheries shall cause an inspection of the lands applied for to be made and shall make a full report to the department of natural resources of his findings as to whether it is necessary, in order to protect existing natural oyster beds, and to secure adequate seeding thereof, to retain the lands described in the application for lease or any part thereof, and in the event the director deems it advisable to retain the lands or any part thereof for the protection of existing natural oyster beds or to guarantee the continuance of an adequate seed stock for existing natural oyster beds, the same shall not be subject to lease. However, if the director determines that the lands applied for or any part thereof may be leased, he shall so notify the department of natural resources and the director shall cause an examination of the lands to be made to determine the presence, if any, of natural oysters, clams, or other edible shellfish on said lands, and to fix the rental value of the lands for use for oyster, clam, or other edible shellfish cultivation. In his report to the department, the director shall recommend a minimum rental for said lands and an estimation of the value of the oysters, clams, or other edible shellfish, if any,

then present on the lands applied for. The lands approved by the director for lease may then be leased to the applicant for a period of not less than five years nor more than ten years at a rental not less than the minimum rental recommended by the director of fisheries. In addition, before entering upon possession of the land, the applicant shall pay the value of the oysters, clams, or other edible shellfish, if any, then present on the land as determined by the director, plus the expense incurred by the director in investigating the quantity of oysters, clams, or other edible shellfish, present on the land applied for.

(2) When issuing new leases or reissuing existing leases the department shall not permit the commercial harvest of subtidal hardshell clams by means of hydraulic escalating when the upland within five hundred feet of any lease tract is zoned for residential development.

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 21, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 375

[Engrossed Substitute House Bill No. 776]

### SCHOOLS—HEARING OFFICERS

AN ACT Relating to the qualifications and expenses of hearing officers in cases involving school employees; and amending RCW 28A.58.455.

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

Sec. 1. Section 5, chapter 114, Laws of 1975-'76 2nd ex. sess. as amended by section 1, chapter 7, Laws of 1977 ex. sess. and RCW 28A.58.455 are each amended to read as follows:

(1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.58.450, as now or hereafter amended, or any employee, with the exception of provisional employees as defined in RCW 28A.67.072, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.67.070, as now or hereafter amended, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested

by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing conference held pursuant to subsection (5) of this section and at all subsequent proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, a hearing officer shall be appointed in the following manner: Within ~~((ten))~~ fifteen days following the receipt of any such request the board of directors of the district or its designee and the employee or employee's designee shall each appoint one nominee ~~((, each of whom shall be a member in good standing of the Washington state bar association. Within five days following the appointment of such nominees they))~~. The two nominees shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association or a person adhering to the arbitration standards established by the public employment relations commission and listed on its current roster of arbitrators. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer ~~((who shall be a member in good standing of the Washington state bar association and))~~ who shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) hereof, the hearing officer shall schedule a prehearing conference to be held within such five day period, unless the board of directors and employee agree on another date convenient with the hearing officer. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and



(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) Make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision. If the final decision is in favor of the employee, the employee shall be restored to his or her employment position and shall be awarded reasonable attorneys' fees.

(8) Any final decision by the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(9) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(10) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board.

Passed the House April 22, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 376

[House Bill No. 541]

JOINT OPERATING AGENCIES—CONTRACTING AND PURCHASING  
REQUIREMENTS—CONSERVATION AUTHORITY—LEAST-COST APPROACH  
FOR ENERGY INVESTMENTS

AN ACT Relating to acquisition by joint operating agencies of public works, materials, equipment, supplies, and conservation resources; amending RCW 43.52.250, 43.52.260, 43.52.3411, and 43.52.360; adding new sections to chapter 43.52 RCW; creating a new section; repealing RCW 43.52.490, 43.52.495, 43.52.500, 43.52.505, 43.52.510, 43.52.600, 43.52.603, 43.52.606, 43.52.609, 43.52.615, 43.52.618, and 43.52.621; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. (1) Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is in excess of five thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

(2) When a joint operating agency executes a contract under section 2, 4, or 5 of this act, the managing director shall certify to the committees on energy and utilities of the senate and house of representatives in writing within thirty days after the contract is signed, that such contract is in the public interest, state the reason or reasons why, and indicate the estimated cost savings to the project compared to contracting for the same material, supplies, equipment or work through completion of work as contracted, including termination costs, or through sealed bids.

**NEW SECTION.** Sec. 2. (1) An operating agency may enter into contracts through competitive negotiation under subsection (2) of this section for materials, equipment, supplies, or work to be performed during commercial operation of a nuclear generating project and associated facilities (a) to replace a defaulted contract or a contract terminated in whole or in part, or (b) where consideration of factors in addition to price, such as technical knowledge, experience, management, staff, or schedule, is necessary to achieve economical operation of the project, provided that the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The selection of a contractor shall be made in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met. Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the operating agency shall specify at a preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency taking into consideration the requirements set forth in the request for proposals: PROVIDED, That for any proposed contract which exceeds ten million dollars, the operating agency shall notify the committees on energy and utilities of the senate and house of representatives at least thirty days prior to the date of contract execution and shall provide a copy of the contract with the notification. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency.

**NEW SECTION.** Sec. 3. For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, the managing director or a designee may, in lieu of sealed bids, secure telephone and/or written quotations from at least five vendors, where practical, and award contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The agency shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available for public inspection and copying pursuant to chapter 42.17 RCW at the office of the operating agency or any other officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations.

**NEW SECTION.** Sec. 4. When the managing director or a designee determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, he or she may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" means:

- (1) When material, equipment, or supplies can be obtained from only one person or firm (single source of supply); or
- (2) When specially designed parts or components are being procured as replacement parts in support of equipment specially designed by the manufacturer.

**NEW SECTION.** Sec. 5. When the managing director or a designee determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the managing director or a designee may purchase materials, equipment, or supplies or may order work by contract in any amount necessary, after having taken precautions to secure a responsive proposal at the lowest price practicable under the circumstances.

For the purposes of this section the term "serious financial injury" means that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment, or work to be obtained.

**NEW SECTION.** Sec. 6. The executive board shall establish procedures for implementing sections 1 through 5 of this act by operating agency resolution after notice, public hearing, and opportunity for public comment.

The procedures shall be established within six months after the effective date of this section.

**NEW SECTION.** Sec. 7. Nothing in sections 1 through 6 of this act requires reapplication by a joint operating agency in existence on the effective date of this section.

Sec. 8. Section 43.52.250, chapter 8, Laws of 1965 as last amended by section 1, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.250 are each amended to read as follows:

As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency.

"Electrical resources" means both electric energy and conservation.

"Electrical energy" means electric energy produced by any means including water power, steam power, nuclear power, and conservation.

"Conservation" means any reduction in electric power consumption as a result of increases in efficiency of energy use, production, or distribution.

Sec. 9. Section 43.52.260, chapter 8, Laws of 1965 as amended by section 2, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.260 are each amended to read as follows:

The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power, conservation, or by any other means whatsoever.

Sec. 10. Section 43.52.3411, chapter 8, Laws of 1965 as last amended by section 116, chapter 167, Laws of 1983 and RCW 43.52.3411 are each amended to read as follows:

For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to engage in conservation activities or to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the conservation activities or the acquisition or construction of the utility and for the repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in RCW 43.52.343, all the provisions of law as now or hereafter in effect relating to revenue bonds or warrants of public utility districts shall apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business in this state. However, for revenue bonds or warrants issued by an operating agency, the provisions under RCW 54.24.030 relating to additional or alternate methods for payment may be made a part of the contract with the owners of any revenue bonds or warrants of an operating agency. The board may authorize the managing director or the treasurer of the operating agency to sell revenue bonds or warrants maturing one year or less from the date of issuance, and to fix the interest rate or rates on such revenue bonds or warrants with such restrictions as the board shall prescribe. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW.

Sec. 11. Section 43.52.360, chapter 8, Laws of 1965 as amended by section 6, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.360 are each amended to read as follows:

Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of

such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects or conservation activities in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. Prior to undertaking any new project for acquisition of an energy resource, a joint operating agency shall prepare a plan which details a least-cost approach for investment in energy resources. The plan shall include an analysis of the costs of developing conservation compared with costs of developing other energy resources and a strategy for implementation of the plan. The plan shall be updated annually and presented to the energy and utilities committees of the senate and house of representatives for their review and comment. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw



from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: PROVIDED, That all contractual obligations incurred while a member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common.

NEW SECTION. Sec. 12. Sections 1 through 7 of this act are each added to chapter 43.52 RCW.

NEW SECTION. Sec. 13. This act shall not be construed as affecting any existing right acquired, or liability or obligation incurred under the sections repealed in this act, nor any rule, regulation, or order adopted, nor any proceeding instituted, under those sections.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 28, Laws of 1977 ex. sess., section 1, chapter 173, Laws of 1981 and RCW 43.52.490;

(2) Section 2, chapter 173, Laws of 1981 and RCW 43.52.495;

(3) Section 3, chapter 173, Laws of 1981 and RCW 43.52.500;

(4) Section 4, chapter 173, Laws of 1981 and RCW 43.52.505;

(5) Section 5, chapter 173, Laws of 1981, section 14, chapter 158, Laws of 1986 and RCW 43.52.510;

(6) Section 1, chapter 44, Laws of 1982 1st ex. sess. and RCW 43.52-.600;

(7) Section 2, chapter 44, Laws of 1982 1st ex. sess. and RCW 43.52-.603;

(8) Section 3, chapter 44, Laws of 1982 1st ex. sess. and RCW 43.52-.606;

(9) Section 4, chapter 44, Laws of 1982 1st ex. sess. and RCW 43.52-.609;

(10) Section 6, chapter 44, Laws of 1982 1st ex. sess. and RCW 43-.52.615;

(11) Section 7, chapter 44, Laws of 1982 1st ex. sess., section 15, chapter 158, Laws of 1986 and RCW 43.52.618; and

(12) Section 8, chapter 44, Laws of 1982 1st ex. sess. and RCW 43-.52.621.

Passed the House March 13, 1987.

Passed the Senate April 16, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

CHAPTER 377

[House Bill No. 985]

MOTOR VEHICLES—OLDER DRIVER INSURANCE REDUCTION CONDITIONS  
REVISED

AN ACT Relating to automobile insurance premiums reduction; and amending RCW 48.19.460.

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

Sec. 1. Section 1, chapter 235, Laws of 1986 and RCW 48.19.460 are each amended to read as follows:

Any schedule of rates or rating plan for automobile liability and physical damage insurance submitted to or filed with the commissioner shall provide for an appropriate reduction in premium charges except for underinsured motorist coverage for those insureds who are fifty-five years of age and older, for a two-year period after successfully completing a motor vehicle accident prevention course meeting the criteria of the department of licensing with a minimum of eight hours, or additional hours as determined by rule of the department of licensing. ~~((This))~~ An eight-hour program-learning self-instruction course shall be made available in areas in which a classroom course meeting the criteria of this section is not offered. The classroom course may be conducted by a public or private agency approved by the department. The self-instruction course shall be conducted by an agency approved by the department to conduct classroom courses under this section.

Passed the House March 13, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

CHAPTER 378

[House Bill No. 279]

MOTOR VEHICLES—FINANCIAL RESPONSIBILITY SECURITY DEPOSIT  
PERIOD ENLARGED

AN ACT Relating to financial responsibility under the motor vehicle code; and amending RCW 46.29.110.

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

Sec. 1. Section 11, chapter 169, Laws of 1963 as amended by section 37, chapter 32, Laws of 1967 and RCW 46.29.110 are each amended to read as follows:

In the event that any person required to deposit security under this chapter fails to deposit such security within ~~((ten))~~ thirty days after the department has sent the notice as hereinbefore provided, the department shall thereupon suspend:

(1) The driver's license of each driver in any manner involved in the accident;

(2) The driver's license of the owner of each vehicle of a type subject to registration under the laws of this state involved in such accident;

(3) If the driver or owner is a nonresident, the privilege of operating within this state a vehicle of a type subject to registration under the laws of this state;

Such suspensions shall be made in respect to persons required by the department to deposit security who fail to deposit such security except as otherwise provided under succeeding sections of this chapter.

Passed the House April 25, 1987.

Passed the Senate April 25, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 379

[Substitute House Bill No. 440]

### RETIREMENT—CITY AND TOWN ELECTED OFFICIALS—PROVISIONS REVISED

AN ACT Relating to retirement of elected officials of a city or town; and amending RCW 41.40.120 and 41.40.690.

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

\*Sec. 1. Section 13, chapter 274, Laws of 1947 as last amended by section 5, chapter 317, Laws of 1986 and RCW 41.40.120 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3) (a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive

terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any 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 not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office in a town or city who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official of a town or city. A member who receives more than ten thousand dollars per year in compensation for his or her elective service is not eligible for the option provided by this subsection (3)(b);

(c) A person who was eligible to establish membership under (a) of this subsection prior to October 1, 1977, is entitled to pay the required member contributions, not later than June 30, 1988, from the time of initial eligibility for membership to the present, with such interest as determined by the director, and membership shall be granted in the system as if the person were first employed and held membership prior to October 1, 1977;

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of enrollment under

the relief and compensation provisions or the pension provisions of the volunteer firemen's relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: **PROVIDED**, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Persons hired in eligible positions on a temporary basis for a period not to exceed six months: **PROVIDED**, That if such employees are employed for more than six months in an eligible position they shall become members of the system;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: **PROVIDED**, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under the first proviso of this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter. Notwithstanding any other provision of this chapter, persons transferring from

employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

\*Sec. 1 was partially vetoed, see message at end of chapter.

Sec. 2. Section 10, chapter 295, Laws of 1977 ex. sess. and RCW 41.40.690 are each amended to read as follows:

No retiree under the provisions of RCW 41.40.610 through 41.40.740 shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state. A retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.120(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department.

Passed the House April 23, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor May 14, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one subsection, Substitute House Bill No. 440, entitled:

"AN ACT Relating to retirement of elected officials of a city or town."

Section 1(3)(c) of this bill is similar and serves the same purpose as section 5 of Engrossed Substitute Senate Bill No. 5150, which is preferable and is now Chapter 192, Laws of 1987. I have therefore vetoed section 1(3)(c).

With the exception of section 1(3)(c), Substitute House Bill No. 440 is approved."

## CHAPTER 380

[Substitute House Bill No. 170]

### NATURAL RESOURCES—CERTAIN VIOLATIONS DECRIMINALIZED

AN ACT Relating to infractions of natural resources laws; amending RCW 43.30.310, 43.51.180, 75.10.110, 76.12.140, 76.36.035, and 77.21.010; adding a new chapter to Title 43 RCW; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. The legislature declares that decriminalizing certain offenses contained in Titles 75, 76, 77, and 79 RCW and chapters 43.30 and 43.51 RCW and any rules adopted pursuant to those titles and chapters would promote the more efficient administration of those titles and chapters. The purpose of this chapter is to provide a just, uniform, and efficient procedure for adjudicating those violations which, in any of these titles and chapters or rules adopted under these chapters or titles, are declared not to be criminal offenses. The legislature respectfully requests the supreme court to prescribe any rules of procedure necessary to implement this chapter.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Infraction" means an offense which, by the terms of Title 75, 76, 77, or 79 RCW or chapter 43.30 or 43.51 RCW and rules adopted under these titles and chapters, is declared not to be a criminal offense and is subject to the provisions of this chapter.

**NEW SECTION.** Sec. 3. (1) An infraction proceeding is initiated by the issuance, service, and filing of a notice of infraction.

(2) A notice of infraction may be issued by a person authorized to enforce the provisions of the title or chapter in which the infraction is established when the infraction occurs in that person's presence.

(3) A court may issue a notice of infraction if a person authorized to enforce the provisions of the title or chapter in which the infraction is established files with the court a written statement that the infraction was committed in that person's presence or that the officer has reason to believe an infraction was committed.

(4) Service of a notice of infraction issued under subsection (2) or (3) of this section shall be as provided by court rule.

(5) A notice of infraction shall be filed with a court having jurisdiction within five days of issuance, excluding Saturdays, Sundays, and holidays.

(6) Failure to sign an infraction notice shall constitute a misdemeanor under chapter 9A.20 RCW.

**NEW SECTION.** Sec. 4. (1) Infraction proceedings may be heard and determined by a district court.

(2) Infraction proceedings shall be brought in the district court district in which the infraction occurred. If an infraction takes place in the offshore waters, as defined in RCW 75.08.011, the infraction proceeding may be brought in any county bordering on the Pacific Ocean.

**NEW SECTION.** Sec. 5. (1) A notice of infraction represents a determination that an infraction has been committed. The determination shall be final unless contested as provided in this chapter.

(2) The form for the notice of infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that an infraction is a noncriminal offense for which imprisonment will not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person shall be deemed to have committed the infraction and shall not subpoena witnesses;



(h) A statement that failure to respond to a notice of infraction within fifteen days is a misdemeanor and may be punished by fine or imprisonment;

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances is a misdemeanor and may be punished by fine or imprisonment; and

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter.

**NEW SECTION.** Sec. 6. (1) Any person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction shall be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

(3) If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) If any person issued a notice of infraction: (a) Fails to respond to the notice of infraction as provided in subsection (2) of this section, or (b) fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section, the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and any other penalty authorized by this chapter. In addition, failure to respond to a notice of infraction, as required by this chapter, and failure to appear at a hearing requested pursuant to subsection (3) or (4) of this section are each punishable as a misdemeanor under chapter 9A.20 RCW.

NEW SECTION. Sec. 7. (1) Procedures for the conduct of all hearings provided for in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

NEW SECTION. Sec. 8. (1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court. The rules of evidence shall apply to contested hearings.

(3) The burden of proof is upon the state to establish the commission of the infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, the court may assess a monetary penalty not exceeding that provided for the infraction in the applicable court rule or statute and shall enter an appropriate order.

(5) An appeal from the court's determination or order shall be to the superior court. A defendant may appeal a judgment entered after a contested hearing finding that the defendant has committed the infraction. The plaintiff may appeal a decision which in effect abates, discontinues, or determines the case other than by a judgment that the defendant has not committed an infraction. No other orders or judgments are appealable by either party. The decision of the superior court is subject only to discretionary review pursuant to the rules of appellate procedure.

NEW SECTION. Sec. 9. (1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed shall not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction, it may assess a monetary penalty not exceeding that provided for the infraction in rules adopted pursuant to this chapter and shall enter an appropriate order.

(3) There may be no appeal from the court's determination or order.

**NEW SECTION.** Sec. 10. (1) A person found to have committed an infraction shall be assessed a monetary penalty. No penalty may exceed five hundred dollars for each offense unless specifically authorized by statute.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated infractions. The legislature requests the supreme court to adjust this schedule every two years for inflation. The maximum penalty imposed by the schedule shall be five hundred dollars per infraction and the minimum penalty imposed by the schedule shall be ten dollars per infraction. This schedule may be periodically reviewed by the legislature and is subject to its revision.

(3) Whenever a monetary penalty is imposed by a court under this chapter, it is immediately payable. If the person is unable to pay at that time, the court may, in its discretion, grant an extension of the period in which the penalty may be paid.

**NEW SECTION.** Sec. 11. (1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances, is civil in nature.

(2) The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

**NEW SECTION.** Sec. 12. A court of limited jurisdiction having jurisdiction over an alleged infraction may issue process anywhere within the state.

**NEW SECTION.** Sec. 13. (1) Failure to pay a monetary penalty assessed by a court under the provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

(2) Failure to complete community service ordered by a court under the provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

Sec. 14. Section 1, chapter 160, Laws of 1969 ex. sess. as amended by section 38, chapter 136, Laws of 1979 ex. sess. and RCW 43.30.310 are each amended to read as follows:

For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.04 RCW, issue, promulgate, adopt, and enforce rules (~~and regulations~~) pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule (~~or regulation~~) adopted under this section shall constitute a misdemeanor unless the department specifies by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 43.— RCW (sections 1 through 13 of this 1987

act): PROVIDED, That violation of a rule (~~(or regulation)~~) relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule (~~(or regulation)~~) equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

The commissioner of public lands and such of his employees as he may designate shall be vested with police powers when enforcing:

(1) The rules (~~(and regulations)~~) of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property.

Sec. 15. Section 43.51.180, chapter 8, Laws of 1965 and RCW 43.51.180 are each amended to read as follows:

Every person who:

(1) Cuts, breaks, injures, destroys, takes or removes any tree, shrub, timber, plant, or natural object in any park or parkway; or

(2) Kills, or pursues with intent to kill, any bird or animal in any park or parkway; or

(3) Takes any fish from the waters of any park or parkway, except in conformity with such general rules (~~(and regulations)~~) as the commission may prescribe; or

(4) Wilfully mutilates, injures, defaces, or destroys any guidepost, notice, tablet, fence, inclosure, or work for the protection or ornamentation of any park or parkway; or

(5) Lights any fire upon any park or parkway, except in such places as the commission has authorized, or wilfully or carelessly permits any fire which he has lighted or which is under his charge, to spread or extend to or burn any of the shrubbery, trees, timber, ornaments, or improvements upon any park or parkway, or leaves any campfire which he has lighted or which has been left in his charge, unattended by a competent person, without extinguishing it; or

(6) Places within any park or parkway or affixes to any object therein contained, without a written license from the commission, any word, character, or device designed to advertise any business, profession, article, thing, exhibition, matter, or event; or

(7) Violates any rule (~~(or regulation)~~) adopted, promulgated, or issued by the commission pursuant to the provisions of this chapter; shall be guilty of a misdemeanor unless the commission has specified by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 43.— RCW (sections 1 through 13 of this 1987 act).

Sec. 16. Section 75.08.260, chapter 12, Laws of 1955 as last amended by section 42, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.10.110 are each amended to read as follows:

(1) Unless otherwise provided for in this title, a person who violates this title or rules of the director or who aids or abets in the violation is guilty of a gross misdemeanor, and upon a conviction thereof shall be punished by imprisonment in the county jail of the county in which the offense is committed for not less than thirty days or more than one year, or by a fine of not less than twenty-five dollars or more than one thousand dollars, or by both such fine and imprisonment. Food fish or shellfish involved in the violation shall be forfeited to the state. The court may forfeit seized articles involved in the violation.

(2) The director may specify by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 43.— RCW (sections 1 through 13 of this 1987 act). A person taking or possessing salmon in violation of this title or rules of the director shall be punished by a fine in an amount not more than five thousand dollars if the salmon involved in the violation have a market value greater than two hundred fifty dollars. This fine is in addition to the punishment resulting under subsection (1) of this section.

Sec. 17. Section 3a added to chapter 154, Laws of 1923 by section 3, chapter 288, Laws of 1927 and RCW 76.12.140 are each amended to read as follows:

Any lands acquired by the state under the provisions of chapter 154, Laws of 1923, or any amendments thereto, shall be logged, protected and cared for in such manner as to insure natural reforestation of such lands, and to that end the state forest board shall have power, and it shall be its duty to make rules and regulations, and amendments thereto, governing logging operations on such areas, and to embody in any contract for the sale of timber on such areas, such conditions as it shall deem advisable, with respect to methods of logging, disposition of slashings, and debris, and protection and promotion of new forests. All such rules and regulations, or amendments thereto, shall be adopted by majority vote of the state forest board by resolution and recorded in the minutes of the board, and shall be promulgated by publication in one issue of a newspaper of general circulation published at the state capitol, and shall take effect and be in force at the time specified therein. Any violation of any such rules ~~((and regulations))~~ shall be a gross misdemeanor unless the board has specified by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 43.— RCW (sections 1 through 13 of this 1987 act).

Sec. 18. Section 8, chapter 60, Laws of 1984 and RCW 76.36.035 are each amended to read as follows:

(1) All applications for brands, catch brands, renewals, and assignments thereof shall be submitted to and approved by the department prior to use. The department may refuse to approve any brand or catch brand which is identical to or closely resembles a registered brand or catch brand,

or is in use by any other person or was not selected in good faith for the marking or branding of forest products. If approval is denied the applicant will select another brand.

The registration for all existing brands or catch brands shall expire on December 31, 1984, unless renewed prior to that date. Renewals or new approved applications shall be for five-year periods or portions thereof beginning on January 1, 1985. On or before September 30, 1984, and September 30th immediately preceding the end of each successive five-year period the department shall notify by mail all registered owners of brands or catch brands of the forthcoming expiration of their brands and the requirements for renewal.

A fee of fifteen dollars shall be charged by the department for registration of all brands, catch brands, renewals or assignments prior to January 1, 1985. Thereafter the fee shall be twenty-five dollars.

Abandoned or canceled brands shall not be reissued for a period of at least one year. The department shall determine the right to use brands or catch brands in dispute by applicants.

(2) The department may adopt and enforce rules (~~and regulations~~) implementing the provisions of this chapter. A violation of any such rule (~~or regulation~~) shall constitute a misdemeanor unless the department has specified by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 43.— RCW (sections 1 through 13 of this 1987 act).

Sec. 19. Section 77.16.240, chapter 36, Laws of 1955 as last amended by section 1, chapter 31, Laws of 1982 and RCW 77.21.010 are each amended to read as follows:

(1) A person violating RCW 77.16.040, 77.16.050, 77.16.060, 77.16.080, 77.16.210, 77.16.220, 77.16.310, 77.16.320, or 77.32.211, or committing a violation of RCW 77.16.020 or 77.16.120 involving big game or an endangered species is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year or by both the fine and imprisonment. Each subsequent violation within a five-year period of RCW 77.16.040, 77.16.050, or 77.16.060, or of RCW 77.16.020 or 77.16.120 involving big game or an endangered species, as defined by the Washington state game commission under the authority of RCW 77.04.090, shall be prosecuted and punished as a class C felony as defined in RCW 9A.20.020. In connection with each such felony prosecution, the director shall provide the court with an inventory of all articles or devices seized under this title in connection with the violation. Inventoried articles or devices shall be disposed of pursuant to RCW 77.21.040.

(2) A person violating or failing to comply with this title or a rule of the commission for which no penalty is otherwise provided is guilty of a

misdeemeanor and shall be punished for each offense by a fine of not less than twenty-five dollars or by imprisonment for not more than ninety days in the county jail or by both the fine and imprisonment. The commission may provide, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 43.— RCW (sections 1 through 13 of this 1987 act).

(3) Persons convicted of a violation shall pay the costs of prosecution and the penalty assessment in addition to the fine or imprisonment.

(4) The unlawful killing, taking, or possession of each wildlife member constitutes a separate offense.

(5) District courts have jurisdiction concurrent with the superior courts of misdemeanors and gross misdemeanors committed in violation of this title or rules of the commission and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this title.

NEW SECTION. Sec. 20. Sections 1 through 13 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 21. This act shall take effect January 1, 1988.

NEW SECTION. Sec. 22. 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 2, 1987.

Passed the Senate April 25, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 381

[House Bill No. 1016]

### AQUIFER PROTECTION AREAS—LOW-INCOME PERSONS MAY HAVE REDUCED FEES—LIENS FOR DELINQUENT FEES AUTHORIZED

AN ACT Relating to aquifer protection areas; and adding new sections to chapter 36.36 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.36 RCW to read as follows:

A county may adopt an ordinance reducing the level of fees, for the withdrawal of subterranean water or for on-site sewage disposal, that are imposed upon the residential property of a class or classes of low-income persons.

NEW SECTION. Sec. 2. A new section is added to chapter 36.36 RCW to read as follows:

The county shall have a lien for any delinquent fees imposed for the withdrawal of subterranean water or on-site sewage disposal, which shall attach to the property to which the fees were imposed, if the following conditions are met:

(1) At least eighteen months have passed since the first billing for a delinquent fee installment; and

(2) At least three billing notices and a letter have been mailed to the property owner, within the period specified in subsection (1) of this section, explaining that a lien may be imposed for any delinquent fee installment that has not been paid in that period.

The lien shall otherwise be subject to the provisions of chapter 36.94 RCW related to liens for delinquent charges.

Passed the House April 21, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

---

## CHAPTER 382

[Substitute Senate Bill No. 5249]

### COURT FILING FEES

AN ACT Relating to court filing fees; amending RCW 2.32.070, 3.62.060, and 36.18.020.

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

Sec. 1. Section 1, chapter 151, Laws of 1903 as last amended by section 2, chapter 331, Laws of 1981 and RCW 2.32.070 are each amended to read as follows:

The clerk of the supreme court and the clerks of the court of appeals shall collect the following fees for their official services:

Upon filing his first paper or record and making an appearance, the appellant or petitioner shall pay to the clerk of said court a docket fee of one hundred twenty-five dollars.

For copies of opinions, twenty cents per folio: PROVIDED, That counsel of record and criminal defendants shall be supplied a copy without charge.

For certificates showing admission of an attorney to practice law ((two)) five dollars, except that there shall be no fee for an original certificate to be issued at the time of his admission.

For filing a petition for review of a court of appeals decision terminating review, one hundred dollars.

The foregoing fees shall be all the fees connected with the appeal or special proceeding.



No fees shall be required to be advanced by the state or any municipal corporation, or any public officer prosecuting or defending on behalf of such state or municipal corporation.

Sec. 2. Section 110, chapter 299, Laws of 1961 as last amended by section 309, chapter 258, Laws of 1984 and RCW 3.62.060 are each amended to read as follows:

In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of ~~((twenty))~~ twenty-five dollars. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action.

Sec. 3. Section 3, chapter 56, Laws of 1987 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))~~ seventy-eight dollars except in proceedings filed under RCW 26.50.030 or 49.60.\_\_\_\_ (section 2, chapter 56, Laws of 1987) where the petitioner shall pay a filing fee of twenty dollars.

(2) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from ~~((justice))~~ a court of limited jurisdiction or any party on any civil appeal, shall pay, when said paper is filed, a fee of ~~((seventy))~~ seventy-eight 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))~~ district 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) For the filing of a petition for modification of a decree of dissolution, a fee of twenty dollars shall be paid.

(6) 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))~~ (7) 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))~~ the clerk's 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))~~ (8) For preparing, transcribing or certifying any instrument on file or of record in ~~((his))~~ the clerk's 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))~~ (9) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

~~((9))~~ (10) 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))~~ (11) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

~~((11))~~ (12) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of ~~((seventy))~~ seventy-eight 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))~~ (13) 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))~~ seventy-eight dollars.

~~((13))~~ (14) 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))~~ (15) For the preparation of a passport application there shall be a fee of four dollars.

~~((15))~~ (16) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

~~((16))~~ (17) Upon conviction or plea of guilty ~~((or))~~, upon failure to prosecute ~~((his))~~ an appeal from a ~~((lower))~~ court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of seventy dollars.

~~((17))~~ (18) 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.

~~((†8))~~ (19) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

Passed the Senate April 26, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 383

[Substitute Senate Bill No. 5825]

### CONDOMINIUMS—APARTMENT INCLUDES MOTOR VEHICLE STORAGE PLACES—PLAN ELEMENTS REVISED—REVIEW OF UNIFORM ACT

AN ACT Relating to horizontal property regimes; amending RCW 64.32.010 and 64.32.100; creating new sections; and providing an expiration date.

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

Sec. 1. Section 1, chapter 156, Laws of 1963 as last amended by section 34, chapter 304, Laws of 1981 and RCW 64.32.010 are each amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Apartment" means a part of the property intended for any type of independent use, including one or more rooms or spaces located on one or more floors (or part or parts thereof) in a building, or if not in a building, a separately delineated place of storage or moorage of a boat ((or)), plane, or motor vehicle, regardless of whether it is destined for a residence, an office, storage or moorage of a boat ((or)), plane, or motor vehicle, the operation of any industry or business, or for any other use not prohibited by law, and which has a direct exit to a public street or highway, or to a common area leading to such street or highway. The boundaries of an apartment located in a building are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the apartment includes both the portions of the building so described and the air space so encompassed. If the apartment is a separately delineated place of storage or moorage of a boat ((or)), plane, or motor vehicle the boundaries are those specified in the declaration. In interpreting declarations, deeds, and plans, the existing physical boundaries of the apartment as originally constructed or as reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed or depicted in the declaration, deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown in the declaration, deed, or plan and those of apartments in the building.

(2) "Apartment owner" means the person or persons owning an apartment, as herein defined, in fee simple absolute or qualified, by way of leasehold or by way of a periodic estate, or in any other manner in which real property may be owned, leased or possessed in this state, together with an undivided interest in a like estate of the common areas and facilities in the percentage specified and established in the declaration as duly recorded or as it may be lawfully amended.

(3) "Apartment number" means the number, letter, or combination thereof, designating the apartment in the declaration as duly recorded or as it may be lawfully amended.

(4) "Association of apartment owners" means all of the apartment owners acting as a group in accordance with the bylaws and with the declaration as it is duly recorded or as they may be lawfully amended.

(5) "Building" means a building, containing two or more apartments, or two or more buildings each containing one or more apartments, and comprising a part of the property.

(6) "Common areas and facilities", unless otherwise provided in the declaration as duly recorded or as it may be lawfully amended, includes: (a) The land on which the building is located;

(b) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbys, stairs, stairways, fire escapes, and entrances and exits of the building;

(c) The basements, yards, gardens, parking areas and storage spaces;

(d) The premises for the lodging of janitors or persons in charge of the property;

(e) The installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;

(f) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(g) Such community and commercial facilities as may be provided for in the declaration as duly recorded or as it may be lawfully amended;

(h) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(7) "Common expenses" include: (a) All sums lawfully assessed against the apartment owners by the association of apartment owners;

(b) Expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) Expenses agreed upon as common expenses by the association of apartment owners;

(d) Expenses declared common expenses by the provisions of this chapter, or by the declaration as it is duly recorded, or by the bylaws, or as they may be lawfully amended.

(8) "Common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(9) "Declaration" means the instrument by which the property is submitted to provisions of this chapter, as hereinafter provided, and as it may be, from time to time, lawfully amended.

(10) "Land" means the material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance, whether or not submerged, and includes free or occupied space for an indefinite distance upwards as well as downwards, subject to limitations upon the use of airspace imposed, and rights in the use of the airspace granted, by the laws of this state or of the United States.

(11) "Limited common areas and facilities" includes those common areas and facilities designated in the declaration, as it is duly recorded or as it may be lawfully amended, as reserved for use of certain apartment or apartments to the exclusion of the other apartments.

(12) "Majority" or "majority of apartment owners" means the apartment owners with fifty-one percent or more of the votes in accordance with the percentages assigned in the declaration, as duly recorded or as it may be lawfully amended, to the apartments for voting purposes.

(13) "Person" includes any individual, corporation, partnership, association, trustee, or other legal entity.

(14) "Property" means the land, the building, all improvements and structures thereon, all owned in fee simple absolute or qualified, by way of leasehold or by way of a periodic estate, or in any other manner in which real property may be owned, leased or possessed in this state, and all easements, rights and appurtenances belonging thereto, none of which shall be considered as a security or security interest, and all articles of personalty intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this chapter.

Sec. 2. Section 10, chapter 156, Laws of 1963 as amended by section 3, chapter 11, Laws of 1965 ex. sess. and RCW 64.32.100 are each amended to read as follows:

Simultaneously with the recording of the declaration there shall be filed in the office of the county auditor of the county in which the property is located a survey map of the surface of the land submitted to the provisions of this chapter showing the location or proposed location of the building or buildings thereon.

There also shall be filed simultaneously, a set of plans of the building or buildings showing as to each apartment:

~~((a))~~ (1) The vertical and horizontal boundaries, as defined in RCW 64.32.010(1), in sufficient detail to identify and locate such boundaries relative to the survey map of the surface of the land by the use of standard survey methods; ~~(and~~

- (b)) (2) The number of the apartment and its dimensions;
- (3) The approximate square footage of each unit;
- (4) The number of bathrooms, whole or partial;
- (5) The number of rooms to be used primarily as bedrooms;
- (6) The number of built-in fireplaces;
- (7) A statement of any scenic view which might affect the value of the apartment; and
- (8) The initial value of the apartment relative to the other apartments in the building.

The set of plans shall bear the verified statement of a registered architect, registered professional engineer, or registered land surveyor certifying that the plans accurately depict the location and dimensions of the apartments as built.

If such plans do not include such verified statement there shall be recorded prior to the first conveyance of any apartment an amendment to the declaration to which shall be attached a verified statement of a registered architect, registered professional engineer, or registered land surveyor, certifying that the plans theretofore filed or being filed simultaneously with such amendment, fully and accurately depict the apartment numbers, dimensions, and locations of the apartments as built.

Such plans shall each contain a reference to the date of recording of the declaration and the volume, page and county auditor's receiving number of the recorded declaration. Correspondingly, the record of the declaration or amendment thereof shall contain a reference to the file number of the plans of the building affected thereby.

All plans filed shall be in such style, size, form and quality as shall be prescribed by the county auditor of the county where filed, and a copy shall be delivered to the county assessor.

**NEW SECTION.** Sec. 3. A statutory committee to revise and modify the uniform condominium act to meet the needs of the state is hereby created. The committee shall consist of the following members:

- (1) One member each of the majority and minority parties of the senate, appointed by the president of the senate;
- (2) One member each of the majority and minority parties of the house of representatives, appointed by the speaker of the house;
- (3) Four members of the drafting subcommittee of the senate judiciary condominium task force;
- (4) One member appointed by the Washington land title association;
- (5) One member appointed by the Washington mortgage bankers association;
- (6) One member appointed by the Washington association of realtors;
- (7) One member appointed by the Washington chapter of the community associations institute;

(8) One member appointed by the homebuilders association of Washington state;

(9) One member appointed by the Washington state bar association; and

(10) One member appointed by the Washington association of county officials.

The committee shall review the uniform condominium act and draft recommended revisions to the horizontal property regimes act incorporating current provisions where appropriate. The committee shall report to the legislature before January 1, 1988, on its recommendations.

NEW SECTION. Sec. 4. Section 3 of this act shall expire December 1, 1988.

Passed the Senate April 25, 1987.

Passed the House April 25, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.

## CHAPTER 384

[Substitute Senate Bill No. 5512]

### RETIREMENT—RETURN TO SERVICE

AN ACT Relating to the accrual of service credit under the public employees' retirement system; amending RCW 41.40.150; amending section 2, chapter ... (ESSB 5150), Laws of 1987 and RCW 41.\_\_\_\_; providing effective dates; and declaring an emergency.

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

Sec. 1. Section 16, chapter 274, Laws of 1947 as last amended by section 3, chapter 317, Laws of 1986 and RCW 41.40.150 are each amended to read as follows:

Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.185 or 41.40.190, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions with interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment, be returned to the status, either as an original member or new member which the member held at time of separation.

(3) Any member, except an elected official, who reentered service and who failed to restore withdrawn contributions, shall now have from April 4,

1986, through June 30, 1987, to restore the contributions, with interest as determined by the director.

(4) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file.

(5) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(6) (a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.120(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated(~~(, but no additional service credit shall be allowed)~~);

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.120(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such



right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.120(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(7) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the Washington public employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

Sec. 2. Section 2, chapter ... (ESSB 5150), Laws of 1987 and RCW 41.— are each amended to read as follows:

(1) Those persons who are dual members on or after July 1, 1988, shall not receive a retirement benefit from any prior system while dual members without the loss of all benefits under this chapter. Retroactive retirement in any prior system will cancel membership in any subsequent systems except as allowed under RCW 41.04.270 and will result in the refund of all employee and employer contributions made to such systems.

(2) If a member has withdrawn contributions from a prior system, the member may restore the contributions, together with interest since the date of withdrawal as determined by the system, and recover the service represented by the contributions. Such restoration must be completed within two years of establishing dual membership or prior to retirement, whichever occurs first.

(3) A member of the retirement system under chapter 41.32 RCW who is serving in office pursuant to Article II or III of the state Constitution may, notwithstanding the provisions of RCW 41.40.120(4), within one year from the effective date of this section make an irrevocable election to become a member of the retirement system under chapter 41.40 RCW. A

member who makes this election shall receive service credit under chapter ~~((41.32))~~ 41.40 RCW for all prior and future periods of employment which are, or otherwise would be, credited under chapter 41.32 RCW. Such a member who established membership under chapter 41.32 RCW prior to June 30, 1977, shall be granted membership under chapter 41.40 RCW as if he or she had been a member of that system prior to June 30, 1977.

All contributions credited to such member under chapter 41.32 RCW for service now to be credited in the retirement system under chapter 41.40 RCW shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.32 RCW for those periods of service.

(4) Any service accrued in one system by the member shall not accrue in any other system.

NEW SECTION. Sec. 3. Section 1 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 on July 1, 1987. Section 2 of this act shall take effect July 1, 1988.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 14, 1987.

Filed in Office of Secretary of State May 14, 1987.