

**1996**  
**SESSION LAWS**  
OF THE  
**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTY-FOURTH LEGISLATURE  
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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 books, which are published as soon as possible following the session, at random dates as accumulated; followed by
- (ii) a permanent hardbound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating Revised Code of Washington sections affected.

(b) *Where and how obtained—price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$5.40 per set (\$5.00 plus \$0.40 for state and local sales tax at 8.0%). The permanent edition costs \$21.60 per volume (\$20.00 plus \$1.60 for state and local sales tax at 8.0%). 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 enacted 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 bold 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 under the authority of RCW 44.20.060 are enclosed in [brackets].

### 5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1996 regular session to be June 6, 1996 (midnight June 5th).

(b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.

(c) Laws that prescribe an effective date take effect upon that date.

### 6. INDEX AND TABLES

A cumulative index and tables of all 1995 3rd special session and 1996 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.

# **VOLUME 2**

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## CHAPTER 200

[Engrossed Substitute House Bill 2309]

## HEARING AND SPEECH PROFESSIONS

AN ACT Relating to regulation of hearing and speech professions; amending RCW 18.35.010, 18.35.020, 18.35.030, 18.35.040, 18.35.050, 18.35.060, 18.35.070, 18.35.080, 18.35.085, 18.35.090, 18.35.095, 18.35.100, 18.35.105, 18.35.110, 18.35.120, 18.35.140, 18.35.150, 18.35.161, 18.35.172, 18.35.175, 18.35.180, 18.35.185, 18.35.190, 18.35.195, 18.35.205, 18.35.230, 18.35.240, and 18.35.250; reenacting and amending RCW 18.130.040; adding new sections to chapter 18.35 RCW; creating new sections; and repealing RCW 18.35.170.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.35 RCW to read as follows:

It is the intent of this chapter to protect the public health, safety, and welfare; to protect the public from being misled by incompetent, unethical, and unauthorized persons; and to assure the availability of hearing and speech services of high quality to persons in need of such services.

Sec. 2. RCW 18.35.010 and 1993 c 313 s 1 are each amended to read as follows:

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

(1) ~~((“Department” means the department of health.~~  
~~—(2)))~~ “Assistive listening device or system” means an amplification system that is specifically designed to improve the signal to noise ratio for the listener, reduce interference from noise in the background, and enhance hearing levels at a distance by picking up sound from as close to source as possible and sending it directly to the ear of the listener, excluding hearing instruments as defined in this chapter.

(2) “Certified audiologist” means a person who is certified by the department to engage in the practice of audiology and meets the qualifications in this chapter.

(3) “Audiology” means the application of principles, methods, and procedures related to hearing and the disorders of hearing and to related language and speech disorders, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function, processing, or vestibular function, the application of aural habilitation, rehabilitation, and appropriate devices including fitting and dispensing of hearing instruments, and cerumen management to treat such disorders.

(4) “Board” means the board (~~on fitting and dispensing~~) of hearing (~~aids~~) and speech.

~~((3))~~ (5) “Department” means the department of health.

(6) “Direct supervision” means that the supervisor is physically present and in the same room with the hearing instrument fitter/dispenser permit holder, observing the nondiagnostic testing, fitting, and dispensing activities of the hearing instrument fitter/dispenser permit holder at all times.

(7) "Establishment" means any permanent site housing a person engaging in the practice of fitting and dispensing of hearing instruments by a hearing instrument fitter/dispenser or audiologist; where the client can have personal contact and counsel during the firm's business hours; where business is conducted; and the address of which is given to the state for the purpose of bonding.

(8) "Facility" means any permanent site housing a person engaging in the practice of speech language pathology and/or audiology, excluding the sale, lease, or rental of hearing instruments.

(9) "Fitting and dispensing of hearing instruments" means the sale, lease, or rental or attempted sale, lease, or rental of hearing instruments together with the selection and modification of hearing instruments and the administration of nondiagnostic tests as specified by RCW 18.35.110 and the use of procedures essential to the performance of these functions; and includes recommending specific hearing instrument systems, specific hearing instruments, or specific hearing instrument characteristics, the taking of impressions for ear molds for these purposes, the use of nondiagnostic procedures and equipment to verify the appropriateness of the hearing instrument fitting, and hearing instrument orientation. The fitting and dispensing of hearing instruments as defined by this chapter may be equally provided by a licensed hearing instrument fitter/dispenser or certified audiologist.

(10) "Good standing" means a licensed hearing instrument fitter/dispenser or certified audiologist or speech language pathologist whose license or certificate has not been subject to sanctions pursuant to chapter 18.130 RCW or sanctions by other states territories or the District of Columbia in the last two years.

(11) "Hearing ((aid)) instrument" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords ((and)), ear molds, and assistive listening devices.

~~((4)) "Fitting and dispensing of hearing aids" means the sale, lease, or rental or attempted sale, lease, or rental of hearing aids together with the selection and adaptation of hearing aids and the use of those tests and procedures essential to the performance of these functions. It includes the taking of impressions for ear molds for these purposes.~~

~~(5))~~ (12) "Hearing instrument fitter/dispenser" means a person who is licensed to engage in the practice of fitting and dispensing of hearing instruments and meets the qualifications of this chapter.

(13) "Hearing instrument fitter/dispenser permit holder" means a person who practices under the direct supervision of a licensed hearing instrument fitter/dispenser or certified audiologist.

(14) "Secretary" means the secretary of health.

~~((6) "Establishment" means any facility engaged in the fitting and dispensing of hearing aids.))~~

(15) "Certified speech-language pathologist" means a person who is certified by the department to engage in the practice of speech-language pathology and meets the qualifications of this chapter.

(16) "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders, whether of organic or nonorganic origin, that impede oral, pharyngeal, or laryngeal sensorimotor processes and the normal process of human communication including, but not limited to, disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and the application of augmentative communication treatment and devices for treatment of such disorders.

Sec. 3. RCW 18.35.020 and 1989 c 198 s 1 are each amended to read as follows:

No person shall engage in the fitting and dispensing of hearing ~~((aids))~~ instruments or imply or represent that he or she is engaged in the fitting and dispensing of hearing ~~((aids))~~ instruments unless he or she ~~((holds))~~ is a ((valid license)) licensed hearing instrument fitter/dispenser or a certified audiologist or holds a hearing instrument fitter/dispenser permit or audiology interim permit issued by the department as provided in this chapter and is an owner or employee of an establishment that is bonded as provided by RCW 18.35.240. The owner or manager of ((a)) an establishment that dispenses hearing ((aid establishment)) instruments is responsible under this chapter for all transactions made in the establishment name or conducted on its premises by agents or ((employees of)) persons employed by the establishment engaged in fitting and dispensing of hearing ((aids)) instruments. Every establishment that fits and dispenses shall have in its employ at least one licensed ((fitter-dispenser)) hearing instrument fitter/dispenser or certified audiologist at all times, and shall annually submit proof that all ((audiometric)) testing equipment at that establishment that is required by the board to be calibrated has been properly calibrated.

Sec. 4. RCW 18.35.030 and 1983 c 39 s 3 are each amended to read as follows:

Any person who engages in ~~((the))~~ fitting and dispensing of hearing ~~((aids))~~ instruments shall provide to each person who enters into an agreement to purchase a hearing ~~((aid))~~ instrument a receipt at the time of the agreement containing the following information:

- (1) The seller's name, signature, license, certificate, or permit number, address, and phone number of his or her regular place of business;
- (2) A description of the ~~((aid))~~ instrument furnished, including make, model, circuit options, and the term "used" or "reconditioned" if applicable;

(3) A disclosure of the cost of all services including but not limited to the cost of testing and fitting, the actual cost of the hearing ~~((aid))~~ instrument furnished, the cost of ear molds if any, and the terms of the sale. These costs, including the cost of ear molds, shall be known as the total purchase price. The receipt shall also contain a statement of the purchaser's rescission rights under this chapter and an acknowledgment that the purchaser has read and understands these rights. Upon request, the purchaser shall also be supplied with a signed and dated copy of any hearing evaluation performed by the seller.

(4) At the time of delivery of the hearing ~~((aid))~~ instrument, the purchaser shall also be furnished with the serial number of the hearing ~~((aid))~~ instrument supplied.

Sec. 5. RCW 18.35.040 and 1991 c 3 s 81 are each amended to read as follows:

(1) An applicant for ~~((license shall be at least eighteen years of age))~~ licensure as a hearing instrument fitter/dispenser must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall ~~((not))~~ be issued a license under the provisions of this chapter ~~((unless))~~ if the applicant:

~~((4))~~ (a)(i) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter; or

~~((2))~~ (ii) Holds a current, unsuspended, unrevoked license ~~((or certificate))~~ from ~~((a state or jurisdiction with which the department has entered into a reciprocal agreement, and shows evidence satisfactory to the department that the applicant is licensed in good standing in the other jurisdiction))~~ another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state;

(b) After December 31, 1996, has at least six months of apprenticeship training that meets requirements established by the board. The board may waive part or all of the apprenticeship training in recognition of formal education in fitting and dispensing of hearing instruments or in recognition of previous licensure in Washington or in another state, territory, or the District of Columbia;

(c) Is at least twenty-one years of age; and

(d) Has not committed unprofessional conduct as specified by the uniform disciplinary act.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(2) An applicant for certification as a speech-language pathologist or audiologist must have the following minimum qualifications:

(a) Has not committed unprofessional conduct as specified by the uniform disciplinary act;



(b) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(c) Has completed postgraduate professional work experience approved by the board.

All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

Sec. 6. RCW 18.35.050 and 1993 c 313 s 2 are each amended to read as follows:

Except as otherwise provided in this chapter an applicant for license or certification shall appear at a time and place and before such persons as the department may designate to be examined by written ~~((and))~~ or practical tests, or both. ~~((The department shall give an examination in May and November of each year.))~~ Examinations in hearing instrument fitting/dispensing, speech-language pathology, and audiology shall be held within the state at least once a year. The examinations shall be reviewed annually by the board and the department, and revised as necessary. ~~((No examination of any established association may be used as the exclusive replacement for the examination unless approved by the board.))~~ The examinations shall include appropriate subject matter to ensure the competence of the applicant. Nationally recognized examinations in the fields of fitting and dispensing of hearing instruments, speech-language pathology, and audiology may be used to determine if applicants are qualified for licensure or certification. An applicant who fails an examination may apply for reexamination upon payment of a reexamination fee. The hearing instrument fitting/dispensing reexamination fee for hearing instrument fitter/dispensers and audiologists shall be set by the secretary under RCW 43.70.250.

Sec. 7. RCW 18.35.060 and 1993 c 313 s 3 are each amended to read as follows:

(1) The department shall issue a ~~((trainee license))~~ hearing instrument fitting/dispensing permit to any applicant who has shown to the satisfaction of the department that the applicant:

(a) ~~((The applicant))~~ Is at least ~~((eighteen))~~ twenty-one years of age;

(b) If issued a ~~((trainee license))~~ hearing instrument fitter/dispenser permit, would be employed and directly supervised in the fitting and dispensing of hearing ~~((aids))~~ instruments by a person licensed or certified in good standing as a ~~((fitter-dispenser))~~ hearing instrument fitter/dispenser or audiologist for at least ~~((one year))~~ two years unless otherwise approved by the board; ~~((and))~~

(c) Has paid an application fee determined by the secretary as provided in RCW 43.70.250, to the department;

(d) Has not committed unprofessional conduct as specified by the uniform disciplinary act; and

(e) Is a high school graduate or the equivalent.

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

(2) The ~~((trainee license))~~ hearing instrument fitter/dispenser permit shall contain the names of the ~~((person))~~ employer and the licensed or certified supervisor under this chapter who ~~((is))~~ are employing and supervising the ~~((trainee))~~ hearing instrument fitter/dispenser permit holder and ~~((that))~~ those persons shall execute an acknowledgment of responsibility for all acts of the ~~((trainee))~~ hearing instrument fitter/dispenser permit holder in connection with the fitting and dispensing of hearing ~~((aids))~~ instruments.

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

(4) The ~~((trainee license))~~ hearing instrument fitter/dispenser permit shall expire one year from the date of its issuance except that on recommendation of the board the ~~((license))~~ permit may be reissued for one additional year only.

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

(6) The department, upon approval by the board, shall issue an interim permit authorizing an applicant for speech-language pathologist certification or audiologist certification who, except for the postgraduate professional experience and the examination requirements, meets the academic and practicum require-

ments of RCW 18.35.040 to practice under interim permit supervision by a certified speech-language pathologist or certified audiologist. The interim permit is valid for a period of one year from date of issuance. The board shall determine conditions for the interim permit.

Sec. 8. RCW 18.35.070 and 1973 1st ex.s. c 106 s 7 are each amended to read as follows:

The hearing instrument fitter/dispenser written or practical examination, or both, provided in RCW 18.35.050 shall consist of:

(1) Tests of knowledge in the following areas as they pertain to the fitting of hearing ~~((aids))~~ instruments:

- (a) Basic physics of sound;
- (b) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders; and
- (c) Structure and function of hearing ~~((aids))~~ instruments.

(2) Tests of proficiency in the following ~~((techniques))~~ areas as they pertain to the fitting of hearing ~~((aids))~~ instruments:

- (a) Pure tone audiometry, including air conduction testing and bone conduction testing;
  - (b) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
  - (c) Effective masking;
  - (d) Recording and evaluation of audiograms and speech audiometry to determine hearing ~~((aid))~~ instrument candidacy;
  - (e) Selection and adaptation of hearing ~~((aids))~~ instruments and testing of hearing ~~((aids))~~ instruments; and
  - (f) Taking ear mold impressions.
- (3) Evidence of knowledge regarding the medical and rehabilitation facilities for children and adults that are available in the area served.
- (4) Evidence of knowledge of grounds for revocation or suspension of license under the provisions of this chapter.
- (5) Any other tests as the ~~((department))~~ board may by rule establish.

Sec. 9. RCW 18.35.080 and 1991 c 3 s 83 are each amended to read as follows:

(1) The department shall license or certify each qualified applicant, without discrimination, who satisfactorily completes the required examinations for his or her profession and, upon payment of a fee determined by the secretary as provided in RCW 43.70.250 to the department, shall issue to the applicant a license or certificate. A person shall not knowingly make a false, material statement in an application for a license, certification, or permit or for a renewal of a license, certification, or permit.

If a ~~((person))~~ prospective hearing instrument fitter/dispenser does not apply for a license within three years of the successful completion of the hearing instrument fitter/dispenser license examination, reexamination is required for

licensure. The license shall be effective until the licensee's next birthday at which time it is subject to renewal. Subsequent renewal dates shall coincide with the licensee's birthday.

(2) The board shall waive the examination and grant a speech-language pathology certificate to a person engaged in the profession of speech-language pathology in this state on the effective date of this section if the board determines that the person meets commonly accepted standards for the profession, as defined by rules adopted by the board. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

(3) The board shall waive the examinations and grant an audiology certificate to a person engaged in the profession of audiology in this state on the effective date of this section if the board determines that the person meets the commonly accepted standards for the profession and has passed the hearing instrument fitter/dispenser examination. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

(4) The board shall grant an audiology certificate to a person engaged in the profession of audiology, who has not been licensed as a hearing aid fitter/dispenser, but who meets the commonly accepted standards for the profession of audiology and graduated from a board-approved program after January 1, 1993, and has passed sections of the examination pertaining to RCW 18.35.070 (3), (4), and (5). Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

(5) Persons engaged in the profession of audiology who meet the commonly accepted standards for the profession of audiology and graduated from a board-approved program prior to January 1, 1993, and who have not passed the hearing instrument fitter/dispenser examination shall be granted a temporary audiology certificate (nondispensing) for a period of two years from the effective date of this section during which time they must pass sections of the hearing instrument fitter/dispenser examination pertaining to RCW 18.35.070 (1)(c), (2)(e) and (f), (3), (4), and (5). The board may extend the term of the temporary certificate upon review. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

Sec. 10. RCW 18.35.085 and 1991 c 332 s 31 are each amended to read as follows:

An applicant holding a credential in another state, territory, or the District of Columbia may be credentialed to practice in this state without examination if the board determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

Sec. 11. RCW 18.35.090 and 1991 c 3 s 84 are each amended to read as follows:

Each person who engages in ~~((the fitting and dispensing of hearing aids))~~ practice under this chapter shall, as the department prescribes by rule, pay to the

department a fee established by the secretary under RCW 43.70.250 for a renewal of the license, certificate, or permit and shall keep the license, certificate, or permit conspicuously posted in the place of business at all times. The license, certificate, or permit of any person who fails to renew his or her license ((prior to the expiration date must pay a penalty fee in addition to the renewal fee and satisfy the requirements)), certificate, or permit prior to the expiration date shall automatically lapse. Within three years from the date of lapse and upon recommendation of the board, the secretary may revive a lapsed license or certificate upon payment of all past unpaid renewal fees and a penalty fee to be determined by the secretary and satisfaction of any requirements, which may include reexamination, that may be set forth by rule promulgated by the secretary for reinstatement. The secretary may by rule establish mandatory continuing education requirements and/or continued competency standards to be met by licensees or certificate or permit holders as a condition for license, certificate, or permit renewal.

Sec. 12. RCW 18.35.095 and 1993 c 313 s 12 are each amended to read as follows:

(1) A ((person)) hearing instrument fitter/dispenser licensed under this chapter and not actively ((fitting and dispensing hearing aids)) practicing may be placed on inactive status by the department at the written request of the licensee. The board shall define by rule the conditions for inactive status licensure. In addition to the requirements of RCW 43.24.086, the licensing fee for a licensee on inactive status shall be directly related to the costs of administering an inactive license by the department. A ((person)) hearing instrument fitter/dispenser on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the licensing fee for the licensing year, and complying with subsection (2) of this section.

(2) Hearing instrument fitter/dispenser inactive licensees applying for active licensure shall comply with the following: A licensee who has not fitted or dispensed hearing ((aids)) instruments for more than five years from the expiration of the licensee's full fee license shall retake the practical or the written, or both, hearing instrument fitter/dispenser examinations required under this chapter and ((shall have completed continuing education requirements within the previous twelve month period. Persons who have been on inactive status from two to five years must have within the previous twelve months completed continuing education requirements. Persons who have been on inactive status for one year or less shall upon application be reinstated as active licensees)) other requirements as determined by the board. Persons who have inactive status in this state but who are actively licensed and in good standing in any other state shall not be required to ((meet continuing education requirements or to)) take the hearing instrument fitter/dispenser practical examination((s)), but must submit an affidavit attesting to their knowledge of the current Washington

Administrative Code rules and Revised Code of Washington statutes pertaining to the fitting and dispensing of hearing ~~((aids))~~ instruments.

(3) A speech-language pathologist or audiologist certified under this chapter and not actively practicing either speech-language pathology or audiology may be placed on inactive status by the department at the written request of the certificate holder. The board shall define by rule the conditions for inactive status certification. In addition to the requirements of RCW 43.24.086, the fee for a certificate on inactive status shall be directly related to the cost of administering an inactive certificate by the department. A person on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the fee for the year, and complying with subsection (4) of this section.

(4) Speech-language pathologist or audiologist inactive certificate holders applying for active certification shall comply with requirements set forth by the board, which may include completion of continuing competency requirements and taking an examination.

Sec. 13. RCW 18.35.100 and 1983 c 39 s 8 are each amended to read as follows:

(1) Every ~~((person who holds a license))~~ hearing instrument fitter/dispenser, audiologist, speech-language pathologist, hearing instrument fitter/dispenser permit holder, or interim permit holder, who is regulated under this chapter, shall notify the department in writing of the regular address of the place or places in the state of Washington where the person ~~((engages or intends to engage in the fitting and dispensing of hearing aids))~~ practices or intends to practice more than twenty consecutive business days and of any change thereof within ten days of such change. Failure to notify the department in writing shall be grounds for suspension or revocation of license, certificate, or permit.

(2) The department shall keep a record of the places of business of persons who hold licenses, certificates, or permits.

(3) Any notice required to be given by the department to a person who holds a license, certificate, or permit may be given by mailing it to the address of the last ~~((place of business))~~ establishment or facility of which the person has notified the department, except that notice to a licensee or certificate or permit holder of proceedings to deny, suspend, or revoke the license, certificate, or permit shall be by certified or registered mail or by means authorized for service of process.

Sec. 14. RCW 18.35.105 and 1989 c 198 s 6 are each amended to read as follows:

Each licensee and certificate and permit holder under this chapter shall keep records of all services rendered for a ~~((period))~~ minimum of three years. These records shall contain the names and addresses of all persons to whom services were provided~~((s))~~. Hearing instrument fitter/dispensers, audiologists, and permit holders shall also record the date the hearing instrument warranty

expires, a description of the services and the dates the services were provided, and copies of any contracts and receipts. All records, as required pursuant to this chapter or by rule, (~~kept by licensees~~) shall be owned by the establishment or facility and shall remain with the establishment or facility in the event the licensee or certificate holder changes employment. If a contract between the establishment or facility and the licensee or certificate holder provides that the records are to remain with the licensee or certificate holder, copies of such records shall be provided to the establishment or facility.

**Sec. 15.** RCW 18.35.110 and 1993 c 313 s 4 are each amended to read as follows:

In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed or holding a permit or certificate under this chapter may be subject to disciplinary action by the board for any of the following causes:

(1) For unethical conduct in (~~dealing in~~) dispensing hearing ((aid)) instruments. 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) 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)) instrument;

(c) Advertising a particular model, type, or kind of hearing ((aid)) instrument 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;

(d) Falsifying hearing test or evaluation results;

(e)(i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or certificate or permit holder or on the basis of information furnished by the prospective hearing ((aid)) instrument user prior to fitting and dispensing a hearing ((aid)) instrument to any such prospective hearing ((aid)) instrument user, failing to advise that prospective hearing ((aid)) instrument 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 board may by rule establish. It is a violation of this subsection for any licensee or certificate holder or that licensee's or certificate holder'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))~~ instrument user from seeking such medical opinion prior to the fitting and dispensing of a hearing ~~((aid))~~ instrument. No such referral for medical opinion need be made by any ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder in the instance of replacement only of a hearing ~~((aid))~~ instrument which has been lost or damaged beyond repair within ~~((six))~~ twelve months of the date of purchase. The ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder or ~~((the licensee's))~~ their employees or putative agents shall obtain a signed statement from the hearing ~~((aid))~~ instrument 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))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder shall maintain a copy of either the physician's statement showing that the prospective hearing ~~((aid))~~ instrument user has had a medical evaluation within the previous six months or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing ~~((aid))~~ instrument. Nothing in this section required to be performed by a licensee or certificate or permit holder shall mean that the licensee or certificate or permit holder 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))~~ instrument to any person under eighteen years of age who has not been examined and cleared for hearing ~~((aid))~~ instrument 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))~~ licensed hearing instrument fitter/dispenser or certified audiologist 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))~~ instrument 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))~~ instruments replaced within ~~((six))~~ twelve months of their purchase;

(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))~~ instruments when that is not true, or using the word "doctor," "clinic," or other like words, abbreviations, or symbols which tend to connote a medical or osteopathic profession when such use is not accurate;

(g) Permitting another to use his or her license, certificate, or permit;

(h) Stating or implying that the use of any hearing ~~((aid))~~ instrument will restore normal hearing, preserve hearing, prevent or retard progression of a hearing impairment, or any other false, misleading, or medically or audiotologically unsupportable claim regarding the efficiency of a hearing ~~((aid))~~ instrument;

(i) Representing or implying that a hearing ~~((aid))~~ instrument 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

(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 ~~((heensee))~~ hearing instrument fitter/dispenser, audiologist, or permit holder, or to influence any person to refrain from dealing in the products of competitors.

(2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020.

(3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW.

NEW SECTION. Sec. 16. A new section is added to chapter 18.35 RCW to read as follows:

(1) A person who is not licensed with the secretary as a hearing instrument fitter/dispenser under the requirements of this chapter may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed hearing instrument fitter/dispenser," "hearing instrument specialist," or "hearing aid fitter/dispenser," or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed hearing instrument fitter/dispenser.

(2) A person who is not certified with the secretary as a speech-language pathologist under the requirements of this chapter may not represent himself or herself as being so certified and may not use in connection with his or her name

the words including "certified speech-language pathologist" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a certified speech-language pathologist.

(3) A person who is not certified with the secretary as an audiologist under the requirements of this chapter may not represent himself or herself as being so certified and may not use in connection with his or her name the words "certified audiologist" or a variation, synonym, letter, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a certified audiologist.

(4) A person who does not hold a permit issued by the secretary as a hearing instrument fitter/dispenser permittee under the requirements of this chapter may not represent himself or herself as being so permitted and may not use in connection with his or her name the words "hearing instrument fitter/dispenser permit holder" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a hearing instrument fitter/dispenser permit holder.

(5) Nothing in this chapter prohibits a person credentialed in this state under another act from engaging in the practice for which he or she is credentialed.

Sec. 17. RCW 18.35.120 and 1983 c 39 s 10 are each amended to read as follows:

A licensee or certificate or permit holder under this chapter may also be subject to disciplinary action if the licensee or certificate or permit holder:

(1) Is found guilty in any court of any crime involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and ten years have not elapsed since the date of the conviction; or

(2) Has a judgment entered against him or her in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in the action, but a license or certificate shall not be issued unless the judgment debt has been discharged; or

(3) Has a judgment entered against him or her under chapter 19.86 RCW and two years have not elapsed since the entry of the final judgment; but a license or certificate shall not be issued unless there has been full compliance with the terms of such judgment, if any. The judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license or certificate unless the judgment arises out of and is based on acts of the applicant, licensee, certificate holder, or employee of the licensee or certificate holder; or

(4) Commits unprofessional conduct as defined in RCW 18.130.180 of the uniform disciplinary act.

Sec. 18. RCW 18.35.140 and 1993 c 313 s 5 are each amended to read as follows:

The powers and duties of the department, in addition to the powers and duties provided under other sections of this chapter, are as follows:

(1) To provide ~~((facilities))~~ space necessary to carry out the examination ~~((of applicants for license))~~ set forth in RCW 18.35.070 of applicants for hearing instrument fitter/dispenser licenses or audiology certification.

(2) To authorize all disbursements necessary to carry out the provisions of this chapter.

(3) To require the periodic examination of ~~((the audiometric))~~ testing equipment, as defined by the board, and to carry out the periodic inspection of facilities or establishments of persons who ~~((deal in hearing aids))~~ are licensed or certified under this chapter, as reasonably required within the discretion of the department.

(4) To appoint advisory committees as necessary.

(5) To keep a record of proceedings under this chapter and a register of all persons licensed, certified, or holding permits under this chapter. The register shall show the name of every living licensee or permit holder for hearing instrument fitting/dispensing, every living certificate or interim permit holder for speech-language pathology, every living certificate or interim permit holder for audiology, with his or her last known place of residence and the date and number of his or her license, permit, or certificate.

**Sec. 19.** RCW 18.35.150 and 1993 c 313 s 6 are each amended to read as follows:

(1) There is created hereby the board ~~((on fitting and dispensing of hearing aids))~~ of hearing and speech to govern the three separate professions: Hearing instrument fitting/dispensing, audiology, and speech-language pathology. The board shall consist of ~~((seven))~~ ten members to be appointed by the governor.

(2) Members of the board shall be residents of this state. ~~((Two))~~ Three members shall represent the public and shall have an interest in the rights of consumers of health services, and shall not be or have been a member of, or married to a member of, another licensing board, a licensee of a health occupation board, an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility. Two members shall be ~~((persons experienced in the fitting of hearing aids))~~ hearing instrument fitter/dispensers who ((shall hold valid licenses)) are licensed under this chapter ((and who do not have a masters level college degree in audiology)), have at least five years of experience in the practice of hearing instrument fitting and dispensing, and must be actively engaged in fitting and dispensing within two years of appointment. Two members of the board shall be audiologists certified under this chapter who have at least five years of experience in the practice of audiology and must be actively engaged in practice within two years of appointment. Two members of the board shall be speech-language pathologists certified under this chapter who have at least five years of experience in the practice of speech-language pathology and must be actively engaged in practice within two years of appointment. One advisory nonvoting

member shall be a medical ((or osteopathic)) physician ((specializing in diseases of the ear. Two members must be experienced in the fitting of hearing aids, must be licensed under this chapter, and shall have received at a minimum a masters level college degree in audiology)) licensed in the state of Washington.

(3) The term of office of a member is three years. Of the initial appointments, one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and one consumer shall be appointed for a term of two years, and one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and two consumers shall be appointed for a term of three years. Thereafter, all appointments shall be made for expired terms. No member shall be appointed to serve more than two consecutive terms. A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) ~~((The chair of the board shall be elected from the membership of the board at the beginning of each year.))~~ The chair shall rotate annually among the hearing instrument fitter/dispensers, speech-language pathologists, audiologists, and public members serving on the board. In the absence of the chair, the board shall appoint an interim chair. In event of a tie vote, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board. A quorum is a majority of the board. A hearing instrument fitter/dispenser, speech-language pathologist, and audiologist must be represented. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(6) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The governor may remove a member of the board for cause at the recommendation of a majority of the board.

Sec. 20. RCW 18.35.161 and 1993 c 313 s 7 are each amended to read as follows:

The board 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))~~ instruments as deemed appropriate and in the public interest;

(2) To develop guidelines on the training and supervision of ~~((trainees))~~ hearing instrument fitter/dispenser permit holders and to establish requirements regarding the extent of apprenticeship training and certification to the department;

(3) To adopt any other rules 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))~~ or supervise the administration of examinations to applicants for licensure and certification under this chapter; ~~((and))~~

(5) To require a licensee or certificate or permit holder to make restitution to any individual injured by a violation of this chapter or chapter 18.130 RCW, the uniform disciplinary act. The authority to require restitution does not limit the board's authority to take other action deemed appropriate and provided for in this chapter or chapter 18.130 RCW;

(6) To pass upon the qualifications of applicants for licensure, certification, or permits and to certify to the secretary;

(7) To recommend requirements for continuing education and continuing competency requirements as a prerequisite to renewing a license or certificate under this chapter;

(8) To keep an official record of all its proceedings. The record is evidence of all proceedings of the board that are set forth in this record;

(9) To adopt rules, if the board finds it appropriate, in response to questions put to it by professional health associations, hearing instrument fitter/dispensers or audiologists, speech-language pathologists, permit holders, and consumers in this state; and

(10) To adopt rules relating to standards of care relating to hearing instrument fitter/dispensers or audiologists, including the dispensing of hearing instruments, and relating to speech-language pathologists, including dispensing of communication devices.

NEW SECTION. Sec. 21. A new section is added to chapter 18.35 RCW to read as follows:

Violation of the standards adopted by rule under RCW 18.35.161 is unprofessional conduct under this chapter and chapter 18.130 RCW.

Sec. 22. RCW 18.35.172 and 1987 c 150 s 21 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, certificates, and permits, and the discipline of licensees and certificate and permit holders under this chapter.

Sec. 23. RCW 18.35.175 and 1983 c 39 s 21 are each amended to read as follows:

It is unlawful to ~~((sell))~~ fit or dispense a hearing ~~((aid))~~ instrument to a resident of this state if the attempted sale or purchase is offered or made by telephone or mail order and there is no face-to-face contact to test or otherwise determine the needs of the prospective purchaser. This section does not apply to the sale of hearing ~~((aids))~~ instruments by wholesalers to licensees or certificate holders under this chapter.

Sec. 24. RCW 18.35.180 and 1973 1st ex.s. c 106 s 18 are each amended to read as follows:

Acts and practices in the course of trade in the promoting, advertising, selling, fitting, and dispensing of hearing ~~((aid))~~ instruments shall be subject to the provisions of chapter 19.86 RCW (Consumer Protection Act) and RCW 9.04.050 (False Advertising Act) and any violation of the provisions of this chapter shall constitute violation of RCW 19.86.020.

Sec. 25. RCW 18.35.185 and 1993 c 313 s 9 are each amended to read as follows:

(1) In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing ~~((aid))~~ instrument shall have the right to rescind the transaction for other than the ~~((licensee's))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder's breach if:

(a) The purchaser, for reasonable cause, returns the hearing ~~((aid))~~ instrument or holds it at the ~~((licensee's))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder's disposal, if the hearing ~~((aid))~~ instrument is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the board 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 about wearing a hearing ~~((aid))~~ instrument; and

(b) The purchaser sends notice of the cancellation by certified mail, return receipt requested, to the establishment employing the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder at the time the hearing ~~((aid))~~ instrument was originally purchased, and the notice is posted not later than thirty days following the date of delivery, but the purchaser and the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder may extend the deadline for posting of the notice of rescission by mutual, written agreement. In the event the hearing ~~((aid is in the possession of the licensee or the licensee's representative))~~ instrument develops a problem which qualifies as a reasonable cause for rescision or which prevents the purchaser from evaluating the hearing instrument, and the purchaser notifies the establishment employing the licensed hearing instrument fitter/dispenser, certified audiologist or permit holder of the problem during the thirty days following the date of delivery and documents such notification, the deadline for posting the notice of rescission shall be extended by an equal number of days ((that the aid is in the possession of the licensee or the licensee's representative)) as those between the date of the notification of the problem to the date of notification of availability for redeliveries. Where the hearing ~~((aid))~~ instrument is returned to the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder for any inspection for modification or repair, and the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder has notified the purchaser that the hearing ~~((aid))~~ instrument is available for redelivery, and where the purchaser has not responded by either taking possession of the hearing ~~((aid))~~ instrument or

instructing the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder to forward it to the purchaser, then the deadline for giving notice of the rescission shall ~~((begin))~~ extend no more than seven working days after this notice of availability.

(2) If the transaction is rescinded under this section or as otherwise provided by law and the hearing ~~((aid))~~ instrument is returned to the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder, the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder shall refund to the purchaser any payments or deposits for that hearing ~~((aid))~~ instrument. However, the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder may retain, for each hearing ~~((aid, fifteen percent of the total purchase price or one hundred dollars, whichever is less))~~ instrument, fifteen percent of the total purchase price or one hundred twenty-five dollars, whichever is less. After December 31, 1996, the rescission amount shall be determined by the board. The ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder shall also return any goods traded in contemplation of the sale, less any costs incurred by the ~~((licensee))~~ licensed hearing instrument fitter/dispenser, certified audiologist, or permit holder in making those goods ready for resale. The refund shall be made within ten business days after the rescission. The buyer shall incur no additional liability for such rescission.

(3) For the purposes of this section, the purchaser shall have recourse against the bond held by the establishment entering into a purchase agreement with the buyer, as provided by RCW 18.35.240.

Sec. 26. RCW 18.35.190 and 1989 c 198 s 8 are each amended to read as follows:

In addition to remedies otherwise provided by law, in any action brought by or on behalf of a person required to be licensed or certified or to hold a permit 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 or certificate or permit holder at the time of the transaction held a valid license, certificate, or permit as required by this chapter, and that such license, certificate, or permit has not been suspended or revoked pursuant to RCW 18.35.110, 18.35.120, or 18.130.160.

Sec. 27. RCW 18.35.195 and 1983 c 39 s 22 are each amended to read as follows:

(1) This chapter shall not apply to military or federal government employees~~((, nor shall it apply to))~~.

(2) This chapter does not prohibit or regulate:

(a) Fitting or dispensing by students enrolled in ((an accredited)) a board-approved program who are directly supervised by a licensed hearing ((aid)) instrument fitter/dispenser or certified audiologist under the provisions of this chapter; and

(b) Hearing instrument fitter/dispensers, speech-language pathologists, or audiologists of other states, territories, or countries, or the District of Columbia while appearing as clinicians of bona fide educational seminars sponsored by speech-language pathology, audiology, hearing instrument fitter/dispenser, medical, or other healing art professional associations so long as such activities do not go beyond the scope of practice defined by this chapter.

Sec. 28. RCW 18.35.205 and 1983 c 39 s 24 are each amended to read as follows:

The legislature finds that the public health, safety, and welfare would best be protected by uniform regulation of hearing ~~((aid fitter dispensers))~~ instrument fitter/dispensers, speech-language pathologists, audiologists, and permit holders throughout the state. Therefore, the provisions of this chapter relating to the licensing or certification of hearing ~~((aid fitter dispensers and hearing aid))~~ instrument fitter/dispensers, speech-language pathologists, and audiologists and regulation of permit holders and their respective establishments or facilities is exclusive. No political subdivision of the state of Washington within whose jurisdiction a hearing ~~((aid))~~ instrument fitter/dispenser, audiologist, or speech-language pathologist establishment or facility is located may require any registrations, bonds, licenses, certificates, or permits of the establishment or facility or its employees or charge any fee for the same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied on all businesses, or to levy a tax based upon the gross business conducted by any firm within the political subdivision.

Sec. 29. RCW 18.35.230 and 1989 c 198 s 9 are each amended to read as follows:

(1) Each licensee or certificate or permit holder shall name a registered agent to accept service of process for any violation of this chapter or rule adopted under this chapter.

(2) The registered agent may be released at the expiration of one year after the license, certificate, or permit issued under this chapter has expired or been revoked.

(3) Failure to name a registered agent for service of process for violations of this chapter or rules adopted under this chapter may be grounds for disciplinary action.

Sec. 30. RCW 18.35.240 and 1993 c 313 s 11 are each amended to read as follows:

(1) Every establishment engaged in the fitting and dispensing of hearing ~~((aids))~~ instruments shall file with the department a surety bond in the sum of ten thousand dollars, running to the state of Washington, for the benefit of any person injured or damaged as a result of any violation by the establishment's employees or agents of any of the provisions of this chapter or rules adopted by the secretary.



(2) In lieu of the surety bond required by this section, the establishment may file with the department a cash deposit or other negotiable security acceptable to the department. All obligations and remedies relating to surety bonds shall apply to deposits and security filed in lieu of surety bonds.

(3) If a cash deposit is filed, the department shall deposit the funds (~~with the state treasurer~~). The cash or other negotiable security deposited with the department shall be returned to the depositor one year after the establishment has discontinued the fitting and dispensing of hearing ~~((aid))~~ instruments if no legal action has been instituted against the establishment, its agents or employees, or the cash deposit or other security. The establishment owners shall notify the department if the establishment is sold, changes names, or has discontinued the fitting and dispensing of hearing ~~((aid))~~ instruments in order that the cash deposit or other security may be released at the end of one year from that date.

(4) A surety may file with the department notice of withdrawal of the bond of the establishment. Upon filing a new bond, or upon the expiration of sixty days after the filing of notice of withdrawal by the surety, the liability of the former surety for all future acts of the establishment terminates.

(5) Upon the filing with the department notice by a surety of withdrawal of the surety on the bond of an establishment or upon the cancellation by the department of the bond of a surety under this section, the department shall immediately give notice to the establishment by certified or registered mail with return receipt requested addressed to the establishment's last place of business as filed with the department.

(6) The department shall immediately cancel the bond given by a surety company upon being advised that the surety company's license to transact business in this state has been revoked.

(7) Each invoice for the purchase of a hearing ~~((aid))~~ instrument provided to a customer must clearly display on the first page the bond number of the establishment or the licensee ~~((selling))~~ or certificate or permit holder fitting/dispensing the hearing ~~((aid))~~ instrument.

Sec. 31. RCW 18.35.250 and 1991 c 3 s 86 are each amended to read as follows:

(1) In addition to any other legal remedies, an action may be brought in any court of competent jurisdiction upon the bond, cash deposit, or security in lieu of a surety bond required by this chapter, by any person having a claim against a licensee or certificate or permit holder, agent, or establishment for any violation of this chapter or any rule adopted under this chapter. The aggregate liability of the surety to all claimants shall in no event exceed the sum of the bond. Claims shall be satisfied in the order of judgment rendered.

(2) An action upon the bond shall be commenced by serving and filing the complaint within one year from the date of the cancellation of the bond. An action upon a cash deposit or other security shall be commenced by serving and filing the complaint within one year from the date of notification to the department of the change in ownership of the establishment or the discontinua-

tion of the fitting and dispensing of hearing (~~(aids)~~) instruments by that establishment. Two copies of the complaint shall be served by registered or certified mail, return receipt requested, upon the department at the time the suit is started. The service constitutes service on the surety. The secretary shall transmit one copy of the complaint to the surety within five business days after the copy has been received.

(3) The secretary shall maintain a record, available for public inspection, of all suits commenced under this chapter under surety bonds, or the cash or other security deposited in lieu of the surety bond. In the event that any final judgment impairs the liability of the surety upon a bond so furnished or the amount of the deposit so that there is not in effect a bond undertaking or deposit in the full amount prescribed in this section, the department shall suspend the license or certificate until the bond undertaking or deposit in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(4) If a judgment is entered against the deposit or security required under this chapter, the department shall, upon receipt of a certified copy of a final judgment, pay the judgment from the amount of the deposit or security.

**Sec. 32.** RCW 18.130.040 and 1995 c 336 s 2, 1995 c 323 s 16, 1995 c 260 s 11, and 1995 c 1 s 19 (Initiative Measure No. 607) are each reenacted and amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions 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 secretary has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Naturopaths licensed under chapter 18.36A 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;
- (vii) Acupuncturists licensed under chapter 18.06 RCW;
- (viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
- (ix) Respiratory care practitioners certified under chapter 18.89 RCW;
- (x) Persons registered or certified under chapter 18.19 RCW;
- (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
- (xii) Nursing assistants registered or certified under chapter 18.79 RCW;
- (xiii) Health care assistants certified under chapter 18.135 RCW;
- (xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;
- (xv) Sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Persons registered as adult family home operators under RCW 18.48.020; and

(xviii) Denturists licensed under chapter 18.30 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board (~~(on fitting and dispensing)~~) of hearing (~~(aids)~~) and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) 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;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. 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.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. Sec. 33. RCW 18.35.170 and 1993 c 313 s 8 & 1973 1st ex.s. c 106 s 17 are each repealed.

NEW SECTION. Sec. 34. The board of hearing and speech shall conduct a study in consultation with the governing authorities of the Washington hearing aid society, the Washington speech and hearing association, and the Washington society of audiology to develop recommendations on the appropriateness of a two-year degree as an entry level requirement for licensing hearing instrument fitter/dispensers under chapter 18.35 RCW. The study and recommendations, at a minimum, must include consideration of the fiscal impact of the proposal, the effect on access of the public to services, the feasibility of providing a two-year degree curriculum, and the status of those currently licensed as hearing instrument fitter/dispensers under chapter 18.35 RCW. The study must be coordinated with the state board for community and technical colleges and the department of health. The recommendations shall be presented to the senate health and human services and the house of representatives health care committees prior to January 1, 1998.

NEW SECTION. Sec. 35. Recognizing the trend in utilization of speech-language pathologist assistants and audiologist assistants across practice settings, the board of hearing and speech shall, on an ongoing basis, collect data on: The number of assistants in specific practice settings; supervisor to speech-language pathologist assistant or audiologist assistant ratios; and the level of education and training of speech-language pathologist assistants and audiologist assistants.

NEW SECTION. Sec. 36. 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, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 201

[Substitute House Bill 2310]

### CONTRACTS FOR CERTIFICATED EMPLOYEES—NOTIFICATION OF NONRENEWAL

AN ACT Relating to notification of nonrenewal of contracts for certificated employees; amending RCW 28A.405.210, 28A.405.220, 28A.405.230, and 28A.310.250; and declaring an emergency.

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

Sec. 1. RCW 28A.405.210 and 1990 c 33 s 390 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the state board of education for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 2. RCW 28A.405.220 and 1992 c 141 s 103 are each amended to read as follows:

Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first two years of employment by such district, unless the employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon

the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

Sec. 3. RCW 28A.405.230 and 1990 c 33 s 392 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least

three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: PROVIDED, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976 and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 4. RCW 28A.310.250 and 1990 c 33 s 280 are each amended to read as follows:

No certificated employee of an educational service district shall be employed as such except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before May 15th preceding the commencement of such term of that determination or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the hearing officer, superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district.



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

\*Sec. 5 was vetoed. See message at end of chapter.

Passed the House March 2, 1996.

Passed the Senate February 28, 1996.

Approved by the Governor March 28, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5, Substitute House Bill No. 2310 entitled:

"AN ACT Relating to notification of nonrenewal of contracts for certificated employees;"

Substitute House Bill No. 2310 contains an emergency clause in section 5. The emergency clause was included in case the legislature failed to adopt a supplemental budget by May 15, 1996. The supplemental budget was adopted on March 7th, leaving the emergency clause unnecessary.

Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions. Preventing this bill from being subject to a referendum under Article II, section 1 (b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For these reasons, I have vetoed section 5 of Substitute House Bill No. 2310.

With the exception of section 5, Substitute House Bill No. 2310 is approved."

## CHAPTER 202

[Substitute House Bill 2311]

### SCHOOL DISTRICT BOARD OF DIRECTORS' TERMS OF OFFICE—LENGTH

AN ACT Relating to school district board of directors' terms of office; and amending RCW 29.13.060.

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

Sec. 1. RCW 29.13.060 and 1991 c 363 s 32 are each amended to read as follows:

(1) In each county with a population of two hundred ten thousand or more, first class school districts containing a city of the first class shall hold their elections biennially as provided in RCW 29.13.020.

(2) Except as provided in RCW 28A.315.460, the directors to be elected ((~~shall~~)) may be elected for terms of six years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

(3) If the board of directors of a school district included within the definition in subsection (1) of this section reduces the length of the term of office for school directors in the district from six to four years, the reduction in the length of term must not affect the term of office of any incumbent director

without his or her consent, and provision must be made to appropriately stagger future elections of school directors.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 203

[Second Substitute House Bill 2323]

### FUTURE LAW ENFORCEMENT OFFICERS—TRAINING—STUDY

AN ACT Relating to law enforcement training; adding new sections to chapter 43.101 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.101 RCW to read as follows:

(1) The Washington association of sheriffs and police chiefs shall assemble a study group to evaluate and make recommendations to the legislature regarding the commission mission, duties, and administration. The commissioners of the commission shall review the study group recommendations for acceptance or modification. The study group shall deliver its recommendations to the legislature by January 1, 1997.

(2) The study group shall:

(a) Review and evaluate the desirability and feasibility of providing basic law enforcement training to preemployed law enforcement officer applicants on a tuition or fee basis;

(b) Review and evaluate the adequacy of the commission's four-hundred-forty-hour basic law enforcement academy training program, including general curriculum requirements;

(c) Review and evaluate the status of supervisory, management, and advanced training for incumbent law enforcement officers, and the desirability and feasibility of providing the officers with advanced training;

(d) Review the desirability and feasibility of certification or licensing of law enforcement officers;

(e) Review and evaluate the adequacy of the capital and operating investments made in law enforcement training, make recommendations regarding improvements, and provide documentation of the cost of implementing the improvements;

(f) Review and make recommendations regarding funding sources to adequately support all recommendations; and

(g) Investigate other issues related to law enforcement training, as desired by the study group.

(3) The Washington association of sheriffs and police chiefs shall assemble the study group from names provided from the following entities or groups:

One sheriff; three police chiefs; four representatives from the Washington state council of police officers; two representatives employed by the criminal justice training commission; one police psychologist; one representative from the association of Washington cities; one representative from the Washington association of county officials; one representative from the Washington state association of counties; one representative from a public university; one representative from a public community college; and one legislator from each caucus of the senate and the house of representatives, as appointed by the leaders of the caucuses.

(4) The Washington association of sheriffs and police chiefs shall organize and administer the study group meetings and provide the necessary staff resources to meet the requests of the study group members.

**NEW SECTION.** Sec. 2. If specific funding for section 1 of this act, referencing section 1 of this act by bill and section number or chapter and section number, is not provided by June 30, 1996, in the omnibus appropriations act, section 1 of this act is null and void.

**NEW SECTION.** Sec. 3. A new section is added to chapter 43.101 RCW to read as follows:

The commission may provide basic law enforcement training to students who are enrolled in criminal justice courses of study at four-year institutions of higher education, if the training is provided during the summers following the students' junior and senior years and so long as the students bear the full cost of the training.

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 5, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 204

[Substitute House Bill 2338]

### ANHYDROUS AMMONIA USED AS FERTILIZER—EXEMPTION FROM REGULATION

AN ACT Relating to anhydrous ammonia; adding a new section to chapter 70.94 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:*

*(1) Anhydrous ammonia is the most important nutrient material used for the production of wheat and barley crops in Washington state;*

*(2) The federal environmental protection agency regulates one hundred eighty-nine toxic air pollutants;*

*(3) Ammonia is not federally regulated as a toxic air pollutant;*

*(4) Ammonia is regulated at the state and federal level through rules established to protect workers from unhealthful levels of exposure to ammonia; and*

*(5) The department of ecology regulates ammonia as a toxic air pollutant and uses a threshold that is three hundred times more stringent than the standard used to protect workers.*

\*Sec. 1 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 2. A new section is added to chapter 70.94 RCW to read as follows:

The department shall not regulate ammonia emissions resulting from the storage, distribution, transport, or application of ammonia for use as an agricultural or silvicultural fertilizer.

Passed the House February 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 2338 entitled:

"AN ACT Relating to anhydrous ammonia;"

Substitute House Bill No. 2338 prohibits the Department of Ecology from regulating ammonia emissions from the storage, distribution, transport, or application of ammonia for use as an agricultural or silvicultural fertilizer.

Section 1 of Substitute House Bill No. 2338 contains some misleading and inaccurate statements which I cannot approve. First, it is misleading to state, as is done in section 1, that the Department of Ecology regulates ammonia as a toxic air pollutant by using a threshold that is "three hundred times more stringent than the standard used to protect workers." The Department does use a high threshold for the purpose of screening, not regulation. As such, this threshold is used as a tool to determine whether further evaluation is warranted.

Second, section 1 of Substitute House Bill No. 2338 suggests that the Department has no role whatsoever in regulating ammonia and is engaging in regulatory overkill. Clearly, where ammonia is used in large industrial facilities or processes, the Department's oversight role is essential for protecting public health and safety.

The intent language in section 1 of Substitute House Bill No. 2338 is not relevant to the substance of the bill which is contained in section 2. The Department of Ecology has not, and does not, regulate such use of ammonia. Section 2 of Substitute House Bill No. 2338 is a reflection of existing Department of Ecology policy which I do support.

For these reasons, I have vetoed section 1 of Substitute House Bill No. 2338.

With the exception of section 1, Substitute House Bill No. 2338 is approved."

## CHAPTER 205

[Substitute House Bill 2339]

## METHAMPHETAMINES—INCREASING PENALTIES FOR CRIMES

AN ACT Relating to manufacture, delivering, or possession of methamphetamine; amending RCW 69.50.401, 9.94A.154, 9.94A.310, 13.40.0357, 69.50.406, and 69.50.415; reenacting and amending RCW 9.94A.320; adding a new section to chapter 69.50 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 69.50 RCW to read as follows:

It is unlawful for any person to possess ephedrine or pseudoephedrine with intent to manufacture methamphetamine. Any person who violates this section is guilty of a crime and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both.

Sec. 2. RCW 69.50.401 and 1989 c 271 s 104 are each amended to read as follows:

(a) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(i) a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or (A) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (B) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(ii) methamphetamine, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or (A) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (B) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(iii) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

~~((iii))~~ (iv) a substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

~~((iv))~~ (v) a substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(i) a counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(ii) a counterfeit substance which is methamphetamine, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(iii) any other counterfeit substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

~~((iii))~~ (iv) a counterfeit substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

~~((iv))~~ (v) a counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(c) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such controlled substance. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(d) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a crime, and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both, except as provided for in subsection (e) of this section.

(e) Except as provided for in subsection (a)(1)~~((iii))~~ (iii) of this section any person found guilty of possession of forty grams or less of marihuana shall be guilty of a misdemeanor.

(f) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a transaction unlawfully to manufacture, sell, or deliver a controlled substance. A violation of this subsection shall be punished as a class C felony punishable in accordance with RCW 9A.20.021.

This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410.

Sec. 3. RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and 1995 c 129 s 3 (Initiative Measure No. 159) are each reenacted and amended to read as follows:

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)
XI	Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
X	Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) 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 (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Assault of a Child 2 (RCW 9A.36.130) Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) 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) Controlled Substance Homicide (RCW 69.50.415) Sexual Exploitation (RCW 9.68A.040) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b)) Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

- VIII Arson 1 (RCW 9A.48.020)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))  
 Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))  
Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.— (section 1 of this act))  
 Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)  
 Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))  
 Child Molestation 2 (RCW 9A.44.086)  
 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)  
 Involving a minor in drug dealing (RCW 69.50.401(f))  
 Reckless Endangerment 1 (RCW 9A.36.045)  
 Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- VI Bribery (RCW 9A.68.010)  
 Manslaughter 2 (RCW 9A.32.070)  
 Rape of a Child 3 (RCW 9A.44.079)  
 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)  
 Incest 1 (RCW 9A.64.020(1))  
 Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)  
 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))



- Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- 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)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Commercial Bribery (RCW 9A.68.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Threats to Bomb (RCW 9.61.160)
- Willful 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 or methamphetamine) (RCW 69.50.401(a)(1)(~~(ii)~~)(iii) through (~~(iv)~~)(v))
- 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)

Extortion 2 (RCW 9A.56.130)

Unlawful Imprisonment (RCW 9A.40.040)

Assault 3 (RCW 9A.36.031)

Assault of a Child 3 (RCW 9A.36.140)

Custodial Assault (RCW 9A.36.100)

Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))

Harassment (RCW 9A.46.020)

Promoting Prostitution 2 (RCW 9A.88.080)

Willful Failure to Return from Work Release (RCW 72.65.070)

Burglary 2 (RCW 9A.52.030)

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)

Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))

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)(~~iii~~)) (iii)

Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))

Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))

Theft of livestock 2 (RCW 9A.56.080)

Securities Act violation (RCW 21.20.400)

II

Unlawful Practice of Law (RCW 2.48.180)

Malicious Mischief 1 (RCW 9A.48.070)

Possession of Stolen Property 1 (RCW 9A.56.150)

Theft 1 (RCW 9A.56.030)

Trafficking in Insurance Claims (RCW 48.30A.015)

- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (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)
- Escape from Community Custody (RCW 72.09.310)
- 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)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- 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 1-V (except phencyclidine) (RCW 69.50.401(d))

Sec. 4. RCW 9.94A.154 and 1991 c 147 s 1 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community placement, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

- (a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and
- (b) Any person specified in writing by the prosecuting attorney.

Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401 (a)(1) (i) or (ii) or (b)(1) (i) or (ii).

Sec. 5. RCW 9.94A.310 and 1995 c 129 s 2 (Initiative Measure No. 159) are each amended to read as follows:

(1) **TABLE 1**  
**Sentencing Grid**

SERIOUSNESS SCORE	OFFENDER SCORE									9 or more
	0	1	2	3	4	5	6	7	8	
XV	Life Sentence without Parole/Death Penalty									
XIV	23y4m 240- 320	24y4m 250- 333	25y4m 261- 347	26y4m 271- 361	27y4m 281- 374	28y4m 291- 388	30y4m 312- 416	32y10m 338- 450	36y 370- 493	40y 411- 548
XIII	12y 123- 164	13y 134- 178	14y 144- 192	15y 154- 205	16y 165- 219	17y 175- 233	19y 195- 260	21y 216- 288	25y 257- 342	29y 298- 397
XII	9y 93- 123	9y11m 102- 136	10y9m 111- 147	11y8m 120- 160	12y6m 129- 171	13y5m 138- 184	15y9m 162- 216	17y3m 178- 236	20y3m 209- 277	23y3m 240- 318
XI	7y6m 78- 102	8y4m 86- 114	9y2m 95- 125	9y11m 102- 136	10y9m 111- 147	11y7m 120- 158	14y2m 146- 194	15y5m 159- 211	17y11m 185- 245	20y5m 210- 280
X	5y 51- 68	5y6m 57- 75	6y 62- 82	6y6m 67- 89	7y 72- 96	7y6m 77- 102	9y6m 98- 130	10y6m 108- 144	12y6m 129- 171	14y6m 149- 198

IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes

listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4) (a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined

under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3) (a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)((ii);) (iii), ((and)) (iv), and (v);

(c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

Sec. 6. RCW 13.40.0357 and 1995 c 395 s 3 are each amended to read as follows:

SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

Table with 3 columns: JUVENILE DISPOSITION OFFENSE CATEGORY, DESCRIPTION (RCW CITATION), and JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION. Rows include Arson and Malicious Mischief, Assault and Other Crimes Involving Physical Harm, and Burglary and Trespass.



B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
D	Vehicle Prowling (9A.52.100)	E
<b>Drugs</b>		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic <u>or</u> <u>Methamphetamine</u> Sale (69.50.401(a)(1)(i) <u>or</u> (ii))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(( <del>ii</del> )) (iii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic <u>or</u> <u>Methamphetamine</u> Counterfeit Substances (69.50.401(b)(1)(i) <u>or</u> (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) ( <del>(ii)</del> ) (iii), (iv), <u>(v)</u> )	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C

C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	C
	<b>Firearms and Weapons</b>	
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (< 18) (9.41.040(1)((e))) (b)(iv)	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	<b>Homicide</b>	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	<b>Kidnapping</b>	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	<b>Obstructing Governmental Operation</b>	
E	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	<b>Public Disturbance</b>	
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E

E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	<b>Sex Crimes</b>	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim < 14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B+	Child Molestation 1 (9A.44.083)	C+
C+	Child Molestation 2 (9A.44.086)	C
	<b>Theft, Robbery, Extortion, and Forgery</b>	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<b>Motor Vehicle Related Crimes</b>	
E	Driving Without a License (46.20.021)	E

C	Hit and Run - Injury (46.52.020(4))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
D	Vehicle Prowling (9A.52.100)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<b>Other</b>	
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**SCHEDULE B  
PRIOR OFFENSE INCREASE FACTOR**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

**TIME SPAN**

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

**SCHEDULE C  
CURRENT OFFENSE POINTS**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

**AGE**

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-1**

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

**MINOR/FIRST OFFENDER**

**OPTION A  
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100

**OR**

**OPTION B  
STATUTORY OPTION**

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

Posting of a Probation Bond

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

**OR**

**OPTION C  
MANIFEST INJUSTICE**

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

**MIDDLE OFFENDER  
OPTION A  
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B.

All A+ offenses 180-224 weeks

**OR**

**OPTION B  
STATUTORY OPTION**

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

Posting of a Probation Bond

If the offender has less than 110 points, the court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150.

If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that

the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender fails to comply with the terms of community supervision, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order execution of the disposition. If the court imposes confinement for offenders with 110 points or more, the court shall state either aggravating or mitigating factors set forth in RCW 13.40.150.

**OR**

**OPTION C  
MANIFEST INJUSTICE**

If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-3**

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

**SERIOUS OFFENDER  
OPTION A  
STANDARD RANGE**

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375 +	103-129 weeks
All A + Offenses	180-224 weeks

**OR**

**OPTION B  
MANIFEST INJUSTICE**

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range.



Sec. 7. RCW 69.50.406 and 1987 c 458 s 5 are each amended to read as follows:

(a) Any person eighteen years of age or over who violates RCW 69.50.401(a) by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine to a person under eighteen years of age is punishable by the fine authorized by RCW 69.50.401(a)(1) (i) or (ii), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(a)(1) (i) or (ii), or by both.

(b) Any person eighteen years of age or over who violates RCW 69.50.401(a) by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his junior is punishable by the fine authorized by RCW 69.50.401(a)(1)(~~(ii)~~) (iii), (~~(iv)~~) or (v), by a term of imprisonment up to twice that authorized by RCW 69.50.401(a)(1)(~~(ii)~~) (iii), (~~(iv)~~) or (v), or both.

Sec. 8. RCW 69.50.415 and 1987 c 458 s 2 are each amended to read as follows:

(a) A person who unlawfully delivers a controlled substance in violation of RCW 69.50.401(a)(1) (i) (~~(ii)~~), (ii), or (iii) which controlled substance is subsequently used by the person to whom it was delivered, resulting in the death of the user, is guilty of controlled substances homicide.

(b) Controlled substances homicide is a class B felony punishable according to RCW 9A.20.021.

Passed the House March 4, 1996.

Passed the Senate February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 206

[Substitute House Bill 2386]

### TEXT OF LAW OR RULE—TECHNICAL ASSISTANCE PROGRAMS

AN ACT Relating to providing the text of laws and rules as a part of state agency technical assistance programs; amending RCW 43.05.030, 43.05.060, 43.05.090, 43.05.100, and 34.05.230; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 36.70B RCW; adding a new section to chapter 43.110 RCW; adding a new section to chapter 43.330 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 finds that many individuals and small businesses who are required to comply with laws and agency rules often do not have access to the Revised Code of Washington, the Washington Administrative Code, the United States Code, or the Code of Federal Regulations. In this case, those informed of violations do not know whether, or to what extent, the cited law or agency rule actually applies to their situation. In

order to facilitate greater understanding of the law and agency rules, the legislature finds that those who make the effort to obtain technical assistance from a regulatory agency, and those who are issued a notice of correction, should be given the text of the specific section or subsection of the law or agency rule they are alleged to have violated.

**Sec. 2.** RCW 43.05.030 and 1995 c 403 s 604 are each amended to read as follows:

(1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and ~~((a specific citation to))~~ the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

**Sec. 3.** RCW 43.05.060 and 1995 c 403 s 607 are each amended to read as follows:

(1) If in the course of any site inspection or visit that is not a technical assistance visit, the department of ecology becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.070, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and ~~((a specific citation to))~~ the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice.

**Sec. 4.** RCW 43.05.090 and 1995 c 403 s 610 are each amended to read as follows:

(1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a report to the employer that the employer shall make available to its employees. The report shall contain:

(a) A description of the condition that is not in compliance and ~~((a specific citation to))~~ the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of means to contact technical assistance services provided by the department; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue a citation for violations of industrial safety and health standards. The citation shall not assess a penalty if the violations:

(a) Are determined not to be of a serious nature;

(b) Have not been previously cited;

(c) Are not willful; and

(d) Do not have a mandatory penalty under chapter 49.17 RCW.

**Sec. 5.** RCW 43.05.100 and 1995 c 403 s 611 are each amended to read as follows:

(1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, licensing, or natural resources becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and ~~((a specific citation to))~~ the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice.

NEW SECTION. Sec. 6. A new section is added to chapter 35.21 RCW to read as follows:

(1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property to the city or town in which the real property is located.

(2) Within thirty days of the receipt of the request, the city or town shall provide the owner with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;

(b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property; and

(c) Any designations made by the city or town pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forest land, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area.

(4) If a city or town fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a city or town to pay damages for a violation of this section.

NEW SECTION. Sec. 7. A new section is added to chapter 35A.21 RCW to read as follows:

(1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property to the code city in which the real property is located.

(2) Within thirty days of the receipt of the request, the code city shall provide the owner, by registered mail, with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;

(b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property;

(c) Any designations made by the code city pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forest land, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area; and

(d) If information regarding the designations listed in (c) of this subsection are not readily available, inform the owner of the procedure by which the owner can obtain that site-specific information from the code city.

(4) If a code city fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a code city.

**NEW SECTION.** Sec. 8. A new section is added to chapter 36.70 RCW to read as follows:

(1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property located in an unincorporated portion of a county to the county in which the real property is located.

(2) Within thirty days of the receipt of the request, the county shall provide the owner, by registered mail, with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;

(b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property;

(c) Any designations made by the county pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forest land, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area; and

(d) If information regarding the designations listed in (c) of this subsection are not readily available, inform the owner of the procedure by which the owner can obtain that site-specific information from the county.

(4) If a county fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a county.

NEW SECTION. Sec. 9. A new section is added to chapter 36.70B RCW to read as follows:

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.17 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under

subsection (2) of this section from the municipal research council and the department of community, trade, and economic development.

**NEW SECTION.** Sec. 10. A new section is added to chapter 43.110 RCW to read as follows:

The municipal research council shall provide technical assistance in the compilation of and support in the production of the handouts to be published and kept current by counties and cities under section 9 of this act.

**NEW SECTION.** Sec. 11. A new section is added to chapter 43.330 RCW to read as follows:

The department shall provide technical assistance in the compilation of and support in the production of the handouts to be published and kept current by counties and cities under section 9 of this act.

**Sec. 12.** RCW 34.05.230 and 1995 c 403 s 702 are each amended to read as follows:

(1) If the adoption of rules is not feasible and practicable, an agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only. To better inform and involve the public, an agency is encouraged to convert long-standing interpretive and policy statements into rules.

(2) A person may petition an agency requesting the conversion of interpretive and policy statements into rules. Upon submission, the agency shall notify the joint administrative rules review committee of the petition. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter.

(3) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service.

(4) Whenever an agency issues an interpretive or policy statement, it shall submit to the code reviser for publication in the Washington State Register a statement describing the subject matter of the interpretive or policy statement, and listing the person at the agency from whom a copy of the interpretive or policy statement may be obtained.

**NEW SECTION.** Sec. 13. Sections 6 through 8 of this act take effect January 1, 1997.

Passed the House March 7, 1996.  
Passed the Senate March 7, 1996.  
Approved by the Governor March 28, 1996.  
Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 207

[Engrossed House Bill 2396]

### WILDLIFE VIOLATIONS—CLARIFICATION

AN ACT Relating to wildlife violations; amending RCW 77.08.010 and 77.16.020; and creating a new section.

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

**NEW SECTION.** Sec. 1. It is the intent of the legislature to clarify hunting and fishing laws in light of the decision in *State v. Bailey*, 77 Wn. App. 732 (1995). The fish and wildlife commission has the authority to establish hunting and fishing seasons. These seasons are defined by limiting the times, manners of taking, and places or waters for lawful hunting, fishing, or possession of game animals, game birds, or game fish, as well as by limiting the physical characteristics of the game animals, game birds, or game fish which may be lawfully taken at those times, in those manners, and at those places or waters.

Sec. 2. RCW 77.08.010 and 1993 sp.s. c 2 s 66 are each amended to read as follows:

As used in this title or rules adopted pursuant to this title, unless the context clearly requires otherwise:

- (1) "Director" means the director of fish and wildlife.
- (2) "Department" means the department of fish and wildlife.
- (3) "Commission" means the state fish and wildlife commission.
- (4) "Person" means and includes an individual, a corporation, or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.
- (5) "Wildlife agent" means a person appointed and commissioned by the director, with authority to enforce laws and rules adopted pursuant to this title, and other statutes as prescribed by the legislature.
- (6) "Ex officio wildlife agent" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio wildlife agent" includes fisheries patrol officers, special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.
- (7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.



(8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(9) "To fish" and its derivatives means an effort to kill, injure, harass, or catch a game fish.

(10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, or possession of game animals, game birds, or game fish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, or possession of game animals, game birds, or game fish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, or possess by rule of the commission as an open season.

(12) "Closed area" means a place where the hunting of some species of wild animals or wild birds is prohibited.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing for game fish is prohibited.

(14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, the family Muridae of the order Rodentia (old world rats and mice), or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catesbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(27) "Person of disability" means a permanently disabled person who is not ambulatory without the assistance of a wheelchair, crutches, or similar devices.

Sec. 3. RCW 77.16.020 and 1987 c 506 s 59 are each amended to read as follows:

(1) It is unlawful to hunt, fish, or possess~~(, or control)~~ a ~~((species of game bird,))~~ game animal, game bird, or game fish during ~~((the))~~ closed season for that ~~((species))~~ game animal, game bird, or game fish except as provided in RCW 77.12.105 or 77.12.265.

(2) It is unlawful to kill, take, catch, possess, or control ~~((these species))~~ a game animal, game bird, or game fish in excess of the number fixed as the bag limit for ~~((each species))~~ that game animal, game bird, or game fish.

(3) It is unlawful to hunt within a game reserve or to fish for game fish within closed waters.

(4) It is unlawful to hunt wild birds or wild animals within a closed area except as authorized by rule of the commission.

(5) It is unlawful to hunt or fish for wildlife, practice taxidermy for profit, deal in raw furs for profit, act as a fishing guide, or operate a game farm, stock game fish, or collect wildlife for research or display, without having in possession the license, permit, tag, stamp, or ~~((punchcard))~~ catch record card required by chapter 77.32 RCW or rule of the department. The activities described in this subsection shall be conducted in accordance with rules adopted pursuant to this title.

(6) For the purposes of this section, the department shall not consider leg length or bill length of dusky Canada geese (Branta canadensis occidentalis).

Passed the House March 2, 1996.  
 Passed the Senate February 28, 1996.  
 Approved by the Governor March 28, 1996.  
 Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 208

[Substitute House Bill 2446]

### SUPERIOR COURT JUDGES—ADDITIONAL POSITIONS

AN ACT Relating to superior court judges; amending RCW 2.08.062, 2.08.061, and 2.08.065; and creating new sections.

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

Sec. 1. RCW 2.08.062 and 1995 c 117 s 1 are each amended to read as follows:

There shall be in the counties of Chelan and Douglas jointly, ~~((three))~~ five judges of the superior court; in the county of Clark seven judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap seven 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.

NEW SECTION. Sec. 2. (1) The additional judicial positions created by section 1 of this act are effective only if Chelan and Douglas counties jointly, through their duly constituted legislative authorities, document their approval of the additional positions and their agreement that they will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial positions as provided by state law or the state Constitution.

(2) The judicial positions created by section 1 of this act shall be effective January 1, 1997.

Sec. 3. RCW 2.08.061 and 1992 c 189 s 1 are each amended to read as follows:

There shall be in the county of King no more than fifty-eight judges of the superior court; in the county of Spokane ~~((ten))~~ eleven judges of the superior court; and in the county of Pierce nineteen judges of the superior court. ~~((The King county legislative authority may phase in the additional twelve judges, as authorized by the 1992 amendments to this section, over a period of time not to extend beyond July 1, 1996. No more than two of the additional twelve judges may take office prior to July 1, 1993.))~~

NEW SECTION. Sec. 4. The additional judicial position created by section 3 of this act shall be effective only if Spokane county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by statute.

**Sec. 5.** RCW 2.08.065 and 1992 c 189 s 5 are each amended to read as follows:

There shall be in the county of Grant, two judges of the superior court; in the county of Okanogan, one judge of the superior court; in the county of Mason, two judges of the superior court; in the county of Thurston, (~~six~~) eight judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, two judges of the superior court; and in the counties of San Juan and Island jointly, two judges of the superior court.

**NEW SECTION.** **Sec. 6.** The additional judicial positions created by section 5 of this act are effective only if Thurston county through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial positions as provided by state law or the state Constitution.

**NEW SECTION.** **Sec. 7.** One judicial position created by section 5 of this act shall be effective July 1, 1996; the second position shall be effective July 1, 2000.

Passed the House March 2, 1996.

Passed the Senate February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 209

[Engrossed House Bill 2452]

### TUBERCULOSIS—CONTROL

AN ACT Relating to control of tuberculosis; and amending RCW 70.28.010, 70.28.031, 70.28.032, 70.28.033, and 70.28.035.

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

**Sec. 1.** RCW 70.28.010 and 1967 c 54 s 1 are each amended to read as follows:

All practicing physicians in the state are hereby required to report to the local boards of health in writing, the name, age, sex, occupation and residence of every person having tuberculosis who has been attended by, or who has come under the observation of such physician within (~~five days~~) one day thereof.

**Sec. 2.** RCW 70.28.031 and 1967 c 54 s 4 are each amended to read as follows:

Each health officer is hereby directed to use every available means to ascertain the existence of, and immediately to investigate, all reported or suspected cases of tuberculosis in the infectious stages within his or her jurisdiction and to ascertain the sources of such infections. In carrying out such

investigations, each health officer is hereby invested with full powers of inspection, examination, treatment, and quarantine or isolation of all persons known to be infected with tuberculosis in an infectious stage or persons who have been previously diagnosed as having tuberculosis and who are under medical orders for treatment or periodic follow-up examinations and is hereby directed:

(a) To make such examinations as are deemed necessary of persons reasonably suspected of having tuberculosis in an infectious stage and to isolate and treat or isolate, treat, and quarantine such persons, whenever deemed necessary for the protection of the public health.

(b) To make such examinations as deemed necessary of persons who have been previously diagnosed as having tuberculosis and who are under medical orders for periodic follow-up examinations.

(c) Follow local rules and regulations regarding examinations, treatment, quarantine, or isolation, and all rules, regulations, and orders of the state board and of the department in carrying out such examination, treatment, quarantine, or isolation.

(d) Whenever the health officer shall determine on reasonable grounds that an examination or treatment of any person is necessary for the preservation and protection of the public health, he or she shall make an examination order in writing, setting forth the name of the person to be examined, the time and place of the examination, the treatment, and such other terms and conditions as may be necessary to protect the public health. Nothing contained in this subdivision shall be construed to prevent any person whom the health officer determines should have an examination or treatment for infectious tuberculosis from having such an examination or treatment made by a physician of his or her own choice who is licensed to practice osteopathy and surgery under chapter 18.57 RCW or medicine and surgery under chapter 18.71 RCW under such terms and conditions as the health officer shall determine on reasonable grounds to be necessary to protect the public health.

(e) Whenever the health officer shall determine that quarantine, treatment, or isolation in a particular case is necessary for the preservation and protection of the public health, he or she shall make an ~~((isolation or quarantine))~~ order to that effect in writing, setting forth the name of the person ~~((to be isolated))~~, the period of time during which the order shall remain effective, the place of treatment, isolation, or quarantine, and such other terms and conditions as may be necessary to protect the public health.

(f) Upon the making of an examination, treatment, isolation, or quarantine order as provided in this section, a copy of such order shall be served upon the person named in such order.

(g) Upon the receipt of information that any examination, treatment, quarantine, or isolation order, made and served as herein provided, has been violated, the health officer shall advise the prosecuting attorney of the county in which such violation has occurred, in writing, and shall submit to such

prosecuting attorney the information in his or her possession relating to the subject matter of such examination, treatment, isolation, or quarantine order, and of such violation or violations thereof.

(h) Any and all orders authorized under this section shall be made by the health officer or his or her tuberculosis control officer.

(i) Nothing in this chapter shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to treat tuberculosis in accordance with the tenets and practice of any well-recognized church or religious denomination, nor shall anything in this chapter be deemed to prohibit a person who is inflicted with tuberculosis from being isolated or quarantined in a private place of his own choice, provided, it is approved by the local health officer, and all laws, rules and regulations governing control, sanitation, isolation, and quarantine are complied with.

Sec. 3. RCW 70.28.032 and 1994 c 145 s 2 are each amended to read as follows:

(1) The state board of health shall adopt rules establishing the requirements for:

(a) Reporting confirmed or suspected cases of tuberculosis by health care providers and reporting of laboratory results consistent with tuberculosis by medical test sites;

(b) Due process standards for health officers exercising their authority to involuntarily detain, test, treat, or isolate persons with suspected or confirmed tuberculosis under RCW 70.28.031 and 70.05.070 that provide for release from any involuntary detention, testing, treatment, or isolation as soon as the health officer determines the patient no longer represents a risk to the public's health;

(c) Training of persons to perform tuberculosis skin testing and to administer tuberculosis medications.

(2) Notwithstanding any other provision of law, persons trained under subsection (1)(c) of this section may perform skin testing and administer medications if doing so as part of a program established by a state or local health officer to control tuberculosis.

~~((3) The board shall adopt rules under subsection (1) of this section by December 31, 1994.))~~

Sec. 4. RCW 70.28.033 and 1967 c 54 s 5 are each amended to read as follows:

Inasmuch as the order provided for by RCW 70.28.031 is for the protection of the public health, any person who, after service upon him or her of an order of a health officer directing his or her treatment, isolation, or examination as provided for in RCW 70.28.031, violates or fails to comply with the same or any provision thereof, is guilty of a misdemeanor, and, upon conviction thereof, in addition to any and all other penalties which may be imposed by law upon such conviction, may be ordered by the court confined until such order of such health officer shall have been fully complied with or terminated by such health

officer, but not exceeding six months from the date of passing judgment upon such conviction: PROVIDED, That the court, upon suitable assurances that such order of such health officer will be complied with, may place any person convicted of a violation of such order of such health officer upon probation for a period not to exceed two years, upon condition that the said order of said health officer be fully complied with: AND PROVIDED FURTHER, That upon any subsequent violation of such order of such health officer, such probation shall be terminated and confinement as herein provided ordered by the court.

Sec. 5. RCW 70.28.035 and 1967 c 54 s 6 are each amended to read as follows:

In addition to the proceedings set forth in RCW 70.28.031, where a local health officer has reasonable cause to believe that an individual has tuberculosis as defined in the rules and regulations of the state board of health, and the individual refuses to obey the order of the local health officer to appear for an initial examination or a follow-up examination or an order for treatment, isolation, or quarantine, the health officer may apply to the superior court for an order requiring the individual to comply with the order of the local health officer.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 28, 1996.

Filcd in Office of Secretary of State March 28, 1996.

## CHAPTER 210

[Substitute House Bill 2463]

### SALMON RESTORATION PLANS

AN ACT Relating to salmon restoration; and creating a new section.

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

NEW SECTION. Sec. 1. (1) By July 1, 1996, the habitat, fish management, and ecosystem programs of the department of fish and wildlife shall develop an action plan for the restoration of watersheds where the depressed condition of the natural spawning salmon stocks has required the restriction or closure of highly beneficial and traditional salmon fisheries.

(2) The salmon restoration action plan shall:

- (a) Identify factors limiting salmon production and develop short and long-term plans to address them;
- (b) Use volunteers to the greatest extent possible;
- (c) Emphasize the restoration of chinook and coho stocks with consideration given to the requirements of other weak or depressed fish stocks;
- (d) Create new fisheries and enhance existing fisheries;
- (e) Incorporate the use of all viable enhancement tools including remote site incubators, where appropriate; and

(f) Develop cost estimates for identified restoration opportunities and evaluate the possibility for cost sharing through other federal, state, and local community partnerships.

(3) This section shall apply to watersheds draining into Hood Canal, the Strait of Juan de Fuca, and the North Olympic coast.

(4) The department shall report to the appropriate standing committees of the legislature by December 1, 1996, on progress toward implementation of short-term restoration activities, and projected time frames for long-term efforts.

Passed the House February 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 211

[Substitute House Bill 2468]

### FILING FEES—DIVISION—CLARIFICATION

AN ACT Relating to filing fees; amending RCW 36.18.012; and reenacting and amending RCW 36.18.020.

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

**Sec. 1.** RCW 36.18.012 and 1995 c 292 s 12 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state for deposit in the public safety and education account under RCW 36.18.025.

(2) 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 district court in the county of issuance, shall pay at the time of filing a fee of fifteen dollars.

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

(4) The clerk shall collect a fee of twenty dollars for: Filing a paper not related to or a part of a proceeding, civil or criminal, or a probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law (~~(; or filing a petition, written agreement, or memorandum as provided in RCW 11.96.170)~~).

(5) If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay before proceeding with the unlawful detainer action eighty dollars.

(6) For a restrictive covenant for filing a petition to strike discriminatory provisions in real estate under RCW 49.60.227 a fee of twenty dollars must be charged.

(7) A fee of twenty dollars must be charged for filing a will only, when no probate of the will is contemplated.



(8) A fee of two dollars must be charged for filing a petition, written agreement, or written memorandum in a nonjudicial probate dispute under RCW 11.96.170.

(9) A fee of thirty-five dollars must be charged for filing a petition regarding a common law lien under RCW 60.70.060.

(10) For certification of delinquent taxes by a county treasurer under RCW 84.64.190, a fee of five dollars must be charged.

Sec. 2. RCW 36.18.020 and 1995 c 312 s 70 and 1995 c 292 s 10 are each reenacted and amended to read as follows:

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

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

(a) The party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, shall pay, at the time the paper is filed, a fee of one hundred ten dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of thirty dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee((;)). The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the paper is filed, a fee of one hundred ten dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of one hundred ten dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of one hundred ten dollars.

(e) ~~((For filing of a petition for determination of water rights under RCW 90.03.180 a filing fee of twenty five dollars))~~ For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of one hundred ten dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of one hundred ten dollars.

(g) 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 one hundred ten dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a 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 one hundred ten dollars.

(i) 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.

(3) 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 House March 4, 1996.

Passed the Senate February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 212

[Substitute House Bill 2478]

### TUITION FOR HIGHER EDUCATION—CERTAIN FEES RAISED

AN ACT Relating to higher education fiscal matters; and amending RCW 28B.15.067.

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

**Sec. 1.** RCW 28B.15.067 and 1995 1st sp.s. c 9 s 4 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Academic year tuition for full-time students at the state's institutions of higher education for the 1995-96 academic year, other than the summer term, shall be as provided in this subsection.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, two thousand seven hundred sixty-four dollars;

(ii) For nonresident undergraduate students and other nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, eight thousand two hundred sixty-eight dollars;

(iii) For resident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, four thousand four hundred ninety dollars;

(iv) For nonresident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, eleven thousand six hundred thirty-four dollars;

(v) For resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, seven thousand four hundred ninety-seven dollars; and

(vi) For nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, nineteen thousand four hundred thirty-one dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate study programs, two thousand forty-five dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate study programs, seven thousand nine hundred ninety-two dollars;

(iii) For resident graduate students, three thousand four hundred forty-three dollars; and

(iv) For nonresident graduate students, eleven thousand seventy-one dollars.

(c) At the community colleges:

(i) For resident students, one thousand two hundred twelve dollars; and

(ii) For nonresident students, five thousand one hundred sixty-two dollars and fifty cents.

(3) Academic year tuition for full-time students at the state's institutions of higher education beginning with the 1996-97 academic year, other than the summer term, shall be as provided in this subsection.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, two thousand eight hundred seventy-five dollars;

(ii) For nonresident undergraduate students and other nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, (~~eight thousand five hundred ninety-nine~~) nine thousand four hundred ninety-one dollars;

(iii) For resident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, four thousand six hundred sixty-nine dollars;

(iv) For nonresident graduate and law students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, twelve thousand one hundred dollars;

(v) For resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, seven thousand seven hundred ninety-seven dollars; and

(vi) For nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, twenty thousand two hundred nine dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate study programs, two thousand one hundred twenty-seven dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate study programs, eight thousand three hundred twelve dollars;

(iii) For resident graduate students, three thousand five hundred eighty-one dollars; and

(iv) For nonresident graduate students, eleven thousand five hundred fourteen dollars.

(c) At the community colleges:

(i) For resident students, one thousand two hundred sixty-one dollars; and

(ii) For nonresident students, five thousand three hundred sixty-nine dollars and fifty cents.

(4) The tuition fees established under this chapter shall not apply to high school students enrolling in community colleges under RCW 28A.600.300 through 28A.600.395.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 6, 1996.

Passed the Senate March 5, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 213

[Substitute House Bill 2535]

### ETHICS, TECHNOLOGY, AND FEDERAL STANDARDS FOR CONFLICTS IN PUBLIC SERVICE

AN ACT Relating to ethics, technology, and federal standards for conflicts in public service; and amending RCW 42.52.010, 42.52.020, 42.52.030, 42.52.050, 42.52.110, 42.52.120, and 42.52.160.

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

Sec. 1. RCW 42.52.010 and 1994 c 154 s 101 are each amended to read as follows:

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

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body

consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(4) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(5) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(6) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(7) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(8) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

~~((8))~~ (9) "Family" has the same meaning as "immediate family" in RCW 42.17.020.

~~((9))~~ (10) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona

fide nonprofit professional, educational, or trade association, or charitable institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17 RCW; ~~(and)~~

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

~~((40))~~ (11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

~~((44))~~ (12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

~~((12))~~ (14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

~~((13))~~ (15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

~~((14))~~ (16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

~~((15))~~ (17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

~~((16))~~ (18) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives,

holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

~~((17))~~ (19) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

~~((18))~~ (20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

~~((19))~~ (21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

**Sec. 2.** RCW 42.52.020 and 1994 c 154 s 102 are each amended to read as follows:

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

**Sec. 3.** RCW 42.52.030 and 1994 c 154 s 103 are each amended to read as follows:

(1) No state officer or state employee, except as provided in subsections (2) and (3) of this section, may be beneficially interested, directly or indirectly, in

a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No officer or employee of an institution of higher education or of the Spokane intercollegiate research and technology institute, except as provided in subsection (3) of this section, may be beneficially interested, directly or indirectly, in a contract or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract or grant, unless the institution of higher education or the Spokane intercollegiate research and technology institute has in effect a written administrative process to identify and manage, reduce, or eliminate conflicting interests with respect to such transactions as adopted pursuant to the national science investigator financial disclosure (GPM 510) 1995 and the public health service regulations, 42 C.F.R. Part 50 and 45 C.F.R. Subtitle A as each of those regulations existed on the effective date of this section, and the state employee or state officer has complied with such policy.

(3) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fundraising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

Sec. 4. RCW 42.52.050 and 1994 c 154 s 105 are each amended to read as follows:

~~((1))~~ (1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to ~~((disclose))~~ make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may ~~((disclose))~~ make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.



(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.17 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith.

Sec. 5. RCW 42.52.110 and 1994 c 154 s 111 are each amended to read as follows:

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington ((for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law)); or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

Sec. 6. RCW 42.52.120 and 1994 c 154 s 112 are each amended to read as follows:

(1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with RCW 42.52.030(2) or each of the following conditions are met:

- (a) The contract or grant is bona fide and actually performed;
- (b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;
- (c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;
- (d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;
- (e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity or by his or her agency;
- (f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract with a state agency only if:

(a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or

(b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

(c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses.

**Sec. 7.** RCW 42.52.160 and 1994 c 154 s 116 are each amended to read as follows:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's (~~public~~) official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

Passed the House February 5, 1996.  
Passed the Senate February 29, 1996.  
Approved by the Governor March 28, 1996.  
Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 214

[House Bill 2538]

### IRRIGATION DISTRICTS—CLARIFICATION OF AUTHORITY

AN ACT Relating to authority of irrigation districts; amending RCW 87.03.440 and 87.76.040; and adding a new section to chapter 87.03 RCW.

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

Sec. 1. RCW 87.03.440 and 1993 c 449 s 12 are each amended to read as follows:

The treasurer of the county in which is located the office of the district shall be ex officio treasurer of the district, and any county treasurer handling district funds shall be liable upon his or her official bond and to criminal prosecution for malfeasance and misfeasance, or failure to perform any duty as county or district treasurer. The treasurer of each county in which lands of the district are located shall collect and receipt for all assessments levied on lands within his or her county. There shall be deposited with the district treasurer all funds of the district. The district treasurer shall pay out such funds upon warrants issued by the county auditor against the proper funds of the district, except the sums to be paid out of the bond fund for interest and principal payments on bonds: PROVIDED, That in those districts which designate their own treasurer, the treasurer may issue the warrants or any checks when the district is authorized to issue checks. All warrants shall be paid in the order of their issuance. The district treasurer shall report, in writing, on the first Monday in each month to the directors, the amount in each fund, the receipts for the month preceding in each fund, and file the report with the secretary of the board. The secretary shall report to the board, in writing, at the regular meeting in each month, the amount of receipts and expenditures during the preceding month, and file the report in the office of the board.

The preceding paragraph of this section notwithstanding, the board of directors or board of control of an irrigation district which lies in more than one county and which had assessments in each of two of the preceding three years equal to at least five hundred thousand dollars may designate some other person having experience in financial or fiscal matters as treasurer of the district. In addition, the board of directors of an irrigation district which lies entirely within one county may designate some other person having experience in financial or fiscal matters as treasurer of the district if the district had assessments, tolls, and miscellaneous collections in each of two of the preceding three years equal to at least two million dollars or if the board has the approval of the county treasurer to designate some other person. If ~~((the))~~ a board designates a

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 it finds from time to time will protect the district against loss))~~ of two hundred fifty thousand dollars conditioned that he or she will faithfully perform the duties of his or her office as treasurer of the district. The premium on the bond shall be paid by the district. The designated treasurer shall collect and receipt for all irrigation district assessments on lands within the district and shall act with the same powers and duties and be under the same restrictions as provided by law for county treasurers acting in matters pertaining to irrigation districts, except the powers, duties, and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to be those of county treasurers.

In those districts which have designated their own treasurers, the provisions of law pertaining to irrigation districts which require certain acts to be done and which refer to and involve a county treasurer or the office of a county treasurer or the county officers charged with the collection of irrigation district assessments, except RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve the designated district treasurer or the office of the designated district treasurer.

Any claim against the district for which it is liable under existing laws shall be presented to the board as provided in RCW 4.96.020 and upon allowance it shall be attached to a voucher and approved by the chairman and signed by the secretary and directed to the proper official for payment: PROVIDED, That in the event claimant's claim is for crop damage, the claimant in addition to filing his or her claim within the applicable period of limitations within which an action must be commenced and in the manner specified in RCW 4.96.020 must file with the secretary of the district, or in the secretary's absence one of the directors, not less than three days prior to the severance of the crop alleged to be damaged, a written preliminary notice pertaining to the crop alleged to be damaged. Such preliminary notice, so far as claimant is able, shall advise the district; that the claimant has filed a claim or intends to file a claim against the district for alleged crop damage; shall give the name and present residence of the claimant; shall state the cause of the damage to the crop alleged to be damaged and the estimated amount of damage; and shall accurately locate and describe where the crop alleged to be damaged is located. Such preliminary notice may be given by claimant or by anyone acting in his or her behalf and need not be verified. No action may be commenced against an irrigation district for crop damages unless claimant has complied with the provisions of RCW 4.96.020 and also with the preliminary notice requirements of this section.

Sec. 2. RCW 87.76.040 and 1987 c 124 s 2 are each amended to read as follows:

To avoid duplication of effort the state association may, in the discretion of its officers, affiliate and cooperate with other organizations and agencies engaged in the furthering of reclamation of lands in the state and make financial contributions to them for such purpose. In carrying out the powers authorized

by this chapter, the association of irrigation districts is authorized to enter into contracts with the federal government, the state, irrigation districts, boards of control, municipal or quasi-municipal corporations, cooperatives, other public or private agencies, and associate organizations. The association of irrigation districts is authorized to advance funds to promote the development and utilization of agricultural water and power resources and to employ the technical and professional assistance necessary to survey, plan, investigate, study, print, and publish information and literature to promote the development and utilization of such resources and provide and present data and information to members of congress, any committee of congress, and to other federal officials as an aid in securing needed legislation, contracts, and timely appropriations.

NEW SECTION. Sec. 3. A new section is added to chapter 87.03 RCW to read as follows:

(1) Under the interlocal cooperation act, chapter 39.34 RCW, an irrigation district may enter into a mutual aid agreement with any other irrigation district to provide emergency interdistrict assistance to respond to a breach or other failure of an irrigation water conveyance system when the required response exceeds the existing resources available to the district requesting assistance. Assistance may be provided without compensation.

(2) Whenever the employees of an irrigation district are rendering outside aid pursuant to the authority contained in this section, the employees have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the irrigation district in which they are normally employed. Supervision of the employees may be temporarily delegated as provided by the mutual aid agreement.

(3) The irrigation district in which any equipment is used pursuant to this section is liable for any loss or damage caused to the equipment and shall pay any ordinary expense incurred in the daily operation and maintenance of the equipment. No claim for loss, damage, or expense may be allowed unless, within sixty days after the loss, damage, or expense is sustained or incurred, an itemized notice of the claim under oath is served by mail or otherwise upon the secretary of the irrigation district where the equipment was used.

Passed the House February 6, 1996.

Passed the Senate February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 215

[Substitute House Bill 2545]

### SEX OFFENDERS—NOTIFICATION, RELEASE REQUIREMENTS

AN ACT Relating to sex offender notification; amending RCW 4.24.550, 70.48.470, 72.09.340, and 9.94A.120; and reenacting and amending RCW 9.94A.155.

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

**Sec. 1.** RCW 4.24.550 and 1994 c 129 s 2 are each amended to read as follows:

(1) Public agencies are authorized to release relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection.

(2) Local law enforcement agencies and officials who decide to release information pursuant to this section shall make a good faith effort to notify the public and residents at least fourteen days before the sex offender is released. If a change occurs in the release plan, this notification provision will not require an extension of the release date. The department of corrections and the department of social and health services shall provide local law enforcement officials with all relevant information on sex offenders about to be released or placed into the community in a timely manner. When a sex offender under county jurisdiction will be released from jail and will reside in a county other than the county of incarceration, the chief law enforcement officer of the jail, or his or her designee, shall notify the sheriff in the county where the offender will reside of the offender's release as provided in RCW 70.48.470.

(3) An elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The authorization and immunity in this section applies to information regarding: (a) A person convicted of, or juvenile found to have committed, a sex offense as defined by RCW 9.94A.030; (b) a person found not guilty of a sex offense by reason of insanity under chapter 10.77 RCW; (c) a person found incompetent to stand trial for a sex offense and subsequently committed under chapter 71.05 or 71.34 RCW; (d) a person committed as a sexual psychopath under chapter 71.06 RCW; or (e) a person committed as a sexually violent predator under chapter 71.09 RCW. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

(4) Except as otherwise provided by statute, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information as provided in subsections (2) and (3) of this section.

(5) Nothing in this section implies that information regarding persons designated in subsections (2) and (3) of this section is confidential except as otherwise provided by statute.

**Sec. 2.** RCW 70.48.470 and 1990 c 3 s 406 are each amended to read as follows:

(1) A person having charge of a jail shall notify in writing any confined person who is in the custody of the jail for a conviction of a sexual offense as defined in RCW 9.94A.030 of the registration requirements of RCW 9A.44.130

at the time of the inmate's release from confinement, and shall obtain written acknowledgment of such notification. The person shall also obtain from the inmate the county of the inmate's residence upon release from jail.

(2) If an inmate convicted of a sexual offense will reside in a county other than the county of incarceration upon release, the chief law enforcement officer, or his or her designee, shall notify the sheriff of the county where the inmate will reside of the inmate's impending release. Notice shall be provided at least fourteen days prior to the inmate's release, or if the release date is not known at least fourteen days prior to release, notice shall be provided not later than the day after the inmate's release.

Sec. 3. RCW 72.09.340 and 1990 c 3 s 708 are each amended to read as follows:

(1) In making all discretionary decisions regarding release plans for and supervision of ((sexually violent)) sex offenders, the department ((of corrections)) shall set priorities and make decisions based on an assessment of public safety risks ((rather than the legal category of the sentences)).

(2) The department shall, no later than September 1, 1996, implement a policy governing the department's evaluation and approval of release plans for sex offenders. The policy shall include, at a minimum, a formal process by which victims, witnesses, and other interested people may provide information and comments to the department on potential safety risks to specific individuals or classes of individuals posed by a specific sex offender. The department shall make all reasonable efforts to publicize the availability of this process through currently existing mechanisms and shall seek the assistance of courts, prosecutors, law enforcement, and victims' advocacy groups in doing so. Notice of an offender's proposed residence shall be provided to all people registered to receive notice of an offender's release under RCW 9.94A.155(2), except that in no case may this notification requirement be construed to require an extension of an offender's release date.

(3) For any offender convicted of a felony sex offense against a minor victim after the effective date of this act, the department shall not approve a residence location if the proposed residence: (a) Includes a minor victim or child of similar age or circumstance as a previous victim who the department determines may be put at substantial risk of harm by the offender's residence in the household; or (b) is within close proximity of the current residence of a minor victim, unless the whereabouts of the minor victim cannot be determined or unless such a restriction would impede family reunification efforts ordered by the court or directed by the department of social and health services. The department is further authorized to reject a residence location if the proposed residence is within close proximity to schools, child care centers, playgrounds, or other grounds or facilities where children of similar age or circumstance as a previous victim are present who the department determines may be put at substantial risk of harm by the sex offender's residence at that location.

(4) When the department requires supervised visitation as a term or condition of a sex offender's community placement under RCW 9.94A.120(9)(c)(vi), the department shall, prior to approving a supervisor, consider the following:

(a) The relationships between the proposed supervisor, the offender, and the minor; (b) the proposed supervisor's acknowledgment and understanding of the offender's prior criminal conduct, general knowledge of the dynamics of child sexual abuse, and willingness and ability to protect the minor from the potential risks posed by contact with the offender; and (c) recommendations made by the department of social and health services about the best interests of the child.

Sec. 4. RCW 9.94A.155 and 1994 c 129 s 3 and 1994 c 77 s 1 are each reenacted and amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community placement, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense; ~~((and))~~

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and



shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

**Sec. 5.** RCW 9.94A.120 and 1995 c 108 s 3 are each amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment (~~alternative[s]~~) alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

- (i) Devote time to a specific employment or training;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (iii) Report as directed to a community corrections officer;
- (iv) Pay all court-ordered legal financial obligations;
- (v) Perform community service work;
- (vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(7) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(8)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

- (I) Devote time to a specific employment or occupation;
- (II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (III) Report as directed to the court and a community corrections officer;

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) Except as provided in (a)(vii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(vii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or

property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his or her term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his or her community supervision, the court may order the offender to serve out the balance of his or her community supervision term in confinement in the custody of the department of corrections.

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

(c) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly

weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances;

(v) The offender shall pay supervision fees as determined by the department of corrections; and

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.



(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol; ((e))

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after the effective date of this act, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(10) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(11) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(12) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or

community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(13) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment. The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(14) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(15) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(16) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(17) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(18) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(19) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(20) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 216

[House Bill 2559]

### CHILD SUPPORT DAY CARE AND SPECIAL CHILD REARING EXPENSES—ALLOCATION

AN ACT Relating to child support day care and special child rearing expenses; and amending RCW 26.19.080.

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

**Sec. 1.** RCW 26.19.080 and 1990 1st ex.s. c 2 s 7 are each amended to read as follows:

(1) The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income.

(2) Ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed five percent of the basic support obligation shall be considered extraordinary health care expenses. Extraordinary health care expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(3) Day care and special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation. If an obligor pays court or administratively ordered day care or special child rearing expenses that are not actually incurred, the obligee must reimburse the obligor for the overpayment if the overpayment amounts to at least twenty percent of the obligor's annual day care or special child rearing expenses. The obligor may institute an action in the superior court or file an application for an adjudicative hearing with the department of social and health services for reimbursement of day care and special child rearing expense overpayments that amount to twenty percent or more of the obligor's annual day care and special child rearing expenses. Any ordered overpayment reimbursement shall be applied first as an

offset to child support arrearages of the obligor. If the obligor does not have child support arrearages, the reimbursement may be in the form of a direct reimbursement by the obligee or a credit against the obligor's future support payments. If the reimbursement is in the form of a credit against the obligor's future child support payments, the credit shall be spread equally over a twelve-month period. Absent agreement of the obligee, nothing in this section entitles an obligor to pay more than his or her proportionate share of day care or other special child rearing expenses in advance and then deduct the overpayment from future support transfer payments.

(4) The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation.

Passed the House February 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 217

[House Bill 2636]

### FUNERAL DIRECTORS AND EMBALMERS—REVISIONS

AN ACT Relating to funeral directors and embalmers; amending RCW 18.39.035, 18.39.045, 18.39.070, 18.39.100, 18.39.175, 18.39.181, 18.39.250, and 18.39.800; reenacting and amending RCW 18.39.130; and repealing RCW 18.39.160 and 18.39.190.

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

Sec. 1. RCW 18.39.035 and 1981 c 43 s 3 are each amended to read as follows:

(1) An applicant for a license as a funeral director shall be at least eighteen years of age, of good moral character, and must have obtained an associate of arts degree in mortuary science or completed a course of not less than two years in an accredited college, and a one-year course of training under a licensed funeral director in this state. The applicant must also pass an examination ((which shall include the following subjects: Funeral directing, psychology, the signs of death, sanitary science, the preparation, burial, and disposal of dead human bodies, and the shipment of bodies of persons dying of contagious or infectious diseases)) in the funeral arts and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter.

(2) An applicant for a license as an embalmer must be at least eighteen years of age, of good moral character, and have obtained an associate of arts degree in mortuary science or completed a course of instruction in an accredited mortuary science college program and other college courses that total sixty semester hours or ninety quarter hours, completed ((two years at an accredited college,)) a two-year course of training under a licensed embalmer in this state,

and ~~((a full course of instruction in an embalming school approved by the board. No portion of the course of instruction in the embalming school can be applied towards satisfaction of the two year college course. The applicant must also pass an examination in each of the following subjects: Embalming, anatomy and physiology including histology, embryology, and dissection, pathology, bacteriology, public health including sanitation and hygiene, chemistry including toxicology, restorative art including plastic surgery and demi surgery,)) have passed an examination in the funeral sciences and an examination in the laws of this state pertaining to the handling, care, ((disinfection, preservation,)) transportation, ((burial, and disposal of dead human bodies)) and disposition of human remains, and the contents of this chapter ~~((and of the law of the state relating to infectious diseases and quarantine)).~~~~

Sec. 2. RCW 18.39.045 and 1982 c 66 s 20 are each amended to read as follows:

(1) The two-year college course required for funeral directors under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges or other accrediting association approved by the board, with a minimum 2.0 grade point, or a grade of C or better, in each subject required by subsection (2) of this section.

(2) Credits shall include one course in ~~((each of the following subjects:))~~ psychology, one in mathematics, ~~((chemistry, and biology or zoology. Instruction shall also include))~~ two courses in English composition and rhetoric, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, and first aid.

(3) This section does not apply to any person registered and in good standing as an apprentice funeral director or embalmer on or before January 1, 1982.

Sec. 3. RCW 18.39.070 and 1981 c 43 s 6 are each amended to read as follows:

(1) License examinations shall be held by the director at least once each year at a time and place to be designated by the director. Application to take an examination shall be filed with the director at least forty-five days prior to the examination date and the department shall give each applicant notice of the time and place of the next examination by written notice mailed to the applicant's address as given upon his or her application not later than fifteen days before the examination, but no person may take an examination unless his or her application has been on file for at least fifteen days before the examination. The applicant shall be deemed to have passed an examination if the applicant attains a grade of not less than seventy-five percent in each ~~((subject of the))~~ examination. Any applicant who fails ~~((any subject in the first))~~ an examination shall be entitled, at no additional fee, to ~~((a second))~~ one

retake of that examination (~~(in the subject or subjects at the next regular examination)~~).

(2) An applicant for a license hereunder may take his or her written examination after completing the educational requirements and before completing the course of training required under RCW 18.39.035.

Sec. 4. RCW 18.39.100 and 1937 c 108 s 7 are each amended to read as follows:

Every license issued hereunder shall specify the name of the person to whom it is issued (~~(, shall bear the signature of the licensee for identification purposes,)~~) and shall be displayed conspicuously in his or her place of business. No license shall be assigned, and not more than one person shall carry on the profession or business of funeral directing or embalming under one license.

Sec. 5. RCW 18.39.130 and 1986 c 259 s 60 and 1985 c 7 s 39 are each reenacted and amended to read as follows:

The board may recognize licenses issued to funeral directors or embalmers from other states if the applicant's qualifications are comparable to the requirements of this chapter. Five years active experience as a licensee may be accepted to make up a deficit in the comparable education requirements. Upon presentation of the license and payment by the holder of a fee determined under RCW 43.24.086, and successful completion of the examination of the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter, the board may issue a funeral director's or embalmer's license under this chapter. (~~(The license may be renewed annually upon payment of the renewal license fee as herein provided by license holders residing in the state of Washington.)~~)

Sec. 6. RCW 18.39.175 and 1994 c 17 s 1 are each amended to read as follows:

Each member of the board of funeral directors and embalmers shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

(1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;

(2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";

(3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;

(4) To adopt, promulgate, and enforce reasonable rules. Rules regulating the cremation of human remains (~~(and establishing fees)~~) and permit requirements shall be adopted in consultation with the cemetery board;

(5) To examine or audit or to direct the examination and audit of prearrangement funeral service trust fund records for compliance with this chapter and rules adopted by the board; and

(6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal.

Sec. 7. RCW 18.39.181 and 1986 c 259 s 65 are each amended to read as follows:

The director shall have the following powers and duties:

(1) To issue all licenses provided for under this chapter;

(2) To ~~((annually))~~ renew licenses under this chapter;

(3) To collect all fees prescribed and required under this chapter; and

(4) To keep general books of record of all official acts, proceedings, and transactions of the department of licensing while acting under this chapter.

Sec. 8. RCW 18.39.250 and 1995 1st sp.s. c 18 s 62 are each amended to read as follows:

(1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore shall establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract or may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" shall comply individually with the requirements of this chapter.

(2) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser shall receive a full refund of all moneys paid under the contract.

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust shall be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys shall be deposited in an insured account in a qualified public depository or shall be invested in instruments issued or insured by any agency of the federal government if these securities are held in a public depository. The account shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The

prearrangement funeral service trust shall not be considered as, nor shall it be used as, an asset of the funeral establishment.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of the trust, all interest, dividends, increases, or accretions of whatever nature earned by a trust shall be kept unimpaired and shall become a part of the trust. Adequate records shall be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust shall not exceed one percent per year of the ((face)) amount ((of the prearrangement funeral service contract per annum)) in trust. In no instance shall the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust shall permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment shall refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option shall not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.



(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control shall apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments shall each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report shall be on a form prescribed by the board and shall be considered part of the application for a funeral establishment license. In the event of failure to comply with this subsection, the funeral establishment shall be deemed to have gone out of business and the provisions of subsection (8) of this section shall apply.

(10) Prearrangement funeral service trust moneys shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services shall notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice shall be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary shall give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust shall contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted.

**Sec. 9.** RCW 18.39.800 and 1993 c 43 s 2 are each amended to read as follows:

The funeral directors and embalmers account is created in the ~~((custody of the))~~ state ~~((treasurer))~~ treasury. All fees received by the department for licenses, registrations, renewals, examinations, and audits shall be forwarded to the state treasurer who shall credit the money to the account. All fines and civil penalties ordered by the superior court or fines ordered pursuant to RCW 18.130.160(8) against holders of licenses or registrations issued under the provisions of this chapter shall be paid to the account. All expenses incurred in carrying out the licensing and registration activities of the department and the state funeral directors and embalmers board under this chapter shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. All earnings of investments of balances in the account shall be credited to the general fund. Any fund balance remaining in the health professions account attributable to the funeral director and embalmer professions as of July 1, 1993, shall be transferred to the funeral directors and embalmers account.

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

- (1) RCW 18.39.160 and 1937 c 108 s 12; and
- (2) RCW 18.39.190 and 1981 c 43 s 14 & 1937 c 108 s 9.

Passed the House February 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 218

[Substitute House Bill 2656]

### LIQUOR LICENSES FOR SPORTS ENTERTAINMENT FACILITIES

AN ACT Relating to liquor licenses for sports entertainment facilities; amending RCW 66.20.300, 66.20.310, and 66.24.420; and adding a new section to chapter 66.24 RCW.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a license for sports entertainment facilities to be designated as a class R license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports entertainment facility as defined in this section. The cost of the license is two thousand five hundred dollars per annum.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

**Sec. 2.** RCW 66.20.300 and 1995 c 51 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 66.20.310 through 66.20.350.

(1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

(2) "Alcohol server" means any person serving or selling alcohol, spirits, wines, or beer for consumption at an on-premises retail licensed facility as a regular requirement of his or her employment, and includes those persons eighteen years of age or older permitted by the liquor laws of this state to serve alcoholic beverages with meals.

(3) "Board" means the Washington state liquor control board.

(4) "Training entity" means any liquor licensee associations, independent contractors, private persons, and private or public schools, that have been certified by the board.

(5) "Retail licensed premises" means any premises licensed to sell alcohol by the glass or by the drink, or in original containers primarily for consumption on the premises as authorized by RCW 66.24.320, 66.24.330, 66.24.340, 66.24.350, 66.24.400, 66.24.425, ~~((and))~~ 66.24.450, and section 1 of this act.

**Sec. 3.** RCW 66.20.310 and 1995 c 51 s 3 are each amended to read as follows:

(1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective July 1, 1996, except as provided in (d) of this subsection, every person employed, under contract or otherwise, by an annual retail liquor licensee holding a license as authorized by RCW 66.24.320, 66.24.330,

66.24.340, 66.24.350, 66.24.400, 66.24.425, ~~((e))~~ 66.24.450, or section 1 of this act, who as part of his or her employment participates in any manner in the sale or service of alcoholic beverages shall have issued to them a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.

(c) No licensee described in (a) of this subsection, except as provided in (d) of this subsection, may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After July 1, 1996, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Establishments licensed under RCW 66.24.320 and 66.24.340, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.

Sec. 4. RCW 66.24.420 and 1995 c 55 s 1 are each amended to read as follows:

(1) The class H license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for said license, if issued to a club, whether inside or outside of incorporated cities and towns, shall be seven hundred dollars.

(b) The annual fee for said license, if issued to any other class H licensee in incorporated cities and towns, shall be graduated according to the population thereof as follows:

Incorporated	
Cities and towns	Fees
Less than 20,000	\$1,200
20,000 or over	\$2,000

(c) The annual fee for said license when issued to any other class H licensee outside of incorporated cities and towns shall be: Two thousand dollars; this fee shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(d) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: PROVIDED, That the holder of a master license for a restaurant in an airport terminal facility shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises: PROVIDED, FURTHER, That an additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(e) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center((s)) with facilities for sports, entertainment, ((and)) or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and

from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: **PROVIDED**, That the holder of a master license for a dining place at such a publicly or privately owned civic or convention center shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises: **PROVIDED FURTHER**, That an additional license fee of ten dollars shall be required for such duplicate licenses.

(f) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a class H licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a duplicate license may be issued for each additional place: **PROVIDED**, That the holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license: **PROVIDED FURTHER**, That an additional license fee of twenty dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine class H licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue class H licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of class H licenses issued in the state of Washington by the board, not including those class H licenses issued to clubs, shall not in the aggregate at any time exceed one license for each fifteen hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a class H license to any applicant if in the opinion of the board the class H licenses already granted for the particular locality are adequate for the reasonable needs of the community.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 219

[Substitute House Bill 2785]

### COUNTY PUBLIC WORKS PROJECTS—BIDDING PROCEDURES

AN ACT Relating to county public works projects; amending RCW 36.32.240; and adding a new section to chapter 36.32 RCW.

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

Sec. 1. RCW 36.32.240 and 1993 c 198 s 5 are each amended to read as follows:

(1) In any county the county legislative authority may by resolution establish a county purchasing department.

(2) In each county with a population of less than one million which exercises this option, the purchasing department shall contract on a competitive basis for all public works, enter into leases of personal property on a competitive basis, and purchase all supplies, materials, and equipment, on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases for the county hospital, or make purchases that are paid from the county road fund or equipment rental and revolving fund.

NEW SECTION. Sec. 2. A new section is added to chapter 36.32 RCW to read as follows:

(1) In each county with a population of one million or more which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section, "public works" has the same definition as in RCW 39.04.010.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. 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.

(8) As limited by subsection (10) of this section, a county subject to these provisions may have public works performed by county 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.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (12) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in



subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) If a county subject to these provisions 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 county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county 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 reduced as required.

(10) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of one million or more shall not have public employees perform a public works project in excess of seventy 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. 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 public employees on a single project.

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.

(11) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(12) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative

authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(13) In lieu of the procedures of subsections (3) through (11) of this section, a county may use a small works roster process and award contracts for public works projects with an estimated value of ten thousand dollars up to one hundred thousand dollars as provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(14) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(15) 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.

(16) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 220

[House Bill 2814]

### SELF-STORAGE FACILITIES—DISPOSAL OF PROPERTY

AN ACT Relating to self-service storage facilities; amending RCW 19.150.060, 19.150.080, and 19.150.110; and creating a new section.

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

**Sec. 1.** RCW 19.150.060 and 1993 c 498 s 5 are each amended to read as follows:

If a notice has been sent, as required by RCW 19.150.040, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and remove any property found therein to a place of safe keeping. The owner shall then serve by personal service or send to the occupant, addressed to the occupant's last known address and to the alternative address specified in RCW 19.150.120(2) by certified mail, postage prepaid, a notice of lien sale or notice of disposal which shall state all of the following:

(1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(2) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in subsection (3) of this section.

(3) That the property, other than personal papers and personal effects, may be sold to satisfy the lien after a specified date which is not less than fourteen days from the date of mailing the lien sale notice, or a minimum of forty-two days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. If the total value of property in the storage space is less than ~~((one))~~ three hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of RCW 19.150.080(4).

(4) That any excess proceeds of the sale or other disposition under RCW 19.150.080(2) over the lien amount and costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds will be turned over to the state as abandoned property as provided in RCW 63.29.165.

(5) That any personal papers and personal effects will be retained by the owner and may be reclaimed by the occupant at any time for a period of six months from the sale or other disposition of property and that thereafter the owner may dispose of the personal papers and effects in a reasonable manner, subject to the restrictions of RCW 19.150.080(3).

~~(6) That ((if the occupant was served with notice of the lien sale by mail, the occupant within six months after the date of the sale may repurchase from any purchaser or subsequent purchaser any of the occupant's property sold pursuant to RCW 19.150.080 at the price paid by the original purchaser.~~

~~(7) That if notice of the lien sale was by personal service,)) the occupant has no right to repurchase any property sold at the lien sale.~~

Sec. 2. RCW 19.150.080 and 1993 c 498 s 6 are each amended to read as follows:

(1) After the expiration of the time given in the notice of lien sale pursuant to RCW 19.150.060, the property, other than personal papers and personal effects, may be sold or disposed of in a reasonable manner.

(2)(a) If the property has a value of ~~((one))~~ three hundred dollars or more, the sale shall be conducted in a commercially reasonable manner, and, after deducting the amount of the lien and costs of sale, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within six months of the date of sale.

(b) If the property has a value of less than ~~((one))~~ three hundred dollars, the property may be disposed of in a reasonable manner.

(3) Personal papers and personal effects that are not reclaimed by the occupant within six months of a sale under subsection (2)(a) of this section or

other disposition under subsection (2)(b) of this section may be disposed of in a reasonable manner.

(4) No employee or owner, or family member of an employee or owner, may acquire, directly or indirectly, the property sold pursuant to subsection (2)(a) of this section or disposed of pursuant to subsection (2)(b) of this section, or personal papers and personal effects disposed of under subsection (3) of this section.

(5) The owner is entitled to retain any interest earned on the excess proceeds until the excess proceeds are claimed by another person or are turned over to the state as abandoned property pursuant to RCW 63.29.165.

(6) After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address.

Sec. 3. RCW 19.150.110 and 1988 c 240 s 12 are each amended to read as follows:

~~((1) Except as provided in subsection (2) of this section,))~~ A purchaser in good faith of goods disposed of pursuant to RCW 19.150.080(2) takes the goods free of any rights of persons against whom the lien was claimed, despite noncompliance by the owner of the storage facility with this chapter.

~~((2) A purchaser or subsequent purchaser shall return the goods to the occupant if the occupant tenders the original purchase price plus any costs incurred by the original purchaser within six months of the date of the purchase, unless the occupant was personally served with notice of the lien sale. If the occupant was personally served, the occupant has no right to repurchase the property.~~

~~(3) If the occupant exercises his or her right to repurchase property pursuant to subsection (2) of this section, a subsequent purchaser is entitled to rescind a transaction with a previous purchaser.))~~

NEW SECTION. Sec. 4. This act shall only apply to rental agreements entered into, extended, or renewed after the effective date of this act. Rental agreements entered into before the effective date of this act, which provide for monthly rental payments but providing no specific termination date shall be subject to this act on the first monthly rental payment date next succeeding the effective date of this act.

Passed the House February 7, 1996.

Passed the Senate February 28, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

**CHAPTER 221**

[Substitute Senate Bill 6189]

**OFFICE OF PUBLIC DEFENSE**

AN ACT Relating to criminal defense; adding new sections to chapter 43.131 RCW; adding a new chapter to Title 2 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. In order to implement the constitutional guarantee of counsel and to ensure the effective and efficient delivery of the indigent appellate services funded by the state of Washington, an office of public defense is established as an independent agency of the judicial branch.

**NEW SECTION.** Sec. 2. The supreme court shall appoint the director of the office of public defense from a list of three names submitted by the advisory committee created under section 4 of this act. Qualifications shall include admission to the practice of law in this state for at least five years, experience in the representation of persons accused of a crime, and proven managerial or supervisory experience. The director shall serve at the pleasure of the supreme court and receive a salary to be fixed by the advisory committee.

**NEW SECTION.** Sec. 3. The director, under the supervision and direction of the advisory committee, shall:

- (1) Administer all criminal appellate indigent defense services;
- (2) Submit a biennial budget for all costs related to state appellate indigent defense;
- (3) Establish administrative procedures, standards, and guidelines for the program including a cost-efficient system that provides for recovery of costs;
- (4) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;
- (5) Collect information regarding indigency cases funded by the state and report annually to the legislature and the supreme court;
- (6) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

**NEW SECTION.** Sec. 4. (1) There is created an advisory committee consisting of the following members:

- (a) Three persons appointed by the chief justice of the supreme court, including the chair of the appellate indigent defense commission identified in subsection (3) of this section;

- (b) Two nonattorneys appointed by the governor;

(c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(d) One person appointed by the court of appeals executive committee;

(e) One person appointed by the Washington state bar association.

(2) During the term of his or her appointment, no appointee may: (a) Provide indigent defense services except on a pro bono basis; (b) serve as an appellate judge or an appellate court employee; or (c) serve as a prosecutor or prosecutor employee.

(3) The initial advisory committee shall be comprised of the current members of the appellate indigent defense commission, as established by Supreme Court Order No. 25700-B, dated March 9, 1995, plus two additional legislator members appointed under subsection (1)(c) of this section. Members shall serve until the termination of their current terms, and may be reappointed. The two additional legislator members, who are not on the appellate indigent defense commission, shall each serve three-year terms. Members of the advisory committee shall receive no compensation for their services as members of the commission, but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

**NEW SECTION.** Sec. 5. All employees of the office of public defense shall be exempt from state civil service under chapter 41.06 RCW.

**NEW SECTION.** Sec. 6. (1) All powers, duties, and functions of the supreme court and the office of the administrator for the courts pertaining to appellate indigent defense are transferred to the office of public defense.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the supreme court or the office of the administrator for the courts pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the office of public defense. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the supreme court or the office of the administrator for the courts in carrying out the powers, functions, and duties transferred shall be made available to the office of public defense. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(b) Any appropriations made to the supreme court or the office of the administrator for the courts for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of public defense.

(c) 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.

(3) All employees of the supreme court or the office of the administrator for the courts engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the office of public defense. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of public defense 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.

(4) All rules and all pending business before the supreme court or the office of the administrator for the courts pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the office of public defense. All existing contracts and obligations shall remain in full force and shall be performed by the office of public defense.

(5) The transfer of the powers, duties, functions, and personnel of the supreme court or the office of the administrator for the courts shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, 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.

(7) Nothing contained in this section 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. 7. A new section is added to chapter 43.131 RCW to read as follows:

The office of public defense and its powers and duties shall be terminated on June 30, 2000, as provided in section 8 of this act.

**NEW SECTION.** Sec. 8. 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, 2001:

- (1) RCW 2.—.— and 1996 c — s 1 (section 1 of this act);
- (2) RCW 2.—.— and 1996 c — s 2 (section 2 of this act);
- (3) RCW 2.—.— and 1996 c — s 3 (section 3 of this act);
- (4) RCW 2.—.— and 1996 c — s 4 (section 4 of this act); and
- (5) RCW 2.—.— and 1996 c — s 5 (section 5 of this act).

**NEW SECTION.** Sec. 9. Sections 1 through 5 of this act shall constitute a new chapter in Title 2 RCW.

Passed the Senate March 2, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 222

[Fourth Substitute Senate Bill 5159]

### WARM WATER FISH ENHANCEMENT PROGRAM

AN ACT Relating to a warm water game fish enhancement program; adding a new chapter to Title 77 RCW; creating a new section; and providing effective dates.

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

**NEW SECTION. Sec. 1.** A warm water game fish enhancement program is created in the department to be funded from the sale of a warm water game fish surcharge. The enhancement program shall be designed to increase the opportunities to fish for and catch warm water game fish including: Largemouth black bass, smallmouth black bass, channel catfish, black crappie, white crappie, walleye, and tiger musky. The program shall be designed to use a practical applied approach to increasing warm water fishing. The department shall use the funds available efficiently to assure the greatest increase in the fishing for warm water fish at the lowest cost. This approach shall involve the minimization of overhead and administrative costs and the maximization of productive in-the-field activities.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, as used in this chapter, "warm water game fish" includes the following species: Bass, channel catfish, walleye, crappie, and other species as defined by the department.

**NEW SECTION. Sec. 3.** (1) A warm water game fish surcharge allows a person to fish throughout the state for warm water game fish.

(2) The annual fee for a game fish surcharge is five dollars and the surcharge is required in addition to an annual game fishing license, except for those persons under fifteen years of age for which there is no charge. Holders of three-day resident fishing licenses, three-day nonresident fishing licenses, and nonresident annual fishing licenses shall pay a five-dollar surcharge to fish for warm water fish.

(3) The department shall use the most cost-effective format in designing and administering the warm water game fish surcharge.

(4) A warm water game fish surcharge shall only be required to fish for: Largemouth bass, smallmouth bass, walleye, black crappie, white crappie, channel catfish, and tiger musky.

**NEW SECTION. Sec. 4.** The goals of the warm water game fish enhancement program are to improve the fishing for warm water game fish using cost-effective management. Development of new ponds and lakes shall be



an important and integral part of the program. The department shall work with the department of natural resources to coordinate the reclamation of surface mines and the development of warm water game fish ponds. Improvement of warm water fishing shall be coordinated with the protection and conservation of cold water fish populations. This shall be accomplished by carefully designing the warm water projects to have minimal adverse effects upon the cold water fish populations. New pond and lake development should have beneficial effects upon wildlife due to the increase in lacustrine and wetland habitat that will accompany the improvement of warm water fish habitat. The department shall not develop projects that will increase the populations of undesirable or deleterious fish species such as carp, squawfish, walking catfish, and others.

Fish culture programs shall be used in conditions where they will prove to be cost-effective, and may include the purchase of warm water fish from aquatic farmers defined in RCW 15.85.020. Consideration should be made for development of urban area enhancement of fishing opportunity for put-and-take species, such as channel catfish, that are amenable to production by low-cost fish culture methods. Fish culture shall also be used for stocking of high value species, such as walleye, smallmouth bass, and tiger musky. Introduction of special genetic strains that show high potential for recreational fishing improvement, including Florida strain largemouth bass and striped bass, shall be considered.

Transplantation and introduction of exotic warm water fish shall be carefully reviewed to assure that adverse effects to native fish and wildlife populations do not occur. This review shall include an analysis of consequences from disease and parasite introduction.

Population management through the use of fish toxicants, including rotenone or derris root, shall be an integral part of the warm water game fish enhancement program. However, any use of fish toxicants shall be subject to a thorough review to prevent adverse effects to cold water fish, desirable warm water fish, and other biota. Eradication of deleterious fish species shall be a goal of the program.

Habitat improvement shall be a major aspect of the warm water game fish enhancement program. Habitat improvement opportunities shall be defined with scientific investigations, field surveys, and by using the extensive experience of other state management entities. Installation of cover, structure, water flow control structures, screens, spawning substrate, vegetation control, and other management techniques shall be fully used. The department shall work to gain access to privately owned waters that can be developed with habitat improvements to improve the warm water resource for public fishing.

The department shall use the resources of cooperative groups to assist in the planning and implementation of the warm water game fish enhancement program. In the development of the program the department shall actively involve the organized fishing clubs that primarily fish for warm water fish. The warm water fish enhancement program shall be cooperative between the

department and private landowners; private landowners shall not be required to alter the uses of their private property to fulfill the purposes of the warm water fish enhancement program. The director shall not impose restrictions on the use of private property, or take private property, for the purpose of the warm water fish enhancement program.

**NEW SECTION.** Sec. 5. The warm water game fish account is hereby created in the state wildlife fund. Moneys in the account are subject to legislative appropriation and shall be used for the purpose of funding the warm water game fish enhancement program, including the development of warm water pond and lake habitat, culture of warm water game fish, improvement of warm water fish habitat, management of warm water fish populations, and other practical activities that will improve the fishing for warm water fish. Funds from the warm water game fish surcharge shall not serve as replacement funding for department-operated warm water fish projects existing on December 31, 1994. Funds from the warm water game fish account shall not be used for the operation or construction of the warm water fish culture project at Ringold unless specifically authorized by legislation.

Funds from the sale of the warm water game fish surcharges shall be deposited in the warm water game fish account.

**NEW SECTION.** Sec. 6. The department of fish and wildlife shall provide to the natural resource committees of the legislature an operational and management plan for the Ringold warm water fish culture project on or before December 31, 1996.

**NEW SECTION.** Sec. 7. Sections 1 through 5 of this act shall constitute a new chapter in Title 77 RCW.

**NEW SECTION.** Sec. 8. (1) Sections 1, 2, and 4 through 6 of this act shall take effect July 1, 1996.

(2) Section 3 of this act shall take effect January 1, 1997.

Passed the Senate March 6, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 223

[Substitute Senate Bill <sup>404</sup>5167]

### SERVICE OF PROCESS—REVISIONS

AN ACT Relating to service of process; and amending RCW 4.28.080.

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

**Sec. 1.** RCW 4.28.080 and 1991 sp.s. c 30 s 28 are each amended to read as follows:

Service made in the modes provided in this section shall be taken and held to be personal service. 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 or her 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 or she resides, or in whose service he or she 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) If against a self-insurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her 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.))~~

(16) In lieu of service under subsection (15) of this section, where the person cannot with reasonable diligence be served as described, the summons may be served as provided in this subsection, and shall be deemed complete on the tenth day after the required mailing:

(a) By leaving a copy at his or her usual mailing address other than a United States postal service post office box with a person of suitable age and discretion then resident therein or, if the address is a place of business, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to such secretary, office manager, vice-president, president, or other head of the company, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her usual mailing address other than a United States postal service post office box; or

(b) By leaving a copy at his or her place of employment, during usual business hours, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to such secretary, office manager, vice-president, president, or other head of the company, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her place of employment.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 224

[Second Substitute Senate Bill 5175]

### REQUIRING CERTAIN RETAIL LIQUOR LICENSEES TO BE LICENSED AS MANUFACTURERS

AN ACT Relating to certain retail liquor licensees being licensed as manufacturers; amending RCW 66.28.010; adding a new section to chapter 66.24 RCW; and creating a new section.

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

**NEW SECTION.** **Sec. 1.** It is the intent of the legislature that holders of annual on-premises retail liquor licenses be allowed to operate manufacturing facilities on those premises. This privilege is viewed as a means of enhancing and meeting the needs of the licensees' patrons without being in violation of the tied-house statute prohibitions of RCW 66.28.010. Furthermore, it is the

intention of the legislature that this type of business not be viewed as primarily a manufacturing facility. Rather, the public house licensee shall be viewed as an annual retail licensee who is making malt liquor for on-premises consumption by the patrons of the licensed premises.

**NEW SECTION.** Sec. 2. A new section is added to chapter 66.24 RCW to read as follows:

(1) A public house license allows the licensee:

(a) To annually manufacture no less than two hundred fifty gallons and no more than two thousand four hundred barrels of beer on the licensed premises;

(b) To sell product, that is produced on the licensed premises, at retail on the licensed premises for consumption on the licensed premises;

(c) To sell beer or wine not of its own manufacture for consumption on the licensed premises if the beer or wine has been purchased from a licensed beer or wine wholesaler;

(d) To hold other classes of retail licenses at other locations without being considered in violation of RCW 66.28.010;

(e) To apply for and, if qualified and upon the payment of the appropriate fee, be licensed as a class H restaurant to do business at the same location. This fee is in addition to the fee charged for the basic public house license.

(2) While the holder of a public house license is not to be considered in violation of the prohibitions of ownership or interest in a retail license in RCW 66.28.010, the remainder of RCW 66.28.010 applies to such licensees.

(3) A public house licensee must pay all applicable taxes on production as are required by law, and all appropriate taxes must be paid for any product sold at retail on the licensed premises.

(4) The employees of the licensee must comply with the provisions of mandatory server training in RCW 66.20.300 through 66.20.350.

(5) The holder of a public house license may not hold a wholesaler's or importer's license, act as the agent of another manufacturer, wholesaler, or importer, or hold a brewery or winery license.

(6) The annual license fee for a public house is one thousand dollars.

(7) The holder of a public house license may hold other licenses at other locations if the locations are approved by the board.

(8) Existing holders of annual retail liquor licenses may apply for and, if qualified, be granted a public house license at one or more of their existing liquor licensed locations without discontinuing business during the application or construction stages.

Sec. 3. RCW 66.28.010 and 1994 c 63 s 1 are each amended to read as follows:

(1)(a) No manufacturer, importer, or wholesaler, or person financially interested, directly or indirectly, in such business, whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, nor shall any manufacturer, importer, or wholesaler own any of the

property upon which such licensed persons conduct their business, nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, or wholesaler has any interest. Except as provided in subsection (3) of this section, no manufacturer, importer, or wholesaler shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth(~~(= PROVIDED, That)~~). "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, or wholesaler as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. No manufacturer, importer, or wholesaler shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, or wholesaler sell at retail any liquor as herein defined(~~(= PROVIDED, That)~~).

(b) Nothing in this section shall prohibit a licensed brewer from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine wholesaler(~~(= PROVIDED FURTHER, That)~~).

(c) Nothing in this section shall prohibit a licensed brewer or domestic winery, or a lessee of a licensed brewer or domestic winery, from being licensed as a class H restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a class H premises on the property on which the primary manufacturing facility of the licensed brewer or domestic winery is located or on contiguous property owned by the licensed brewer or domestic winery as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, wholesalers and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or wholesaler from providing services to a class G or J retail licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a class G or J retail licensee from receiving any such services as may be provided by a manufacturer, importer, or wholesaler(~~(+ PROVIDED, That)~~). Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor wholesaler's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the wholesaler, (ii) is not employed by the wholesaler, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the wholesaler.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under section 2 of this act does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

Passed the Senate March 4, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 225

[Substitute Senate Bill 5250]

### COLLECTION OF HISTORIC AND SPECIAL-INTEREST VEHICLES

AN ACT Relating to motor vehicle equipment; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.12 RCW; adding new sections to chapter 46.16 RCW; adding a new section to chapter 46.37 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds and declares that constructive leisure pursuits by Washington citizens is most important. This act is intended to encourage responsible participation in the hobby of collecting, preserving, restoring, and maintaining motor vehicles of historic and special

interest, which hobby contributes to the enjoyment of the citizens and the preservation of Washington's automotive memorabilia.

**NEW SECTION.** Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Collector" means the owner of one or more vehicles described in RCW 46.16.305(1) who collects, purchases, acquires, trades, or disposes of the vehicle or parts of it, for his or her personal use, in order to preserve, restore, and maintain the vehicle for hobby or historical purposes.

**NEW SECTION.** Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"Parts car" means a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a vehicle described in RCW 46.16.305(1), thus enabling a collector to preserve, restore, and maintain such a vehicle.

**NEW SECTION.** Sec. 4. A new section is added to chapter 46.04 RCW to read as follows:

"Street rod vehicle" is a motor vehicle, other than a motorcycle, that meets the following conditions:

(1) The vehicle was manufactured before 1949, or the vehicle has been assembled or reconstructed using major component parts of a motor vehicle manufactured before 1949; and

(2) The vehicle has been modified in its body style or design through the use of nonoriginal or reproduction components, such as frame, engine, drive train, suspension, or brakes in a manner that does not adversely affect its safe performance as a motor vehicle or render it unlawful for highway use.

**NEW SECTION.** Sec. 5. A new section is added to chapter 46.04 RCW to read as follows:

"Kit vehicle" means a passenger car or light truck assembled from a manufactured kit, and is either (1) a complete kit consisting of a prefabricated body and chassis used to construct a new vehicle, or (2) a kit consisting of a prefabricated body to be mounted on an existing vehicle chassis and drive train, commonly referred to as a donor vehicle.

**NEW SECTION.** Sec. 6. A new section is added to chapter 46.12 RCW to read as follows:

The state patrol shall inspect a street rod vehicle and assign a vehicle identification number in accordance with this chapter.

A street rod vehicle shall be titled as the make and year of the vehicle as originally manufactured. The title shall be branded with the designation "street rod."

**NEW SECTION.** Sec. 7. A new section is added to chapter 46.12 RCW to read as follows:



The owner of a parts car must possess proof of ownership for each such vehicle.

**NEW SECTION.** Sec. 8. A new section is added to chapter 46.12 RCW to read as follows:

The following procedures must be followed when applying for a certificate of ownership for a kit vehicle:

(1) The vehicle identification number (VIN) of a new vehicle kit and of a body kit will be taken from the manufacturer's certificate of origin belonging to that vehicle. If the VIN is not available, the Washington state patrol shall assign a VIN at the time of inspection.

(2) The model year of a manufactured new vehicle kit and manufactured body kit is the year reflected on the manufacturer's certificate of origin.

(3) The make shall be listed as "KITV," and the series and body designation must describe what the vehicle looks like, i.e. Bradley GT, 57 MG, and must include the word "replica."

(4) Except for kit vehicles licensed under section 10(5) of this act, kit vehicles must comply with chapter 204-90 WAC.

(5) The application for the certificate of ownership must be accompanied by the following documents:

(a) For a manufactured new vehicle kit, the manufacturer's certificate of origin or equivalent document;

(b)(i) For a manufactured body kit, the manufacturer's certificate of origin or equivalent document; (ii) for the frame, the title or a certified copy or equivalent document;

(c) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax. The bills of sale must include the names and addresses of the seller and purchaser, a description of the vehicle or part being sold, including the make, model, and identification or serial number, the date of sale, and the purchase price of the vehicle or part;

(d) A statement as defined in WAC 308-56A-150 by an authorized inspector of the Washington state patrol or other person authorized by the department of licensing verifying the vehicle identification number, and year and make when applicable;

(e) A completed declaration of value form (TD 420-737) to determine the value for excise tax if the purchase cost and year is unknown or incomplete.

(6) A Washington state patrol VIN inspector must ensure that all parts are documented by titles, notarized bills of sale, or business receipts such as obtained from a wrecking yard purchase. The bills of sale must contain the VIN of the vehicle the parts came from, or the yard number if from a wrecking yard.

**NEW SECTION.** Sec. 9. A new section is added to chapter 46.12 RCW to read as follows:

The following documents are required for issuance of a certificate of ownership or registration for a kit vehicle:

(1) For a new vehicle kit or a manufactured body kit, the owner shall supply a manufacturer's certificate of origin or a factory invoice.

(2) For a manufactured body kit, proof of ownership for all major parts used in the construction of the vehicle is required.

(a) Major parts include:

(i) Frame;

(ii) Engine;

(iii) Axles;

(iv) Transmission;

(v) Any other parts that carry vehicle identification numbers.

(b) If the frame from a donor vehicle is used and the remainder of the donor vehicle is to be sold or destroyed, the title is required as an ownership document to the buyer. The agent or subagent may make a certified copy of the title for documentation of the frame for this transaction.

(3) Payment of use tax on the frame and all component parts used is required, unless proof of payment of the sales or use tax is submitted.

(4) A completed declaration of value form (TD 420-737) to determine the value of the vehicle for excise tax purposes is required if the purchase cost and year of purchase is unknown.

(5) An odometer disclosure statement is required on all originals and transfers of title for vehicles under ten years old, unless otherwise exempt by law.

NEW SECTION. Sec. 10. A new section is added to chapter 46.16 RCW to read as follows:

All kit vehicles are licensed as original transactions when first titled in Washington, and the following provisions apply:

(1) The department of licensing shall charge original licensing fees and issue new plates appropriate to the use class.

(2) An inspection by the Washington state patrol is required to determine the correct identification number, and year or make if needed.

(3) The use class is the actual use of the vehicle, i.e. passenger car or truck.

(4) The make shall be listed as "KITV," and the series and body designation must describe what the vehicle looks like, i.e. 48 Bradley GT, 57 MG, and must include the word "replica."

(5) Upon payment of original licensing fees the department may license a kit vehicle under RCW 46.16.305(1) as a street rod if the vehicle is manufactured to have the same appearance as a similar vehicle manufactured before 1949.

(6) For a manufactured new vehicle kit and a manufactured body kit, the model year of the vehicle is the year reflected on the manufacturer's certificate

of origin for that vehicle. If this is not available, the Washington state patrol shall assign a model year at the time of inspection.

(7) The vehicle identification number (VIN) of a new vehicle kit and body kit is the vehicle identification number as reflected on the manufacturer's certificate of origin. If the VIN is not available, the Washington state patrol shall assign a VIN at the time of inspection.

**NEW SECTION.** Sec. 11. A new section is added to chapter 46.16 RCW to read as follows:

A collectors' vehicle licensed under RCW 46.16.305(1) may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

**NEW SECTION.** Sec. 12. A new section is added to chapter 46.37 RCW to read as follows:

Notwithstanding the requirements of this chapter, hoods and bumpers are optional equipment on street rods and kit vehicles. Street rods and kit vehicles must comply with fender requirements under RCW 46.37.500(2) and the windshield requirement of RCW 46.37.410(1).

Passed the Senate March 4, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 226

[Engrossed Second Substitute Senate Bill 5322]

### DEATH BENEFIT AWARDS FOR CERTAIN LAW ENFORCEMENT OFFICERS, FIRE FIGHTERS, AND COMMISSIONED EMPLOYEES OF THE WASHINGTON STATE PATROL

AN ACT Relating to a death benefit award for certain law enforcement officers, fire fighters, and commissioned employees of the Washington state patrol who die in the line of duty; adding a new section to chapter 41.26 RCW; adding a new section to chapter 43.43 RCW; creating a new section; 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 41.26 RCW under the subchapter heading "provisions applicable to plan I and plan II" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.43 RCW to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

**NEW SECTION.** Sec. 3. The Joint Committee on Pension Policy will conduct a study on providing a similar death benefit for volunteer fire fighters and reserve law enforcement officers and report back to the appropriate legislative committees by December 1, 1996.

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 5, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 227

[Substitute Senate Bill 5818]

### PAYMENT OF BENEFITS OF TEACHER RETIREMENT SYSTEM MEMBERS WHO DIE BEFORE RETIREMENT

AN ACT Relating to payment of benefits when a member dies before retirement; amending RCW 41.40.270; and creating a new section.

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

**NEW SECTION.** Sec. 1. (1) If a member dies following a period of sick leave without having applied for a disability retirement under RCW 41.32.550, the member's surviving spouse is eligible to receive, from the time of the

member's death, a joint and one hundred percent retirement allowance under RCW 41.32.530, without the actuarial reduction otherwise required by RCW 41.32.520 (1)(b)(ii), if the following conditions are met:

(a) The member had been on sick leave due to an illness that would have qualified the member for permanent disability under RCW 41.32.550; and

(b) The illness was the cause of the member's death.

(2) This section applies to members who died between July 1, 1994, and September 1, 1994.

**Sec. 2.** RCW 41.40.270 and 1995 c 144 s 5 are each amended to read as follows:

(1) Should a member die before the date of retirement the amount of the accumulated contributions standing to the member's credit in the employees' savings fund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of death:

(a) Shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there be no such designated person or persons still living at the time of the member's death, or if a member fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, such accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the surviving spouse as if in fact such spouse had been nominated by written designation as aforesaid, or if there be no such surviving spouse, then to the member's legal representatives.

(2) 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 but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 41.40.188, calculated under the retirement allowance described in RCW 41.40.185 or 41.40.190, whichever is greater, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 shall automatically be given effect as if selected for the benefit of the designated beneficiary. If the member is not then qualified for a service retirement allowance, such 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.

(3) Subsection (1) of this section, unless elected, shall not apply to any member who has applied for service retirement in RCW 41.40.180, as now or hereafter amended, and thereafter dies between the date of separation from service and the member's effective retirement date, where the member has selected a survivorship option under RCW 41.40.188. In those cases the beneficiary named in the member's final application for service retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member.

(4) For deaths occurring between July 1, 1995, and June 30, 1997, if a member who: (a) Has applied for nonduty disability under RCW 41.40.230; (b) has submitted adequate evidence to support a disability determination; and (c) has selected a retirement under RCW 41.40.188, dies before receiving the first retirement payment, the beneficiary named in the member's final application for disability retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 228

[Substitute Senate Bill 5865]

### LOTTERY PRIZE WINNERS—ASSIGNMENT OF RIGHTS

AN ACT Relating to the assignment of rights of lottery prize winners; amending RCW 67.70.100; and creating a new section.

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

**NEW SECTION.** Sec. 1. The Washington state lottery act under chapter 7, Laws of 1982 2nd ex. sess., provides, among other things, that the right of any person to a prize shall not be assignable, except to the estate of a deceased prize winner, or to a person designated pursuant to an appropriate judicial order. Current law and practices provide that those who win lotto jackpots are paid in annual installments over a period of twenty years. The legislature recognizes that some prize winners, particularly elderly persons, those seeking to acquire a small business, and others with unique needs, may not want to wait to be paid over the course of up to twenty years. It is the intent of the legislature to provide a restrictive means to accommodate those prize winners who wish to enjoy more of their winnings currently, without impacting the current fiscal structure of the Washington state lottery commission.

Sec. 2. RCW 67.70.100 and 1982 2nd ex.s. c 7 s 10 are each amended to read as follows:

(1) Except under subsection (2) of this section, no right of any person to a prize drawn is assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled.

(2)(a) The payment of the remainder of an annuity may be assigned to another person, pursuant to a voluntary assignment of the right to receive future annual prize payments, if the assignment is made pursuant to an appropriate judicial order of the Thurston county superior court or the superior court of the county in which the prize winner resides, if the winner is a resident of Washington state. If the prize winner is not a resident of Washington state, the winner must seek an appropriate order from the Thurston county superior court.

(b) If there is a voluntary assignment under (a) of this subsection, a copy of the petition for an order under (a) of this subsection and all notices of any hearing in the matter shall be served on the attorney general no later than ten days before any hearing or entry of any order.

(c) The court receiving the petition may issue an order approving the assignment and directing the director to pay to the assignee the remainder of an annuity so assigned upon finding that all of the following conditions have been met:

(i) The assignment has been memorialized in writing and executed by the assignor and is subject to Washington law;

(ii) The assignor provides a sworn declaration to the court attesting to the facts that the assignor has had the opportunity to be represented by independent legal counsel in connection with the assignment, has received independent financial and tax advice concerning the effects of the assignment, and is of sound mind and not acting under duress, and the court makes findings determining so; and

(iii) The proposed assignment does not and will not include or cover payments or portions of payments subject to offsets pursuant to RCW 67.70.255 unless appropriate provision is made in the order to satisfy the obligations giving rise to the offset.

(d) The commission may intervene as of right in any proceeding under this section but shall not be deemed an indispensable or necessary party.

(3) The director will not pay the assignee an amount in excess of the annual payment entitled to the assignor.

(4) The commission may adopt rules pertaining to the assignment of prizes under this section, including recovery of actual costs incurred by the commission. The recovery of actual costs shall be deducted from the initial annuity payment made to the assignee.

(5) No voluntary assignment under this section is effective unless and until the national office of the federal internal revenue service provides a ruling that

declares that the voluntary assignment of prizes will not affect the federal income tax treatment of prize winners who do not assign their prizes.

(6) The commission and the director shall be discharged of all further liability upon payment of a prize pursuant to this section.

Passed the Senate March 4, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 229

[Senate Bill 6090]

### RECORDING OF INSTRUMENTS BY ELECTRONIC TRANSMISSION

AN ACT Relating to the recording of instruments via electronic transmission; and amending RCW 65.04.015, 65.04.030, 65.04.040, 65.04.080, 65.04.090, and 65.04.110.

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

Sec. 1. RCW 65.04.015 and 1991 c 26 s 3 are each amended to read as follows:

The definitions set forth ~~((in))~~ in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Recording officer" means the county auditor, or in charter counties the county official charged with the responsibility for recording instruments in the county records.

(2) "File," "filed," or "filing" means the act of delivering or transmitting electronically an instrument to the auditor or recording officer for recording into the official public records.

(3) "Record," "recorded," or "recording" means the process, such as electronic, mechanical, optical, magnetic, or microfilm storage used by the auditor or recording officer after filing to incorporate the instrument into the public records.

(4) "Record location number" means a unique number that identifies the storage location (book or volume and page, reel and frame, instrument number, auditor or recording officer file number, receiving number, electronic retrieval code, or other specific place) of each instrument in the public records accessible in the same recording office where the instrument containing the reference to the location is found.

Sec. 2. RCW 65.04.030 and 1991 c 26 s 4 are each amended to read as follows:

The auditor or recording officer must, upon the payment of the fees as required in RCW 36.18.010 for the same, acknowledge receipt therefor in writing or printed form and record in large and well bound books, or by photographic ~~((or))~~, photomechanical, electronic format, or other approved process, the following:



(1) Deeds, grants and transfers of real property, mortgages and releases of mortgages of real estate, instruments or agreements relating to community or separate property, powers of attorney to convey real estate, and leases which have been acknowledged or proved: PROVIDED, That deeds, contracts and mortgages of real estate described by lot and block and addition or plat, shall not be filed or recorded until the plat of such addition has been filed and made a matter of record;

(2) Patents to lands and receivers' receipts, whether for mineral, timber, homestead or preemption claims or cash entries;

(3) All such other papers or writing as are required by law to be recorded and such as are required by law to be filed.

**Sec. 3.** RCW 65.04.040 and 1991 c 26 s 5 are each amended to read as follows:

Any state, county, or municipal officer charged with the duty of recording instruments in public records shall record them by record location number in the order filed, irrespective of the type of instrument, using a process that has been tested and approved for the intended purpose by the state archivist.

In addition, the county auditor or recording officer, in the exercise of the duty of recording instruments in public records, may, in lieu of transcription, record all instruments, that he or she is charged by law to record, by any electronic data transfer, photographic, photostatic, microfilm, microcard, miniature photographic or other process that actually reproduces or forms a durable medium for so reproducing the original, and which has been tested and approved for the intended purpose by the state archivist. If the county auditor or recording officer records any instrument by a process approved by the state archivist it shall not be necessary thereafter to make any notations or marginal notes, which are otherwise required by law, thercon if, in lieu of making said notations thereon, the auditor or recording officer immediately makes a note of such in the general index in the column headed "remarks," listing the record number location of the instrument to which the current entry relates back.

Previously recorded or filed instruments may be processed and preserved by any means authorized under this section for the original recording of instruments. The county auditor or recording officer may provide for the use of the public, media containing reproductions of instruments and other materials that have been recorded pursuant to the provisions of this section. The contents of the media may be arranged according to date of filing, irrespective of type of instrument, or in such other manner as the county auditor or recording officer deems proper.

**Sec. 4.** RCW 65.04.080 and 1985 e 44 s 18 are each amended to read as follows:

When any instrument, paper, or notice, authorized or required by law to be filed or recorded, is deposited in or electronically transmitted to the county auditor's office for filing or record, that officer must indorse upon the same the

time when it was received, noting the year, month, day, hour and minute of its reception, and note that the document was received by electronic transmission, and must file, or file and record the same without delay, together with the acknowledgments, proofs, and certificates written or printed upon or annexed to the same, with the plats, surveys, schedules and other papers thereto annexed, in the order and as of the time when the same was received for filing or record, and must note on the instrument filed, or at the foot of the record the exact time of its reception, and the name of the person at whose request it was filed or filed and recorded: PROVIDED, That the county auditor shall not be required to accept for filing, or filing and recording, any instrument unless there appear upon the face thereof, the name and nature of the instrument offered for filing, or filing and recording, as the case may be.

Sec. 5. RCW 65.04.090 and Code 1881 s 2732 are each amended to read as follows:

~~((He))~~ The recording officer must also endorse upon such an instrument, paper, or notice, the time when and the book and page in which it is recorded, and must thereafter electronically transmit or deliver it, upon request, to the party leaving the same for record~~((r))~~ or to ~~((his order))~~ the address on the face of the document.

Sec. 6. RCW 65.04.110 and 1965 c 134 s 1 are each amended to read as follows:

If any county auditor to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded is delivered or electronically transmitted for record: (1) Neglects or refuses to record such instrument, paper or notice, within a reasonable time after receiving the same; or (2) records any instruments, papers or notices untruly, or in any other manner than as ~~((hereinbefore))~~ directed in this chapter; or, (3) neglects or refuses to keep in his or her office such indexes as are required by this act, or to make the proper entries therein; or, (4) neglects or refuses to make the searches and to give the certificate required by this act; or if such searches or certificate are incomplete and defective in any important particular affecting the property in respect to which the search is requested; or, (5) alters, changes, or obliterates any records deposited in his or her office, or inserts any new matter therein; he or she is liable to the party aggrieved for the amount of damage which may be occasioned thereby~~((:—PROVIDED, That))~~. However, if the name or names and address hand printed, printed, or typewritten on any instrument, proved or acknowledged according to law, or on any paper or notice which may by law be filed or recorded, is or are incorrect, or misspelled or not the true name or names of the party or parties appearing thereon, the county auditor shall not, by reason of such fact, be liable for any loss or damage resulting therefrom.

Passed the Senate March 2, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 230

[Substitute Senate Bill 6091]

### COMBINING WATER AND SEWER DISTRICTS

AN ACT Relating to combining water and sewer districts; amending RCW 57.02.010, 56.02.110, 57.02.030, 57.02.040, 56.02.070, 56.02.100, 57.02.050, 57.04.001, 57.04.020, 57.04.030, 57.04.050, 57.04.060, 57.04.065, 57.04.070, 56.04.080, 57.04.100, 57.04.110, 56.04.120, 56.04.130, 57.08.011, 57.08.014, 57.08.015, 57.08.016, 57.08.030, 57.08.040, 56.08.060, 57.08.047, 57.08.050, 57.08.060, 57.08.065, 56.08.012, 57.08.100, 57.08.105, 57.08.110, 57.08.120, 57.08.140, 57.08.017, 57.08.180, 57.08.150, 57.08.160, 57.08.170, 57.12.010, 57.12.015, 57.12.030, 57.12.039, 57.12.020, 57.16.010, 56.08.030, 57.16.140, 57.16.050, 57.16.060, 57.16.073, 57.16.065, 56.20.030, 57.16.070, 57.16.080, 57.16.100, 57.16.090, 57.16.110, 57.16.150, 57.16.020, 57.20.015, 57.16.030, 57.16.035, 57.16.040, 57.20.020, 57.20.023, 57.20.025, 57.20.027, 57.20.030, 57.20.080, 57.20.090, 57.20.110, 57.20.120, 57.20.130, 57.20.135, 57.20.140, 57.20.150, 57.20.160, 57.20.165, 57.20.170, 57.22.010, 57.22.020, 57.22.030, 57.22.040, 57.22.050, 57.24.001, 57.24.010, 57.24.020, 57.24.040, 57.24.050, 57.24.070, 57.24.090, 57.24.170, 57.24.180, 57.24.190, 57.24.200, 57.24.210, 57.24.220, 57.28.001, 57.28.010, 57.28.020, 57.28.030, 57.28.035, 57.28.040, 57.28.050, 57.28.060, 57.28.070, 57.28.080, 57.28.090, 57.28.100, 57.28.110, 57.32.001, 57.32.010, 57.32.020, 57.32.021, 57.32.022, 57.32.023, 57.32.024, 57.32.130, 57.32.160, 57.36.001, 57.36.010, 57.36.020, 57.36.030, 57.36.040, 57.40.135, 57.36.050, 57.42.010, 57.42.020, 57.42.030, 57.46.010, 57.46.020, 57.46.030, 57.90.001, 57.90.010, 57.90.020, 57.90.030, 57.90.040, 57.90.050, 57.90.100, 35.13.900, 35.58.570, 35.97.050, 35A.14.901, 35A.56.010, 35A.70.010, 36.29.160, 36.93.090, 36.94.420, 41.04.190, 43.99F.020, 82.02.020, 84.09.030, 84.38.020, 84.52.052, 90.03.510, and 90.03.525; adding new sections to chapter 57.02 RCW; adding new sections to chapter 57.08 RCW; adding a new section to Title 57 RCW; adding new sections to chapter 57.04 RCW; adding new sections to chapter 57.06 RCW; adding new sections to chapter 57.16 RCW; adding new sections to chapter 57.20 RCW; adding a new section to chapter 57.36 RCW; creating a new section; recodifying RCW 56.02.070, 56.02.100, 56.02.110, 56.04.080, 56.04.120, 56.04.130, 56.02.030, 56.02.080, 56.36.070, 56.08.060, 56.08.012, 56.08.170, 56.08.030, 56.20.030, 57.16.020, 57.16.030, 57.16.035, 57.16.040, and 57.40.135; repealing RCW 56.02.010, 56.02.040, 56.02.050, 56.02.055, 56.02.060, 56.02.120, 56.04.001, 56.04.020, 56.04.030, 56.04.040, 56.04.050, 56.04.060, 56.04.065, 56.04.070, 56.04.090, 56.08.010, 56.08.013, 56.08.014, 56.08.015, 56.08.020, 56.08.040, 56.08.050, 56.08.065, 56.08.070, 56.08.075, 56.08.080, 56.08.090, 56.08.092, 56.08.100, 56.08.105, 56.08.110, 56.08.120, 56.08.130, 56.08.140, 56.08.150, 56.08.160, 56.08.180, 56.08.190, 56.08.200, 56.12.010, 56.12.015, 56.12.020, 56.12.030, 56.12.040, 56.12.050, 56.16.010, 56.16.020, 56.16.030, 56.16.035, 56.16.040, 56.16.050, 56.16.060, 56.16.065, 56.16.070, 56.16.080, 56.16.085, 56.16.090, 56.16.100, 56.16.110, 56.16.115, 56.16.130, 56.16.135, 56.16.140, 56.16.150, 56.16.160, 56.16.165, 56.16.170, 56.20.010, 56.20.015, 56.20.020, 56.20.032, 56.20.033, 56.20.040, 56.20.050, 56.20.060, 56.20.070, 56.20.080, 56.20.090, 56.20.120, 56.22.010, 56.22.020, 56.22.030, 56.22.040, 56.22.050, 56.24.001, 56.24.010, 56.24.080, 56.24.090, 56.24.100, 56.24.110, 56.24.120, 56.24.130, 56.24.140, 56.24.150, 56.24.180, 56.24.190, 56.24.200, 56.24.205, 56.24.210, 56.24.900, 56.28.001, 56.28.010, 56.28.020, 56.32.001, 56.32.010, 56.32.020, 56.32.030, 56.32.040, 56.32.050, 56.32.060, 56.32.070, 56.32.080, 56.32.090, 56.32.100, 56.32.110, 56.32.115, 56.32.120, 56.32.160, 56.36.001, 56.36.010, 56.36.020, 56.36.030, 56.36.040, 56.36.045, 56.36.050, 56.36.060, 56.40.010, 56.40.020, 56.40.030, 57.08.010, 57.08.045, 57.08.080, 57.08.090, 57.08.130, 57.12.045, 57.20.100, 57.40.100, 57.40.110, 57.40.120, 57.40.130, 57.40.140, and 57.40.150; and providing an effective date.

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

## PART I - GENERAL PROVISIONS

NEW SECTION. Sec. 101. A new section is added to chapter 57.02 RCW to read as follows:

Every sewer district and every water district previously created shall be reclassified and shall become a water-sewer district, and shall be known as the ". . . . Water-Sewer District," or "Water-Sewer District No. . . . ." or shall continue to be known as a "sewer district" or a "water district," with the existing name or number inserted, as appropriate. As used in this title, "district" means a water-sewer district, a sewer district, or a water district. All debts, contracts, and obligations previously made or incurred by or in favor of any water district or sewer district, and all bonds or other obligations issued or executed by those districts, and all assessments or levies, and all other things and proceedings done or taken by those districts or by their respective officers, are declared legal and valid and of full force and effect.

Sec. 102. RCW 57.02.010 and 1982 1st ex.s. c 17 s 8 are each amended to read as follows:

Wherever in this title (~~(57 RCW)~~) petitions are required to be signed by the owners of property, the following rules shall govern the sufficiency (~~(thereof)~~) of the petitions:

(1) The signature of a record owner, as determined by the records of the county auditor of the county in which the real property is located, shall be sufficient without the signature of (~~(his or her)~~) the owner's spouse.

(2) (~~(In the case of)~~) For mortgaged property, the signature of the mortgagor shall be sufficient.

(3) (~~(In the case of)~~) For property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor of the county in which the real property is located, shall be (~~(deemed)~~) sufficient.

(4) Any officer of a corporation owning land in the district duly authorized to execute deeds or encumbrances on behalf of the corporation may sign on behalf of (~~(such)~~) that corporation (~~(= PROVIDED)~~), except that there shall be attached to the petition a certified excerpt from the bylaws showing such authority.

(5) If any property in the district stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the (~~(executor)~~) personal representative, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property.

Sec. 103. RCW 56.02.110 and 1979 c 35 s 3 are each amended to read as follows:

(~~(4)~~) The board of commissioners of a (~~(sewer)~~) district may notify the owner or reputed owner of any tract, parcel of land, or other property located within the area included in a petition being circulated for a local improvement district (~~(being circulated)~~) or utility local improvement district under chapter (~~(56.20)~~) 57.16 RCW (~~(or in a petition for)~~), an annexation (~~(being circulated)~~)

under chapter ~~((56.24))~~ 57.24 RCW, a consolidation under chapter 57.32 RCW, a merger under chapter 57.36 RCW, a withdrawal of territory under chapter 57.28 RCW, or a transfer of territory under RCW 57.32.160.

~~((2))~~ Upon the request of any person, the board of commissioners of a ~~((sewer))~~ district may:

~~((a))~~ (1) Review a proposed petition ~~((to check if the petition is properly drafted))~~ for proper drafting; and

~~((b))~~ (2) Provide information regarding the effects of the adoption of any proposed petition.

**Sec. 104.** RCW 57.02.030 and 1959 c 108 s 19 are each amended to read as follows:

The rule of strict construction shall ~~((have no application))~~ not apply to this title, ~~((but the same))~~ which shall be liberally construed to carry out ~~((the))~~ its purposes and objects ~~((for which this title is intended)).~~

**Sec. 105.** RCW 57.02.040 and 1988 c 162 s 7 are each amended to read as follows:

~~(1) Notwithstanding any provision of law to the contrary, ((no water district shall be formed or reorganized under chapter 57.04 RCW, nor shall any water district annex territory under chapter 57.24 RCW, nor shall any water district withdraw territory under chapter 57.28 RCW, nor shall any water district consolidate under chapter 57.32 RCW, nor shall any water district be merged under chapter 57.36 RCW, nor shall any sewer district be merged into a water district under chapter 57.40 RCW, unless such proposed action))~~ the following proposed actions shall be approved as provided for in RCW 56.02.070 (as recodified by this act):

(a) Formation or reorganization under chapter 57.04 RCW;

(b) Annexation of territory under chapter 57.24 RCW;

(c) Withdrawal of territory under chapter 57.28 RCW;

(d) Transfer of territory under RCW 57.32.160;

(e) Consolidation under chapter 57.32 RCW; and

(f) Merger under chapter 57.36 RCW.

~~((The county legislative authority shall within thirty days of the date after receiving))~~ (2) At least one of the districts involved shall give notice of the proposed action~~((, approve such action or hold a hearing on such action. In addition, a copy of such proposed action shall be mailed))~~ to the county legislative authority, state department of ecology, and ~~((to the))~~ state department of ~~((social and))~~ health ~~((services))~~. The county legislative authority shall within thirty days of receiving notice of the proposed action approve the action or hold a hearing on the action.

(3) The county legislative authority shall decide within sixty days of a hearing whether to approve or not approve ~~((such))~~ the proposed action. In approving or not approving the proposed action, the county legislative authority shall consider the following criteria:

~~((1))~~ (a) Whether the proposed action in the area under consideration is in compliance with the development program ~~((which))~~ that is outlined in the county comprehensive plan, or city or town comprehensive plan where appropriate, and its supporting documents; ~~((and/or~~

~~—(2))~~ (b) Whether the proposed action in the area under consideration is in compliance with the basinwide water and/or sewage plan as approved by the state department of ecology and the state department of social and health services; ~~((and/or))~~ and

~~((3))~~ (c) Whether the proposed action is in compliance with the policies expressed in the county plan for water and/or sewage facilities.

(4) If the proposed action is inconsistent with subsection~~((s (1), (2), or~~) (3)(a), (b), or (c) of this section, the county legislative authority shall not approve it. If ~~((such))~~ the proposed action is consistent with ~~((all such))~~ subsection~~((s))~~ (3)(a), (b), and (c) of this section, the county legislative authority shall approve it unless it finds that ~~((utility))~~ water or sewer service in the area under consideration will be most appropriately served by the county itself under the provisions of chapter 36.94 RCW, or by (a) another district, city, town, or municipality~~((, or by another existing special purpose district rather than by the proposed action under consideration))~~. If there has not been adopted for the area under consideration a plan or program under ~~((any one of subsections (1), (2) or~~) subsection (3)(a), (b), or (c) of this section, the proposed action shall not be found inconsistent with such subsection.

(5) Where a ~~((water))~~ district is proposed to be formed, and where no boundary review board ~~((has been))~~ is established in the county, the petition described in RCW 57.04.030 shall serve as the notice of proposed action under this section, and the hearing provided for in RCW 57.04.030 shall serve as the hearing provided for in this section and in RCW 56.02.070 (as recodified by this act).

Sec. 106. RCW 56.02.070 and 1988 c 162 s 6 are each amended to read as follows:

In any county where a boundary review board, as provided in chapter 36.93 RCW, ~~((has))~~ is not ~~((been))~~ established, the approval of the proposed action shall be by the county legislative authority pursuant to RCW ~~((56.02.060 and))~~ 57.02.040~~((,))~~ and shall be final, and the procedures required to adopt such proposed action shall be followed as provided by law.

In any county where a boundary review board, as provided in chapter 36.93 RCW, ~~((has been))~~ is established, a notice of intention of the proposed action shall be filed with the boundary review board as required by RCW 36.93.090 and ~~((a copy thereof))~~ with the county legislative authority. The ~~((latter))~~ county legislative authority shall transmit to the boundary review board a report of its approval or disapproval of the proposed action together with its findings and recommendations ~~((thereon))~~ under ~~((the provisions of RCW 56.02.060 and))~~ 57.02.040. ~~((If))~~ Approval by the county legislative authority ~~((has approved))~~ of the proposed action~~((, such approval))~~ shall be final and the procedures

required to adopt ~~((such))~~ the proposal shall be followed as provided by law, unless the boundary review board reviews the action under ~~((the provisions of))~~ RCW 36.93.100 through 36.93.180. If the county legislative authority ~~((has))~~ does not ~~((approved))~~ approve the proposed action, the boundary review board shall review the action under ~~((the provisions of))~~ RCW 36.93.150 through 36.93.180. The action of the boundary review board ~~((after review of the proposed action))~~ shall supersede approval or disapproval by the county legislative authority.

Where a ~~((water or sewer))~~ district is proposed to be formed, and where no boundary review board ~~((has been))~~ is established in the county, the hearings provided for in RCW ~~((56.04.040 and))~~ 57.04.030 shall serve as the hearing provided for in this section~~((, in RCW 56.02.060,))~~ and in RCW 57.02.040.

**Sec. 107.** RCW 56.02.100 and 1977 ex.s. c 208 s 3 are each amended to read as follows:

The procedures and provisions of RCW 85.08.830 through 85.08.890, which are applicable to drainage improvement districts, joint drainage improvement districts, or consolidated drainage improvement districts ~~((which))~~ that desire to merge into ~~((an))~~ irrigation districts, shall also apply to ~~((sewer))~~ districts organized, or reorganized, under this title ~~((which))~~ that desire to merge into irrigation districts.

The authority granted by this section shall be cumulative and in addition to any other power or authority granted by law to any ~~((sewer))~~ district.

**Sec. 108.** RCW 57.02.050 and 1994 c 223 s 66 are each amended to read as follows:

Whenever the boundaries or proposed boundaries of a ~~((water))~~ district include or are proposed to include by means of formation, annexation, transfer, withdrawal, consolidation, or merger ~~((including merger with a sewer district))~~, territory in more than one county~~((;))~~:

(1) All duties delegated by this title ~~((57 RCW))~~ to officers of the county in which the district is located shall be delegated to the officers of the county in which the largest land area of the district is located, except that elections shall be conducted pursuant to general election law~~((;))~~:

(2) Actions subject to review and approval under RCW 57.02.040 ~~((and 56.02.070))~~ shall be reviewed and approved only by the officers or boundary review board~~((s))~~ in the county in which such actions are proposed to occur~~((;))~~:

(3) Verification of ~~((electors'))~~ voters' signatures shall be conducted by the county ~~((election officer))~~ auditor of the county in which such signators reside~~((;))~~; and

(4) Comprehensive plan review and approval or rejection by the respective county legislative authorities under RCW 57.16.010 shall be limited to that part of such plans within the respective counties.

**NEW SECTION.** **Sec. 109.** A new section is added to chapter 57.02 RCW to read as follows:

Elections in a district shall be conducted under general election laws.

## PART II - FORMATION AND DISSOLUTION

Sec. 201. RCW 57.04.001 and 1989 c 84 s 56 are each amended to read as follows:

Actions taken under this chapter (~~(57.04 RCW)~~) may be subject to potential review by a boundary review board under chapter 36.93 RCW.

Sec. 202. RCW 57.04.020 and 1982 1st ex.s. c 17 s 9 are each amended to read as follows:

Water-sewer districts (~~((for the acquirement, construction, maintenance, operation, development and regulation of a water supply system and providing for additions and betterments thereto))~~) are authorized to be established for the purposes of chapter 57.08 RCW. Such districts may include within their boundaries one or more (~~(incorporated)~~) counties, cities, and towns, or other political subdivisions. However, no portion or all of any city or town may be included without the consent by resolution of the city or town legislative authority.

Sec. 203. RCW 57.04.030 and 1990 c 259 s 27 are each amended to read as follows:

(1) For the purpose of formation of water-sewer districts, a petition shall be presented to the county legislative authority of each county in which the proposed (~~(water)~~) district is located(~~(, which)~~). The petition shall set forth the ((object)) reasons for the creation of the district, ((shall)) designate the boundaries ((thereof and set forth the further fact)) of the district, and state 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 state the proposed name of the district, which may be ". . . . . Sewer-Water District," ". . . . . Water District," ". . . . . Sewer District," or may be designated by a number such as ". . . . . County Water-Sewer District No. . . . ." 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 ten percent of the registered voters who voted in the last (~~(general)~~) municipal general election, who shall be qualified (~~(electors)~~) voters on the date of filing the petition, residing within the district described in the petition.

The petition shall be filed with the county auditor of (~~(each)~~) the county in which all or the largest geographic portion of 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))~~) on the petition. No person having signed such a petition shall be allowed to withdraw (~~(his)~~) the person's 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~~) auditor. If the area proposed to be included in the district is located in more than one county, the auditor of the county in which the largest geographic portion of the district is located shall be the lead auditor and shall immediately transfer a copy of the petitions to the auditor of each other county in which the proposed district is located. Within ten days after the lead auditor received the petition, the auditors of these other counties shall certify to the lead auditor: (a) The number of voters of that county residing in the proposed district who voted at the last municipal general election; and (b) the number of valid signatures on the petition of voters of that county residing in the proposed district. The lead auditor shall certify the sufficiency of the petition after receiving this information. If the petition shall be found to contain a sufficient number of signatures, the county ((election officer)) auditor or lead county auditor shall then transmit ((the same)) it, together with a certificate of sufficiency attached thereto to the county legislative authority of each county in which the proposed district is located.

(2) If in the opinion of the county health officer the existing water, sewerage, or drainage facilities are inadequate in the district to be created, and creation of the district is necessary for public health and safety, then the legislative authority of the county may declare by resolution that a water-sewer district is a public health and safety necessity, and the district shall be organized under this title, without a petition being required.

(3) Following receipt of a petition certified to contain a sufficient number of signatures, or upon declaring a district to be a public health and safety necessity, 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)) that will not, in the judgment of the county legislative authority, be ((benefited)) benefitted 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. 204. RCW 57.04.050 and 1994 c 292 s 2 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))~~ will benefit ~~((to))~~ the land therein, they shall call a special election by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. A special election ~~((with))~~ shall be held on a date decided by the commissioners in accordance with RCW ~~((29.13.010 and))~~ 29.13.020. The commissioners shall 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. The proposition to be effective must be approved by a majority of the voters voting on the proposition.

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))~~ impose on all property located in the district a general tax for one year, in excess of the limitations provided by law, 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~~((The proposition may not appear at the September or November election. The proposition shall)),~~ that proposition to be expressed on the ballots in the following terms:

One year . . . . . dollars and . . . . . cents per thousand  
dollars of assessed value tax . . . . . YES   
~~((One year . . . . . dollars and . . . . . cents per thousand  
dollars of assessed value tax . . . . .))~~NO

Such a ballot proposition may only be submitted to voters for their approval or rejection if the special election is held in February, March, April, or May. The proposition to be effective must be approved by at least three-fifths of the voters voting on the proposition in the manner set forth in Article VII, section

2(a) of the state Constitution (~~(of this state, as amended by Amendment 59 and as thereafter amended)~~).

Sec. 205. RCW 57.04.060 and 1929 c 114 s 5 are each amended to read as follows:

If at ~~((such))~~ the election a majority of the voters voting upon ~~((such))~~ the proposition ~~((shall))~~ vote in favor of the formation of ~~((such))~~ the district the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall so declare in its canvass of the returns of ~~((such))~~ the election to be made within ten days after the date of the election, and ~~((such water))~~ the district shall then be and become a municipal corporation of the state of Washington, and the name of ~~((such water))~~ the district shall be ~~((". . . . . Water District" (inserting the name appearing on the ballot)))~~ the name of the district as provided in the petition and the ballot.

The county's expenses incurred in the formation of the district, including the election costs associated with the ballot proposition authorizing the district, election of the initial commissioners under RCW 57.12.030, and the ballot proposition authorizing the excess levy, shall be repaid to the county if the district is formed.

Sec. 206. RCW 57.04.065 and 1984 c 147 s 7 are each amended to read as follows:

Any ~~((water))~~ district ~~((heretofore or hereafter organized and existing))~~ may apply to change its name by filing with the county legislative authority in which was filed the original petition for organization of the district, a certified copy of a resolution of its board of commissioners adopted by majority vote of all of the members of ~~((said))~~ that board at a regular meeting thereof providing for such change of name. After approval of the new name by the county legislative authority, all proceedings for ~~((such))~~ the district(s) shall be had under ~~((such))~~ the changed name, but all existing obligations and contracts of the district entered into under its former name shall remain outstanding without change and with the validity thereof unimpaired and unaffected by such change of name~~((, and the))~~. A change of name heretofore made by any existing ((water)) district in this state, substantially in the manner ((above)) approved under this section, is ((hereby)) ratified, confirmed, and validated.

Sec. 207. RCW 57.04.070 and 1985 c 141 s 6 are each amended to read as follows:

Whenever two or more petitions for the formation of a ~~((water))~~ district shall be filed as provided in this chapter, the petition describing the greater area shall supersede all others and an election shall first be held thereunder, and no lesser ~~((water))~~ district shall ever be created within the limits in whole or in part of any ~~((water))~~ district, except as provided in RCW ~~((57.40.150 and))~~ 36.94.420~~((, as now or hereafter amended))~~.

Sec. 208. RCW 56.04.080 and 1941 c 210 s 40 are each amended to read as follows:

All elections held pursuant to this title, whether general or special, shall be conducted by the county (~~(election board)~~) auditor of the county in which the district is located. Except as provided in RCW 57.04.060, the expense of all such elections shall be paid for out of the funds of ((such sewer)) the district.

**Sec. 209.** RCW 57.04.100 and 1994 c 81 s 80 are each amended to read as follows:

Any ((water)) district (~~(organized under this title)~~) may be disincorporated in the same manner (insofar as the same is applicable) as is provided in RCW 35.07.010 through 35.07.220 for the disincorporation of cities and towns, except that the petition for disincorporation shall be signed by not less than twenty-five percent of the voters in the ((water)) district.

**Sec. 210.** RCW 57.04.110 and 1955 c 358 s 1 are each amended to read as follows:

A ((water)) district whose boundaries are identical with, or if the district is located entirely within, the boundaries of ((an incorporated)) a city or town may be dissolved by summary dissolution proceedings if the ((water)) district is free from all debts and liabilities except contractual obligations between the district and the city or town. Summary dissolution shall take place if the board of commissioners of the ((water)) district votes unanimously to dissolve the district and to turn all of its property over to the city or town within which the district lies, and the council of such city or town unanimously passes an ordinance accepting the conveyance of the property and assets of the district tendered to the city or town by the ((water)) district.

**Sec. 211.** RCW 56.04.120 and 1991 c 363 s 136 are each amended to read as follows:

(1) On and after March 16, 1979, any sewerage improvement districts created under Title 85 RCW and located in a county with a population of from forty thousand to less than seventy thousand shall become ((sewer)) districts and shall be operated, maintained, and have the same powers as ((sewer)) districts created under this title ((56-RCW)), upon being so ordered by the county legislative authority of the county in which such district is located after a hearing of which notice is given by publication in a newspaper of general circulation within the district and mailed to any known creditors, holders of contracts, and obligees at least thirty days prior to such hearing. After such hearing if the county legislative authority finds the converting of such district to be in the best interest of that district, it shall order that such sewer improvement district shall become a ((sewer)) district and fix the date of such conversion. All debts, contracts, and obligations created while attempting to organize or operate a sewerage improvement district and all other financial obligations and powers of the district to satisfy such obligations established under Title 85 RCW are legal and valid until they are fully satisfied or discharged under Title 85 RCW.

(2) The board of supervisors of a sewerage improvement district in a county with a population of from forty thousand to less than seventy thousand shall act

as the board of commissioners of the ((sewer)) district ((created)) under subsection (1) of this section until other members of the board of commissioners of the ((sewer)) district are elected and qualified. There shall be an election on the same date as the 1979 state general election and the seats of all three members of the governing authority of every entity which was previously known as a sewerage improvement district in a county with a population of from forty thousand to less than seventy thousand shall be up for election. The election shall be held in the manner provided for in RCW ((56.12.020)) 57.12.030 for the election of the first board of commissioners of a ((sewer)) district. Thereafter, the terms of office of the members of the governing body shall be determined under RCW ((56.12.020)) 57.12.030.

**Sec. 212.** RCW 56.04.130 and 1979 c 35 s 2 are each amended to read as follows:

Any sewerage improvement district which has been operating as a sewer district shall be a ((sewer)) district under this title as of March 16, 1979, upon being so ordered by the ((board-of)) county ((commissioners)) legislative authority of the county in which such district is located after a hearing of which notice is given by publication in a newspaper of general circulation within the district and mailed to any known creditors, holders of contracts, and obligees at least thirty days prior to such hearing. After such hearing if the ((board-of)) county ((commissioners)) legislative authority finds that the sewerage improvement district was operating as a ((sewer)) district and that the converting of such district will be in the best interest of that district, it shall order that such sewer improvement district shall become a ((sewer)) district immediately upon the passage of the resolution containing such order. The debts, contracts, and obligations of any sewerage improvement district which has been erroneously operating as a ((sewer)) district are recognized as legal and binding. The members of the government authority of any sewerage improvement district which has been operating as a ((sewer)) district and who were erroneously elected as sewer district commissioners shall be recognized as the governing authority of a ((sewer)) district. The members of the governing authority shall continue in office for the term for which they were elected.

### PART III - POWERS

**NEW SECTION.** **Sec. 301.** A district shall have the following powers:  
 (1) To acquire by purchase or condemnation, or both, all lands, property and property rights, and all water and water rights, both within and without the district, necessary for its purposes. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities and towns, insofar as consistent with this title, except that all assessment or reassessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the district, and the duties devolving upon the city treasurer are imposed upon the county treasurer;

(2) To lease real or personal property necessary for its purposes for a term of years for which that leased property may reasonably be needed;

(3) To construct, condemn and purchase, add to, maintain, and supply waterworks to furnish the district and inhabitants thereof and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, content, distribution, and price thereof in such a manner as is not in conflict with general law and may construct, acquire, or own buildings and other necessary district facilities. Where a customer connected to the district's system uses the water on an intermittent or transient basis, a district may charge for providing water service to such a customer, regardless of the amount of water, if any, used by the customer. District waterworks may include facilities which result in combined water supply and electric generation, if the electricity generated thereby is a byproduct of the water supply system. That electricity may be used by the district or sold to any entity authorized by law to use or distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of water supply. For such purposes, a district may take, condemn and purchase, acquire, and retain water from any public or navigable lake, river or watercourse, or any underflowing water, and by means of aqueducts or pipeline conduct the same throughout the district and any city or town therein and carry it along and upon public highways, roads, and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipelines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner;

(4) To purchase and take water from any municipal corporation, private person, or entity. A district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance, and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under the terms approved by the board of commissioners;

(5) To construct, condemn and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district, the inhabitants thereof, and persons outside the district with an adequate system of sewers for all uses and purposes, public and private, including but not limited to on-site sewage disposal facilities, approved septic tanks or approved septic tank

systems, other facilities and systems for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from wastewater and for the protection, preservation, and rehabilitation of surface and underground waters, facilities for the drainage and treatment of storm or surface waters, public highways, streets, and roads with full authority to regulate the use and operation thereof and the service rates to be charged. Sewage facilities may include facilities which result in combined sewage disposal, treatment, or drainage and electric generation, except that the electricity generated thereby is a byproduct of the system of sewers. Such electricity may be used by the district or sold to any entity authorized by law to distribute electricity. Electricity is deemed a byproduct when the electrical generation is subordinate to the primary purpose of sewage disposal, treatment, or drainage. For such purposes a district may conduct sewage throughout the district and throughout other political subdivisions within the district, and construct and lay sewer pipe along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such sewer pipe. A district may erect sewage treatment plants within or without the district, and may acquire, by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution from its sewers or its sewage treatment plant. For the purposes of sewage facilities which include facilities that result in combined sewage disposal, treatment, or drainage and electric generation where the electric generation is a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owners;

(6) To construct, condemn, acquire, and own buildings and other necessary district facilities;

(7) To compel all property owners within the district located within an area served by the district's system of sewers to connect their private drain and sewer systems with the district's system under such penalty as the commissioners shall prescribe by resolution. The district may for such purpose enter upon private property and connect the private drains or sewers with the district system and the cost thereof shall be charged against the property owner and shall be a lien upon property served;

(8) Where a district contains within its borders, abuts, or is located adjacent to any lake, stream, ground water as defined by RCW 90.44.035, or other waterway within the state of Washington, to provide for the reduction, minimization, or elimination of pollutants from those waters in accordance with the district's comprehensive plan, and to issue general obligation bonds, revenue bonds, local improvement district bonds, or utility local improvement bonds for the purpose of paying all or any part of the cost of reducing, minimizing, or eliminating the pollutants from these waters;

(9) To fix rates and charges for water, sewer, and drain service supplied and to charge property owners seeking to connect to the district's systems, as a condition to granting the right to so connect, in addition to the cost of the connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that those property owners shall bear their equitable share of the cost of the system. For the purposes of calculating a connection charge, the board of commissioners shall determine the pro rata share of the cost of existing facilities and facilities planned for construction within the next ten years and contained in an adopted comprehensive plan and other costs borne by the district which are directly attributable to the improvements required by property owners seeking to connect to the system. The cost of existing facilities shall not include those portions of the system which have been donated or which have been paid for by grants. The connection charge may include interest charges applied from the date of construction of the system until the connection, or for a period not to exceed ten years, whichever is shorter, at a rate commensurate with the rate of interest applicable to the district at the time of construction or major rehabilitation of the system, or at the time of installation of the lines to which the property owner is seeking to connect. A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Those fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. Revenues from connection charges excluding permit fees are to be considered payments in aid of construction as defined by department of revenue rule.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for sewer, water, storm water control, drainage, and street lighting facilities to the same extent private persons and private property are subject to those rates and charges that are imposed by districts. In setting those rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property;

(10) To contract with individuals, associations and corporations, the state of Washington, and the United States;

(11) To employ such persons as are needed to carry out the district's purposes and fix salaries and any bond requirements for those employees;

(12) To contract for the provision of engineering, legal, and other professional services as in the board of commissioner's discretion is necessary in carrying out their duties;

(13) To sue and be sued;

(14) To loan and borrow funds and to issue bonds and instruments evidencing indebtedness under chapter 57.20 RCW and other applicable laws;



(15) To transfer funds, real or personal property, property interests, or services subject to RCW 57.08.015;

(16) To levy taxes in accordance with this chapter and chapters 57.04 and 57.20 RCW;

(17) To provide for making local improvements and to levy and collect special assessments on property benefitted thereby, and for paying for the same or any portion thereof in accordance with chapter 57.16 RCW;

(18) To establish street lighting systems under RCW 57.08.060;

(19) To exercise such other powers as are granted to water-sewer districts by this title or other applicable laws; and

(20) To exercise any of the powers granted to cities and counties with respect to the acquisition, construction, maintenance, operation of, and fixing rates and charges for waterworks and systems of sewerage and drainage.

**NEW SECTION. Sec. 302.** Except upon approval of both districts by resolution, a district may not provide a service within an area in which that service is available from another district or within an area in which that service is planned to be made available under an effective comprehensive plan of another district.

**Sec. 303.** RCW 57.08.011 and 1989 c 308 s 14 are each amended to read as follows:

A ((water)) district may enter into a contract with any person, corporation, or other entity, public or private, that owns a water system located in the ((water)) district to manage, operate, maintain, or repair the water system. Such a contract may be entered into only if the general comprehensive plan of the ((water)) district reflects the water system that is to be so managed, operated, maintained, or repaired.

A ((water)) district shall be liable to provide the services provided in such a contract only if the required contractual payments are made to the district, and such payments shall be secured by a lien on the property served by the water system to the same extent that rates and charges imposed by the ((water)) district constitute liens on the property served by the district. The responsibility for all costs incurred by the water system in complying with water quality laws, regulations, and standards shall be solely that of the water system and not the ((water)) district, except to the extent payments have been made to the district for the costs of such compliance.

A ((water)) district periodically may transfer to another account surplus moneys that may accumulate in an account established by the district to receive payments for the provision of services for such a water system.

**Sec. 304.** RCW 57.08.014 and 1983 c 198 s 2 are each amended to read as follows:

In addition to the authority of a ((water)) district to establish classifications for rates and charges and impose such rates and charges, ((as provided in RCW 57.08.010 and 57.20.020,)) a ((water)) district may adjust((;)) or delay ((such))

those rates and charges for ~~((p000))~~ low-income persons or classes of ~~((p000))~~ low-income persons, including but not limited to, poor handicapped persons and poor senior citizens. Other financial assistance available to ~~((p000))~~ low-income persons shall be considered in determining charges and rates under this section. Notification of special rates or charges established under this section shall be provided to all persons served by the district annually and upon initiating service. Information on cost shifts caused by establishment of the special rates or charges shall be included in the notification. Any reduction in charges and rates granted to ~~((p000))~~ low-income persons in one part of a service area shall be uniformly extended to ~~((p000))~~ low-income persons in all other parts of the service area.

**Sec. 305.** RCW 57.08.015 and 1993 c 198 s 19 are each amended to read as follows:

The board of commissioners of a ~~((water))~~ district may sell, at public or private sale, property belonging to the district if the board determines that the property is not and will not be needed for district purposes and if the board gives notice of intention to sell as in this section provided~~((=PROVIDED, That)).~~ However, no such notice of intention shall be required to sell personal property of less than two thousand five hundred dollars in value.

The notice of intention to sell shall be published once a week for two consecutive weeks in a newspaper of general circulation in the district. The notice shall describe the property and state the time and place at which it will be sold or offered for sale, the terms of sale, whether the property is to be sold at public or private sale, and if at public sale the notice shall call for bids, fix the conditions ~~((thereof))~~ of the bids and ~~((shall))~~ reserve the right to reject any and all bids.

**Sec. 306.** RCW 57.08.016 and 1993 c 198 s 20 are each amended to read as follows:

(1) There shall be no private sale of real property where the appraised value exceeds the sum of two thousand five hundred dollars. Subject to the provisions of subsection (2) of this section, no real property ~~((valued at two thousand five hundred dollars or more))~~ of the district shall be sold for less than ninety percent of the value thereof as established by a written appraisal made not more than six months prior to the date of sale by three disinterested real estate brokers licensed under the laws of the state or professionally designated real estate appraisers as defined in RCW 74.46.020. The appraisal shall be signed by the appraisers and filed with the secretary of the board of commissioners of the district, who shall keep it at the office of the district open to public inspection. Any notice of intention to sell real property of the district shall recite the appraised value thereof~~((=PROVIDED, That there shall be no private sale of real property where the appraised value exceeds the sum of two thousand five hundred dollars)).~~

(2) If no purchasers can be obtained for the property at ninety percent or more of its appraised value after one hundred twenty days of offering the property for sale, the board of commissioners of the ((water)) district may adopt a resolution stating that the district has been unable to sell the property at the ninety percent amount. The ((water)) district then may sell the property at the highest price it can obtain at public auction. A notice of intention to sell at public auction shall be published once a week for two consecutive weeks in a newspaper of general circulation in the ((water)) district. The notice shall describe the property, state the time and place at which it will be offered for sale and the terms of sale, and shall call for bids, fix the conditions thereof, and reserve the right to reject any and all bids.

Sec. 307. RCW 57.08.030 and 1933 c 142 s 2 are each amended to read as follows:

~~((Should the commissioners of any such water district decide that it would be to the advantage of))~~ (1) Whenever any district shall have installed a distributing system of water mains and laterals, and as a source of supply of water shall be purchasing or intending to purchase water from any city or town, and whenever it appears to be advantageous to the water consumers ((of such water district to make the conveyance provided for in RCW 57.08.020, they shall cause the proposition of making such conveyance to be submitted to the electors of the water district at any general election or at a special election to be called for the purpose of voting on the same. If at any such election a majority of the electors voting at such election shall be in favor of making such conveyance, the water district commissioners)) in the district that such city or town shall take over the water system of the district and supply water to those water users, the commissioners of the district, when authorized as provided in subsection (2) of this section, shall have the right to convey ((to such city or town the mains and laterals belonging to the water district upon such city or town entering into a contract satisfactory to the water commissioners to)) the distributing system to that city or town if that city or town is willing to accept, maintain, and repair the same.

(2) Should the commissioners of the district decide that it would be to the advantage of the water consumers of the district to make the conveyance provided for in subsection (1) of this section, they shall cause the proposition of making that conveyance to be submitted to the voters of the district at an general election or at a special election to be called for the purpose of voting on the same. If at the election a majority of the voters voting on the proposition shall be in favor of making the conveyance, the district commissioners shall have the right to convey to the city or town the mains and laterals belonging to the district upon the city or town entering into a contract satisfactory to the commissioners to maintain and repair the same.

(3) Whenever a city or town located wholly or in part within a district shall enter into a contract with the commissioners of a district providing that the city or town shall take over all of the operation of the facilities of the district located

within its boundaries, the area of the district located within the city or town shall upon the execution of the contract cease to be served by the district for water service purposes. However, the affected land within that city or town shall remain liable for the payment of all assessments, any lien upon the property at the time of the execution of the agreement, and for any lien of all general obligation bonds due at the date of the contract, and the city shall remain liable for its fair prorated share of the debt of the area for any revenue bonds, outstanding as of the date of contract.

Sec. 308. RCW 57.08.040 and 1933 c 142 s 3 are each amended to read as follows:

Whenever any city or town is selling or proposes to sell water to a ~~((water district organized under the laws of the state of Washington and the provisions of RCW 57.08.020 and 57.08.030 have been complied with, any such))~~ district, ~~the~~ city or town may by ordinance accept a conveyance of any ~~((such))~~ distributing system and enter into a contract with the ~~((water))~~ district for the maintenance and repair of the system and the supplying of water to the ~~((water))~~ district consumers.

Sec. 309. RCW 56.08.060 and 1981 c 45 s 4 are each amended to read as follows:

A ~~((sewer))~~ district may enter into contracts with any county, city, town, ~~((sewer district, water district,))~~ or any other municipal corporation, or with any private person~~((, firm))~~ or corporation, for the acquisition, ownership, use, and operation of any property, facilities, or services, within or without the ~~((sewer))~~ district, and necessary or desirable to carry out the purposes of the ~~((sewer district, and a sewer district or a water district duly authorized to exercise sewer district powers may provide sewer service))~~ district. A district may provide water, sewer, drainage, or street lighting services to property owners in areas within or without the limits of the district~~((: PROVIDED, That if any such area)),~~ except that if the area to be served is located within another existing district duly authorized to exercise ((sewer)) district powers in ((such)) that area, then water, sewer, drainage, or street lighting service may not be so provided by contract or otherwise without the consent by resolution of the board of commissioners of ~~((such))~~ that other district.

Sec. 310. RCW 57.08.047 and 1989 c 84 s 57 are each amended to read as follows:

The provision of water or sewer service beyond the boundaries of a ~~((water))~~ district may be subject to potential review by a boundary review board under chapter 36.93 RCW.

Sec. 311. RCW 57.08.050 and 1994 c 31 s 2 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 fifty thousand dollars, may be awarded to a contractor using ~~((a))~~ the small works roster process provided in RCW 39.04.155 ~~((or the process provided in RCW 39.04.190 for purchases))~~. The board of ~~((water))~~ commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. All contract projects equal to or in excess of fifty thousand dollars shall be let by competitive bidding. Before awarding any such contract the board of ~~((water))~~ commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, 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 the public inspection. ~~((Such))~~ The 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 the bidder enters into a contract in accordance with ~~((his or her))~~ the bidder's 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 or her))~~ the bidder's own plans and specifications ~~((: PROVIDED, That))~~. However, no contract shall be let in excess of the cost of the materials or work. The board of ~~((water))~~ commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If ~~((such))~~ the contract ~~((be))~~ is 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))~~ the 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 the bidder fails to enter into the contract in accordance with the bid and furnish ~~((such))~~ the bond within ten days from the date at which the bidder is notified that ~~((he or she))~~ the bidder is the successful bidder, the 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 or her))~~ the bidder's bid, and the board of ~~((water))~~ commissioners deems it necessary to take legal action to collect on any bid bond required ~~((herein))~~ by this section, then the ~~((water))~~ district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby.

~~((4))~~ (2) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ten thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of from five thousand dollars to less than fifty thousand dollars shall be made using the process provided in RCW 39.04.155 or by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section. Any purchase of materials, supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(3) 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~~((r))~~ or official acting for the board~~((r))~~ 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. 312. RCW 57.08.060 and 1987 c 449 s 11 are each amended to read as follows:

~~((1))~~ In addition to the powers given ~~((water))~~ districts by law, ~~((they))~~ a district shall also have power to acquire, construct, maintain, operate, and develop street lighting systems.

~~((2))~~ To establish a street lighting system, the board of ~~((water))~~ commissioners shall adopt a resolution proposing a street lighting system and delineating the boundaries of the area to be served by the proposed street lighting system. The board shall conduct a public hearing on the resolution to create a street lighting system. Notice of the hearing shall be published at least once each week for two consecutive weeks in one or more newspapers of general circulation in the area to be served by the proposed street lighting system. Following the hearing, the board may by resolution establish the street lighting system.

~~((3))~~ A street lighting system shall not be established if, within thirty days following the decision of the board, a petition opposing the street lighting system is filed with the board and contains the signatures of at least forty percent of the voters registered in the area to be served by the proposed system.

~~((4)) The ((water)) district has the same powers of ((collection for)) imposing charges for providing street lighting, collecting delinquent street lighting charges, and financing street lighting systems by issuing general obligation bonds, issuing revenue bonds, and creating improvement districts as ((the water district)) it has for ((collection of)) imposing charges for providing water, collecting delinquent water service charges, and financing water systems by issuing general obligation bonds, issuing revenue bonds, and creating improvement districts.~~

~~((5) Any street lighting system established by a water district prior to March 31, 1982, is declared to be legal and valid.))~~

Sec. 313. RCW 57.08.065 and 1981 c 45 s 11 are each amended to read as follows:

~~((In addition to the powers now given water districts by law, they)) (1) A district shall ((also)) have power to establish, maintain, and operate a mutual water ((and)), sewer, drainage, and street lighting system ((or)), a ((separate sewer system within their water district area in the same manner as provided by law for the doing thereof in connection with water supply)) mutual system of any two or three of the systems, or separate systems.~~

~~((In addition thereto, a water district constructing, maintaining and operating a sanitary sewer system may exercise all the powers permitted to a sewer district under Title 56 RCW, including, but not limited to, the right to compel connections to the district's system, liens for delinquent sewer connection charges or sewer service charges, and all other powers presently exercised by or which may be hereafter granted to such sewer districts: PROVIDED, That a water district may not exercise sewer district powers in any area within its boundaries which is part of an existing district which previously shall have been duly authorized to exercise sewer district powers in such area without the consent by resolution of the board of commissioners of such other district: PROVIDED FURTHER, That no water district shall proceed to exercise the powers herein granted to establish, maintain, construct and operate any sewer system without first obtaining written approval and certification of necessity so to do from the department of ecology and department of social and health services. Any comprehensive plan for a system of sewers or addition thereto or betterment thereof shall be approved by the same county and state officials as are required to approve such plans adopted by a sewer district.~~

~~— A water district shall have the power to issue general obligation bonds for sewer system purposes: PROVIDED, That a proposition to authorize general obligation bonds payable from excess tax levies for sewer system purposes pursuant to chapter 56.16 RCW shall be submitted to all of the qualified voters within that part of the water district which is not contained within another existing district duly authorized to exercise sewer district powers, and the taxes to pay the principal of and interest on the bonds approved by such voters shall be levied only upon all of the taxable property within such part of the water district.))~~

(2) Where any two or more districts include the same territory as of the effective date of this section, none of the overlapping districts may provide any service that was made available by any of the other districts prior to the effective date of this section within the overlapping territory without the consent by resolution of the board of commissioners of the other district or districts.

(3) A district that was a water district prior to the effective date of this section, that did not operate a sewer system prior to the effective date of this section, may not proceed to exercise the powers to establish, maintain, construct, and operate any sewer system without first obtaining written approval and certification of necessity from the department of ecology and department of health. Any comprehensive plan for a system of sewers or addition thereto or betterment thereof proposed by a district that was a water district prior to the effective date of this section shall be approved by the same county and state officials as were required to approve such plans adopted by a sewer district immediately prior to the effective date of this section and as subsequently may be required.

**NEW SECTION.** **Sec. 314.** The commissioners of any district shall provide for revenues by fixing rates and charges for furnishing sewer and drainage service to those to whom service is available or for providing water, such rates and charges to be fixed as deemed necessary by the commissioners, so that uniform charges will be made for the same class of customer or service. Rates and charges may be combined for the furnishing of more than one type of sewer service, such as but not limited to storm or surface water and sanitary.

In classifying customers of such water, sewer, or drainage system, the board of commissioners may in its discretion consider any or all of the following factors: The difference in cost of service to various customers; the location of the various customers within and without the district; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the service furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful practices; capital contributions made to the system including but not limited to assessments; and any other matters which present a reasonable difference as a ground for distinction. Rates shall be established as deemed proper by the commissioners and as fixed by resolution and shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for efficient and proper operation of the system.

The commissioners shall enforce collection of connection charges, and rates and charges for water supplied against property owners connecting with the system or receiving such water, and for sewer and drainage services charged against property to which and its owners to whom the service is available, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the



charges at times fixed by resolution. The commissioners may provide by resolution that where either connection charges or rates and charges for services supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than the prime lending rate of the district's bank plus four percentage points per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

The district may, at any time after the connection charges or rates and charges for services supplied or available and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located. The court may allow, in addition to the costs and disbursements provided by statute, attorneys' fees, title search and report costs, and expenses as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual or against all of those who are delinquent in one action. The laws and rules of the court shall control as in other civil actions.

In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water or sewer service supplied or available are delinquent for a period of sixty days.

**Sec. 315.** RCW 56.08.012 and 1986 c 278 s 59 are each amended to read as follows:

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including ~~((the))~~ state of Washington ~~((and state))~~ property, shall be subject to rates and charges for storm water control facilities to the same extent as private persons and private property are subject to such rates and charges that are imposed by ~~((sewer))~~ districts pursuant to ~~((RCW 56.08.010 or 56.16.090))~~ section 301 or 314 of this act. In setting ~~((these))~~ those rates and charges, consideration may be ~~((made of))~~ given to in-kind services, such as stream improvements or donation of property.

**Sec. 316.** RCW 57.08.100 and 1991 sp.s. c 30 s 25 are each amended to read as follows:

Subject to chapter 48.62 RCW, a ~~((water))~~ district, by a majority vote of its board of commissioners, may enter into contracts to provide health care services and/or group insurance and/or term life insurance and/or social security insurance for the benefit of its employees and may pay all or any part of the cost thereof. Any two or more ~~((water))~~ districts ~~((or any one or more water districts and one or more sewer districts))~~, by a majority vote of their respective boards of commissioners, may, if deemed expedient, join in the procuring of such health care services and/or group insurance and/or term life insurance, and the board of commissioners of ~~((each))~~ a participating ~~((sewer and/or water))~~ district may by appropriate resolution authorize ~~((their))~~ its respective district to pay all or any portion of the cost thereof.

A ((water)) district with five thousand or more customers providing health, group, or life insurance to its employees may provide its commissioners with the same coverage(~~(- PROVIDED, That))~~. However, the per person amounts for such insurance paid by the district shall not exceed the per person amounts paid by the district for its employees.

**Sec. 317.** RCW 57.08.105 and 1973 c 125 s 7 are each amended to read as follows:

The board of ((water)) commissioners of each ((water)) district may purchase liability insurance with such limits as ((they)) it may deem reasonable for the purpose of protecting ((their)) its officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

**Sec. 318.** RCW 57.08.110 and 1995 c 301 s 76 are each amended to read as follows:

To improve the organization and operation of ((water)) districts, the commissioners of two or more such districts may form an association thereof, for the purpose of securing and disseminating information of value to the members of the association and for the purpose of promoting the more economical and efficient operation of the comprehensive plans of water supply and sewage treatment and disposal in their respective districts. The commissioners of ((water)) districts so associated shall adopt articles of association, select such officers as they may determine, and employ and discharge such agents and employees as shall be deemed convenient to carry out the purposes of the association. ((Water)) District commissioners and employees are authorized to attend meetings of the association. The expenses of ((the)) an association may be paid from the maintenance or general funds of the associated districts in such manner as shall be provided in the articles of association(~~(- PROVIDED, That))~~. However, the aggregate contributions made to ((the)) an association by ((the)) a district in any calendar year shall not exceed the amount ((which)) that would be raised by a levy of two and one-half cents per thousand dollars of assessed value against the taxable property of the district. The financial records of such an association shall be subject to audit by the state auditor.

**Sec. 319.** RCW 57.08.120 and 1991 c 82 s 6 are each amended to read as follows:

A ((water)) district may lease out real property which it owns or in which it has an interest and which is not immediately necessary for its purposes upon such terms as the board of ((water)) commissioners deems proper(~~(- PROVIDED, That))~~. No such lease shall be made until the ((water)) district has first caused notice thereof to be published twice in a newspaper in general circulation in the ((water)) district, the first publication to be at least fifteen days and the second at least seven days prior to the making of such lease(~~(- which))~~. The

notice shall describe the property (~~proposed to be leased out, to whom, for what purpose, and the rental to be charged therefor~~), the lessee, and the lease payments. A hearing shall be held pursuant to the terms of the (~~said~~) notice, at which time any and all persons who may be interested shall have the right to appear and to be heard.

No such lease shall be (~~for a period longer than twenty five years, and each lease of real property shall be~~) made unless secured by a bond conditioned (~~to perform~~) on the performance of the terms of (such) the lease, with surety satisfactory to the commissioners(~~, in a penalty not less than the rental for one-sixth of the term: PROVIDED, That the penalty shall not be less than the rental for one year where the term is one year or more. In a lease, the term of which exceeds five years, and when at the option of the commissioners, it is so stipulated in the lease, the commission shall accept, with surety satisfactory to it;~~) and with a penalty of not less than one-sixth of the term of the lease or for one year's rental, whichever is greater.

No such lease shall be made for a term longer than twenty-five years. In cases involving leases of more than five years, the commissioners may provide for or stipulate to acceptance of a bond conditioned (to perform the terms of the lease for some part of the term, in no event less than five years (unless the remainder of the unexpired term is less than five years, in which case for the full remainder) and in every such case the commissioners shall require of the lessee, another or other like bond to be delivered within two years, and not) on the performance of a part of the term for five years or more whenever it is further provided that the lessee must procure and deliver to the commissioners renewal bonds with like terms and conditions no more than two years prior nor less than one year prior to the expiration of (the period covered by the existing bond, covering an additional part of the term in accordance with the foregoing provisions in respect to the original bond, and so on until the end of the term so that there will always be in force a bond securing the performance of the lease, and the penalty in each bond shall be not less than the rental for one half the period covered thereby, but no) such bond during the entire term of the lease. However, no such bond shall be construed to secure the furnishing of any other bond by the same surety or indemnity company. (However;) The board of commissioners may require a reasonable security deposit in lieu of a bond on leased (~~real~~) property owned by a (~~water~~) district.

The commissioners may accept as surety on any bond required by this section(~~, either~~) an approved surety company (~~or one or more persons satisfactory to the commissioners, or in lieu of such bond may accept a deposit as security of such property or collateral or the giving of such other form of security as may be satisfactory to the commissioners~~), or may accept in lieu thereof a secured interest in property of a value at least twice the amount of the bond required, conditioned further that in the event the commissioners determine that the value of the bond security has become or is about to become impaired, additional security shall be required from the lessee.

The authority granted under this section shall not be exercised by the board of commissioners unless the property is declared by resolution of the board of commissioners to be property for which there is a future need by the district and for the use of which provision is made in the comprehensive plan of the district as the same may be amended from time to time.

**Sec. 320.** RCW 57.08.140 and 1971 ex.s. c 243 s 8 are each amended to read as follows:

The provisions of RCW 57.08.015, 57.08.016, and 57.08.120 (~~and 57.08.130~~) shall have no application as to the sale or conveyance of real or personal property or any interest or right therein by a (~~water~~) district to the county or park and recreation district wherein such property is located for park and recreational purposes, but in (~~such~~) those cases the provisions of RCW 39.33.060 shall govern.

**Sec. 321.** RCW 57.08.017 and 1986 c 244 s 16 are each amended to read as follows:

RCW 57.08.015, 57.08.016, 57.08.050, and 57.08.120(~~and 57.08.130~~) shall not apply to agreements entered into under authority of chapter 70.150 RCW (~~provided~~) if there is compliance with the procurement procedure under RCW 70.150.040.

**Sec. 322.** RCW 57.08.180 and 1995 c 376 s 15 are each amended to read as follows:

It is unlawful and a misdemeanor to make, or cause to be made, or to maintain any connection with any sewer or water system of any (~~water~~) district, or with any sewer or water system which is connected directly or indirectly with any sewer or water system of any (~~water~~) district without having permission from the (~~water~~) district.

**Sec. 323.** RCW 57.08.150 and 1987 c 309 s 4 are each amended 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.

**Sec. 324.** RCW 57.08.160 and 1989 c 421 s 5 are each amended to read as follows:

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the district if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least

costly new water source available to the district to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with the use charge or separately. Loans shall not exceed one hundred twenty months in length.

**Sec. 325.** RCW 57.08.170 and 1991 c 82 s 7 are each amended to read as follows:

A (~~water~~) district may adopt a water conservation plan and emergency water use restrictions. The district may enforce a water conservation plan and emergency water use restrictions by imposing a fine as provided by resolution for failure to comply with any such plan or restrictions. The commissioners may provide by resolution that if a fine for failure to comply with the water conservation plan or emergency water use restrictions is delinquent for a specified period of time, the district shall certify the delinquency to the treasurer of the county in which the real property is located and serve notice of the delinquency on the subscribing water customer who fails to comply, and the fine is then a separate item for inclusion on the bill of the party failing to comply with the water conservation plan or emergency water use restrictions.

**NEW SECTION.** **Sec. 326.** Sections 301, 302, and 314 of this act are each added to chapter 57.08 RCW.

## PART IV - OFFICERS AND ELECTIONS

Sec. 401. RCW 57.12.010 and 1985 c 330 s 6 are each amended to read as follows:

The governing body of a district shall be a board of ~~((water))~~ commissioners consisting of three members, or five members as provided in RCW 57.12.015, or more, as provided in the event of merger or consolidation. The board shall annually elect one of its members as president and another as secretary.

The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose which shall be a public record.

A district shall provide by resolution for the payment of compensation to each of its commissioners at a rate of fifty dollars for each day or portion thereof devoted to the business of the district ~~((~~PROVIDED, That~~)).~~ However the compensation for each commissioner shall not exceed four thousand eight hundred dollars per year. In addition, the secretary may be paid a reasonable sum for clerical services.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during ~~((his or her))~~ the commissioner's term of office, by a written waiver filed with the district ~~((as provided in this section. The waiver, to be effective, must be filed))~~ at any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

No commissioner shall be employed full time by the district. ~~((Each))~~ A commissioner shall be reimbursed for reasonable expenses actually incurred in connection with ~~((such))~~ district business, including ~~((his))~~ subsistence and lodging ~~((;))~~ while away from the commissioner's place of residence and mileage for use of a privately-owned vehicle at the mileage rate authorized in RCW 43.03.060 ~~((as now existing or hereafter amended)).~~

~~((The date for holding elections and taking office as herein provided shall be subject to the provisions of any consolidated election laws that may be made applicable thereto although previously enacted.))~~

Sec. 402. RCW 57.12.015 and 1994 c 223 s 67 are each amended to read as follows:

(1) In the event a three-member board of commissioners of any ~~((water))~~ district with any number of customers determines by resolution that it would be in the best interest of the district to increase the number of commissioners from three to five, or ~~((in the event))~~ if the board of a district with any number of customers is presented with a petition signed by ten percent of the registered voters resident within the district who voted in the last general municipal election calling for an increase in the number of commissioners of the district, the board shall submit a resolution to the county auditor requesting that an

election be held. Upon receipt of the resolution, the county auditor shall call a special election to be held within the ~~((water))~~ district ~~((in accordance with RCW 29.13.010 and 29.13.020))~~, at which election a proposition in substantially the following language shall be submitted to the voters:

Shall the Board of Commissioners of \_\_ (name and/or ~~((No-))~~ number of ~~((water))~~ district) be increased from three to five members?

Yes . . . . .

No . . . . .

If the proposition receives a majority approval at the election the board of commissioners of the ~~((water))~~ district shall be increased to five members.

(2) In any ~~((water))~~ district with more than ten thousand customers, if a three-member board of commissioners determines by resolution that it would be in the best interest of the district to increase the number of commissioners from three to five, the number of commissioners shall be so increased without an election, unless within ninety days of adoption of that resolution a petition requesting an election and signed by at least ten percent of the registered voters who voted in the last ~~((general))~~ municipal general election is filed with the board. If such a petition is received, the board shall submit the resolution and the petition to the county auditor, who shall call a special election in the manner described in this section ~~((and in accordance with the provisions of RCW 29.13.010 and 29.13.020))~~.

(3) The two additional positions created on boards of ~~((water))~~ commissioners by this section shall be filled initially ~~((either))~~ as for a vacancy ~~((or by nomination under RCW 57.12.039))~~, except that the appointees ~~((or newly elected commissioners))~~ shall draw lots, one appointee to serve until the next ~~((general-water))~~ district general election after the appointment, at which two commissioners shall be elected for six-year terms, and the other appointee to serve until the second ~~((general-water))~~ district general election after the appointment, at which two commissioners shall be elected for six-year terms.

Sec. 403. RCW 57.12.030 and 1994 c 223 s 69 are each amended to read as follows:

~~((Water district elections shall be held in accordance with the general election laws of this state.))~~

Except as in this section otherwise provided, the term of office of each ~~((water))~~ district commissioner shall be six years, such term to be computed from the first day of January following the election, and commissioners shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

Three ~~((water))~~ initial district commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such ~~((water))~~ district shall be formed. The election of ~~((water))~~ initial district commissioners shall be null and void if the ballot proposition to form the ~~((water))~~ district is not approved. Each candidate shall run for one of three

separate commissioner positions. A special filing period shall be opened as provided in RCW 29.15.170 and 29.15.180. The person receiving the greatest number of votes for each position shall be elected to that position.

The (~~newly-elected-water~~) initial district commissioners shall assume office immediately when they are elected and qualified. Staggering of the terms of office for the (~~new-water~~) initial district commissioners shall be accomplished as follows: (1) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (2) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (3) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The terms of office shall be calculated from the first day of January after the election.

Thereafter, commissioners shall be elected to six-year terms of office. Commissioners shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

**Sec. 404.** RCW 57.12.039 and 1994 c 223 s 70 are each amended to read as follows:

(1) Notwithstanding RCW 57.12.020 and 57.12.030, the board of commissioners may provide by majority vote that subsequent commissioners be elected from commissioner districts within the district. If the board exercises this option, it shall divide the district into three, or five if the number of commissioners has been increased under RCW 57.12.015, commissioner districts of approximately equal population following current precinct and district boundaries.

(2) Commissioner districts shall be used as follows: (a) Only a registered voter who resides in a commissioner district may be a candidate for, or serve as, a commissioner of the commissioner district; and (b) only voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district. Voters of the entire (~~water~~) district may vote at a general election to elect a person as a commissioner of the commissioner district. Commissioner districts shall be redrawn as provided in chapter 29.70 RCW.

(3) In (~~water~~) districts in which commissioners are nominated from commissioner districts, at the inception of a five-member board of commissioners, the new commissioner districts shall be numbered one through five and the three incumbent commissioners shall represent commissioner districts one through three. If, as a result of redrawing the district boundaries two or three of the incumbent commissioners reside in one of the new commissioner districts, the commissioners who reside in the same commissioner district shall determine



by lot which of the first three numbered commissioner districts they shall represent for the remainder of their respective terms. A primary shall be held to nominate candidates from districts four and five where necessary and commissioners shall be elected at large at the general election. The persons elected as commissioners from commissioner districts four and five shall take office immediately after qualification as defined under RCW 29.01.135.

**Sec. 405.** RCW 57.12.020 and 1994 c 223 s 68 are each amended to read as follows:

A vacancy on the board shall occur and shall be filled as provided in chapter 42.12 RCW. In addition, if a commissioner is absent from three consecutive scheduled meetings unless by permission of the board, the office may be declared vacant. However, such an action shall not be taken unless the commissioner is notified by mail after two consecutive unexcused absences that the position will be declared vacant if the commissioner is absent without being excused from the next regularly scheduled meeting.

#### PART V - COMPREHENSIVE PLANS

**Sec. 501.** RCW 57.16.010 and 1990 1st ex.s. c 17 s 35 are each amended to read as follows:

~~((The water district commissioners))~~ Before ordering any improvements ~~((hereunder))~~ or submitting to vote any proposition for incurring any indebtedness, the district commissioners shall adopt a general comprehensive plan ~~((of water supply for the district. They))~~ for the type or types of facilities the district proposes to provide. A district may prepare a separate general comprehensive plan for each of these services and other services that districts are permitted to provide, or the district may combine any or all of its comprehensive plans into a single general comprehensive plan.

(1) For a general comprehensive plan of a water supply system, the commissioners shall investigate the several portions and sections of the district for the purpose of determining the present and reasonably foreseeable future needs thereof; shall examine and investigate, determine, and select a water supply or water supplies for such district suitable and adequate for present and reasonably foreseeable future needs thereof; and shall consider and determine a general system or plan for acquiring such water supply or water supplies ~~((;))~~ and the lands, waters, and water rights and easements necessary therefor, and for retaining and storing any such waters, and erecting dams, reservoirs, aqueducts, and pipe lines to convey the same throughout such district. There may be included as part of the system the installation of fire hydrants at suitable places throughout the district ~~((, and the purchase and maintenance of necessary fire fighting equipment and apparatus, together with facilities for housing same)).~~ The ~~((water district))~~ commissioners shall determine a general comprehensive plan for distributing such water throughout such portion of the district as may then reasonably be served by means of subsidiary aqueducts and pipe lines, and a long-term plan for financing the planned projects and the

~~method of distributing the cost and expense thereof ((against such water district and against local improvement districts or utility local improvement districts within such water district for any lawful purpose, and)), including ((any such)) the creation of local improvement districts or utility local improvement districts ((lying wholly or partially within the limits of any city or town in such district)), and shall determine whether the whole or part of the cost and expenses shall be paid from ((water)) revenue or general obligation bonds. ((After July 23, 1989, when the district adopts a general comprehensive plan or plans for an area annexed as provided for in RCW 57.16.010, the district shall include a long-term plan for financing the planned projects. The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out their duties.~~

—The) (2) For a general comprehensive plan for a sewer system, the commissioners shall investigate all portions and sections of the district and select a general comprehensive plan for a sewer system for the district suitable and adequate for present and reasonably foreseeable future needs thereof. The general comprehensive plan shall provide for treatment plants and other methods for the disposal of sewage and industrial and other liquid wastes now produced or which may reasonably be expected to be produced within the district and shall, for such portions of the district as may then reasonably be served, provide for the acquisition or construction and installation of laterals, trunk sewers, intercepting sewers, syphons, pumping stations or other sewage collection facilities, septic tanks, septic tank systems or drainfields, and systems for the transmission and treatment of wastewater. The general comprehensive plan shall provide a long-term plan for financing the planned projects and the method of distributing the cost and expense of the sewer system, including the creation of local improvement districts or utility local improvement districts; and provide whether the whole or some part of the cost and expenses shall be paid from revenue or general obligation bonds.

(3) For a general comprehensive plan for a drainage system, the commissioners shall investigate all portions and sections of the district and adopt a general comprehensive plan for a drainage system for the district suitable and adequate for present and future needs thereof. The general comprehensive plan shall provide for a system to collect, treat, and dispose of storm water or surface waters, including use of natural systems and the construction or provision of culverts, storm water pipes, ponds, and other systems. The general comprehensive plan shall provide for a long-term plan for financing the planned projects and provide for a method of distributing the cost and expense of the drainage system, including local improvement districts or utility local improvement districts, and provide whether the whole or some part of the cost and expenses shall be paid from revenue or general obligation bonds.

(4) For a general comprehensive plan for street lighting, the commissioners shall investigate all portions and sections of the district and adopt a general comprehensive plan for street lighting for the district suitable and adequate for

present and future needs thereof. The general comprehensive plan shall provide for a system or systems of street lighting, provide for a long-term plan for financing the planned projects, and provide for a method of distributing the cost and expense of the street lighting system, including local improvement districts or utility local improvement districts, and provide whether the whole or some part of the cost and expenses shall be paid from revenue or general obligation bonds.

(5) The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out their duties.

(6) Any general comprehensive plan or plans shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health, except that a comprehensive plan relating to street lighting shall not be submitted to or approved by the director of health. The general comprehensive plan shall be approved, conditionally approved, or rejected by the director of health ~~((within sixty days of the plan's receipt))~~ and by the designated engineer within sixty days of ~~((the plan's receipt))~~ their respective receipt of the plan. However, this sixty-day time limitation may be extended by the director of health or engineer for up to an additional sixty days if sufficient time is not available to review adequately the general comprehensive plans.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the ~~((water))~~ district lies. The general comprehensive plan shall be approved, conditionally approved, or rejected by each of ~~((these))~~ the county legislative authorities pursuant to the criteria in RCW 57.02.040 for approving the formation, reorganization, annexation, consolidation, or merger of ~~((water))~~ districts~~((, and))~~. The resolution, ordinance, or motion of the legislative body ~~((which))~~ that rejects the comprehensive plan or a part thereof shall specifically state in what particular the comprehensive plan or part thereof rejected fails to meet these criteria. The general comprehensive plan shall not provide for the extension or location of facilities that are inconsistent with the requirements of RCW 36.70A.110. Nothing in this chapter shall preclude a county from rejecting a proposed plan because it is in conflict with the criteria in RCW 57.02.040. Each general comprehensive plan shall be deemed approved if the county legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the county legislative authority or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority. However, a county legislative authority may extend this ninety-day time limitation by up to an additional ninety days where a finding is made that ninety days is insufficient to review adequately the general comprehensive plan. In addition, the ~~((water))~~ commissioners and the county

legislative authority may mutually agree to an extension of the deadlines in this section.

If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the ~~((governing bodies of such))~~ legislative authorities of the cities and towns before becoming effective. The general comprehensive plan shall be deemed approved by the city or town ~~((governing body))~~ legislative authority if the city or town ~~((governing body))~~ legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the city or town or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority. However, a city or town ~~((governing body))~~ legislative authority may extend this time limitation by up to an additional ninety days where a finding is made that insufficient time exists to adequately review the general comprehensive plan within these time limitations. In addition, the ~~((sewer-water))~~ commissioners and the city or town ~~((governing body))~~ legislative authority may mutually agree to an extension of the deadlines in this section.

Before becoming effective, the general comprehensive plan shall be approved by any state agency whose approval may be required by applicable law. Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan ~~((: PROVIDED, That))~~. However, only if the amendment, alteration, or addition affects a particular city or town, shall the amendment, alteration, or addition be subject to approval by such particular city or town governing body.

**Sec. 502.** RCW 56.08.030 and 1953 c 250 s 5 are each amended to read as follows:

No expenditure for carrying on any part of ~~((such))~~ a general comprehensive plan shall be made other than the necessary salaries of engineers, clerical, ~~((and))~~ office expenses, and other professional expenses of the district, and the cost of engineering, surveying, preparation, and collection of data necessary for making and adopting a general plan of improvements in the district, until the general comprehensive plan of improvements has been adopted by the commissioners and approved as provided in RCW ~~((56.08.020))~~ 57.16.010.

**NEW SECTION. Sec. 503.** A new section is added to Title 57 RCW to read as follows:

Whenever an area has been annexed to a district after the adoption of a general comprehensive plan, the commissioners shall adopt by resolution a plan for additions and betterments to the original comprehensive plan to provide for the needs of the area annexed.

**Sec. 504.** RCW 57.16.140 and 1982 c 213 s 4 are each amended to read as follows:

The construction of or existence of sewer capacity or water supply (~~capacity~~) in excess of the needs of the density allowed by zoning shall not be grounds for any legal challenge to any zoning decision by the county.

### PART VI - IMPROVEMENT DISTRICTS

Sec. 601. RCW 57.16.050 and 1987 c 169 s 2 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~~) and allow annual installments on the special assessments, together with interest thereon, 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 special assessments. (~~Such~~) The 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 the issuance of bonds shall be as provided for the levying, collection, and enforcement of special assessments and the issuance of local improvement district bonds by cities and towns insofar as is consistent (~~herewith~~) with this title. 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~~) (2) A district may establish a utility local improvement district, in lieu of a local improvement district, if the petition or resolution for (~~the establishment of a~~) establishing the local improvement district, and (~~it~~) the approved comprehensive plan or approved amendment thereto or plan providing for additions and betterments to the original plan, previously adopted, (~~it is provided~~) provides that, except as set forth in this section, the special assessments shall be for the (~~sole~~) purpose of payment of improvements and 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. Revenue bonds shall be issued using the procedures by which cities and towns issue revenue bonds, insofar as is consistent with this title.

(~~(2)~~) Such revenue bonds may also be issued and sold in accordance with chapter 39.46 RCW.

Sec. 602. RCW 57.16.060 and 1991 c 190 s 7 are each amended to read as follows:

Local improvement districts or utility local improvement districts to carry out the whole or any portion of the general comprehensive plan of improvements or plan providing for additions and betterments to ~~((the))~~ an original general comprehensive plan previously adopted may be initiated either by resolution of the board of ~~((water))~~ commissioners or by petition signed by the owners according to the records of the office of the applicable county auditor of at least fifty-one percent of the area of the land within the limits of the ~~((local))~~ improvement district to be created.

In case the board of ~~((water))~~ commissioners desires to initiate the formation of ~~((a local improvement district or a utility local))~~ an improvement district by resolution, it first shall ~~((first))~~ pass a resolution declaring its intention to order ~~((such))~~ the improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed ~~((local improvement district or utility local))~~ improvement district, and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed improvement district, and fixing a date, time, and place for a public hearing on the formation of the proposed ~~((local))~~ improvement district.

In case any such ~~((local improvement district or utility local))~~ improvement district is initiated by petition, ~~((such))~~ the petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered and the fact that the signers thereof are the owners according to the records of the applicable county auditor of at least fifty-one percent of the area of land within the limits of the ~~((local improvement district or utility local))~~ improvement district to be created. Upon the filing of such petition the board shall determine whether the petition is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person may withdraw his or her name from the petition after it has been filed with the board of ~~((water))~~ commissioners. If the board finds the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of the improvement, designating the number of the proposed ~~((local))~~ improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed ~~((local))~~ improvement district, and fixing a date, time, and place for a public hearing on the formation of the proposed ~~((local))~~ improvement district.

Notice of the adoption of the resolution of intention, whether the resolution was adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed ~~((local))~~ improvement district, the date of the first publication to be at least fifteen days prior to the date fixed

by such resolution for hearing before the board of ((water)) commissioners. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed improvement district by mailing the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county ((treasurer)) auditor of the county in which the real property is located at the address shown thereon. Whenever such notices are mailed, the ((water)) commissioners shall maintain a list of ((such)) the reputed property owners, which list shall be kept on file at a location within the ((water)) district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. The notices also shall ((also)) set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, and the date, time, and place of the hearing before the board of ((water)) commissioners. In the case of improvements initiated by resolution, the notice also shall ((also)): (1) State that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of ((water)) commissioners no later than ten days after the public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed improvement district file written protests with the secretary of the board, the power of the ((water)) commissioners to proceed with the creation of the proposed improvement district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the ((water)) district where the names of the property owners within the proposed improvement district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land, or other property.

~~((Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in the plans for the proposed improvement as shall be deemed necessary. The board may not change the boundaries of the district to include property not previously included in it without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time provided in this chapter for the original notice.~~

~~After the hearing and the expiration of the ten day period for filing written protests, the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution. The jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested by protests filed with the secretary of the board no~~

later than ten days after the hearing, signed by the owners, according to the records of the applicable county auditor, of at least forty percent of the area of land within the proposed local district.

~~— If the commissioners find that the district should be formed, they shall by resolution form the district and order the improvement. After execution of the resolution forming the district, the secretary of the board of commissioners shall publish, in a legal publication that serves the area subject to the district, a notice setting forth that a resolution has been passed forming the district and that a lawsuit challenging the jurisdiction or authority of the water district to proceed with the improvement and creating the district must be filed, and notice to the water district served, within thirty days of the publication of the notice. The notice shall set forth the nature of the appeal. Property owners bringing the appeal shall follow the procedures as set forth under appeal under RCW 57.16.090. Whenever a resolution forming a district has been adopted, the formation is conclusive in all things upon all parties, and cannot be contested or questioned in any manner in any proceeding whatsoever by any person not commencing a lawsuit in the manner and within the time provided in this section, except for lawsuits made under RCW 57.16.090.~~

~~— Following an appeal, if it is unsuccessful or if no appeal is made under RCW 57.16.090, the commissioners may proceed with the improvement and provide the general funds of the water district to be applied thereto, adopt detailed plans of the local improvement district or utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the water district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon proceed with the work and file with the county treasurer of the county in which the real property is located its roll levying special assessments in the amount to be paid by special assessment against the property situated within the improvement district in proportion to the special benefits to be derived by the property therein from the improvement.)~~

Sec. 603. RCW 57.16.073 and 1987 c 315 s 6 are each amended to read as follows:

Whenever it is proposed that ((a local improvement district or utility local)) an improvement district finance sanitary sewer 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.

Sec. 604. RCW 57.16.065 and 1989 c 243 s 11 are each amended to read as follows:



~~((Any))~~ Notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of ~~((a local improvement district or utility local))~~ an improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

Sec. 605. RCW 56.20.030 and 1991 c 190 s 3 are each amended to read as follows:

Whether ~~((the))~~ an improvement district is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the ~~((local))~~ improvement district and may make such changes in the boundaries of the improvement district or such modifications in the plans for the proposed improvement as shall be deemed necessary. The board may not change the boundaries of the improvement district to include property not previously included in it without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time provided in this chapter for the original notice.

After the hearing and the expiration of the ten-day period for filing ~~((written))~~ protests, the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement district initiated by petition or resolution. The jurisdiction of the commissioners to proceed with any improvement district initiated by resolution shall be divested~~((--(a)))~~ by protests filed with the secretary of the board ~~((no later than))~~ within ten days after the public hearing, signed by the owners, according to the records of the applicable county auditor, of at least forty percent of the area of land within the proposed ~~((local))~~ improvement district ~~((or (b) by the commissioners not adopting a resolution ordering the improvement at a public hearing held not more than ninety days from the day the resolution of intention was adopted, unless the commissioners file with the county auditor a copy of the notice required by RCW 56.20.020, and in no event at a hearing held more than two years from the day the resolution of intention was adopted))~~.

If the commissioners find that the improvement district should be formed, they shall by resolution form the improvement district and order the improvement. After execution of the resolution forming the improvement district, the secretary of the board of commissioners shall publish, in a legal publication that serves the area subject to the improvement district, a notice setting forth that a resolution has been passed forming the improvement district and that a lawsuit challenging the jurisdiction or authority of the ~~((sewer))~~ district to proceed with the improvement and creating the improvement district must be filed, and notice to the ~~((sewer))~~ district served, within thirty days of the publication of the notice. The notice shall set forth the nature of the appeal. Property owners bringing the appeal shall follow the procedures ~~((as))~~ set forth under ~~((appeal~~

~~under RCW 56.20.080~~) RCW 57.16.090. Whenever a resolution forming ((a)) an improvement district has been adopted, the formation is conclusive in all things upon all parties, and cannot be contested or questioned in any manner in any proceeding whatsoever by any person not commencing a lawsuit in the manner and within the time provided in this section, except for lawsuits made under RCW (~~56.20.080~~) 57.16.090.

Following an appeal, if it is unsuccessful or if no appeal is made under RCW (~~56.20.080~~) 57.16.090, the commissioners may proceed with creating the improvement district, provide the improvement and provide the general funds of the (~~sewer~~) district to be applied thereto, adopt detailed plans of the (~~utility-local~~) improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the (~~sewer~~) district such eminent domain proceedings (~~and supplemental assessment or reassessment proceedings to pay all eminent domain awards~~) as may be necessary to entitle the district to proceed with the (~~work~~) improvements. The board (~~of sewer commissioners~~) shall thereupon proceed with the work and file with the county treasurer of (~~each~~) the county in which the real property is (~~to be assessed~~) located its roll levying special assessments in the amount to be paid by special assessment against the property situated within the (~~local~~) improvement district in proportion to the special benefits to be derived by the property therein from the improvements.

**Sec. 606.** RCW 57.16.070 and 1982 1st ex.s. c 17 s 17 are each amended to read as follows:

Before approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the (~~local~~) improvement district, stating that the roll is on file and open to inspection in the office of the secretary, and fixing the time, not less than fifteen or more than thirty days from the date of the first publication of the notice, within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing will be held by the commissioners on the protests. Notice shall also be given by mailing, at least fifteen days before the hearing, a similar notice to the owners or reputed owners of the land in the (~~local~~) improvement district as they appear on the books of the treasurer of the county in which the real property is located. At the hearing, or any adjournment thereof, the commissioners may correct, change, or modify the roll, or any part thereof, or set aside the roll and order a new assessment, and may then by resolution approve it. If an assessment is raised a new notice similar to the first shall be given, after which final approval of the roll may be made. When property has been entered originally upon the roll and the assessment thereon is not raised, no objection thereto shall be considered by the commissioners or by any court on appeal unless the objection is made in writing at, or prior(~~ly~~) to, the date fixed for the original hearing upon the roll.

Sec. 607. RCW 57.16.080 and 1959 c 18 s 13 are each amended to read as follows:

~~((In the event that))~~ If any portion of the system after its installation is not adequate for the purpose for which it was intended, or ~~((that))~~ if for any reason changes, alterations, or betterments are necessary in any portion of the system after its installation, then ~~((a local))~~ an improvement district with boundaries which may include one or more existing ~~((local))~~ improvement districts may be created in the ~~((water))~~ district in the same manner as is provided herein for the creation of ~~((local))~~ improvement districts~~((; that))~~. Upon the organization of such ~~((a local))~~ an improvement district ~~((as provided for in this paragraph))~~, the plan of the improvement and the payment of the cost of the improvement shall be carried out in the same manner as is provided herein for the carrying out of and the paying for the improvement in the ~~((local))~~ improvement districts previously provided for in this ~~((act))~~ title.

Sec. 608. RCW 57.16.100 and 1929 c 114 s 14 are each amended to read as follows:

(1) Whenever any assessment roll for local improvements shall have been confirmed by the ~~((water district commission of such water district as herein provided))~~ district board of commissioners, the regularity, validity, and correctness of the proceedings relating to ~~((such))~~ the improvements, and to the assessment therefor, including the action of the ~~((water))~~ district ~~((commission))~~ commissioners upon ~~((such))~~ the assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll in the manner and within the time provided in this ~~((act))~~ chapter, and not appealing from the action of the ~~((water district commission))~~ commissioners in confirming such assessment roll in the manner and within the time in this ~~((act))~~ chapter provided. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment, or the sale of ~~((any))~~ property to pay such assessment, or any certificate of delinquency issued therefor, or the foreclosure of any lien issued therefor~~((; PROVIDED, That))~~. However, this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds ~~((+))~~ (a) that the property about to be sold does not appear upon the assessment roll, or ~~((2))~~ (b) that ~~((said))~~ the assessment had been paid.

(2) This section also shall not prohibit the correction of clerical errors and errors in the computation of assessments in assessment rolls by the following procedure:

(a) The board of commissioners may file a petition with the superior court of the county wherein the real property is located, asking that the court enter an order correcting such errors and directing that the county treasurer pay a portion or all of the incorrect assessment by the transfer of funds from the district's maintenance fund, if such relief be necessary.

(b) Upon the filing of the petition, the court shall set a date for hearing and upon the hearing may enter an order as provided in (a) of this subsection. However, neither the correcting order nor the corrected assessment roll shall result in an increased assessment to the property owner.

Sec. 609. RCW 57.16.090 and 1991 c 190 s 8 are each amended to read as follows:

The decision of the ~~((water))~~ district ~~((commission))~~ board of commissioners upon any objections made within the time and in the manner herein prescribed~~((;))~~ may be reviewed by the superior court upon an appeal thereto taken in the following manner. ~~((Such))~~ The appeal shall be made by filing written notice of appeal with the secretary of ~~((said water district commission))~~ the board of commissioners and with the clerk of the superior court in the county in which the real property is situated within ten days after publication of a notice that the resolution confirming such assessment roll has been adopted, and such notice of appeal shall describe the property and set forth the objections of such appellant to such assessment~~((; and))~~. Within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of the court~~((;))~~ a transcript consisting of the assessment roll and the appellant's objections thereto, together with the resolution confirming ~~((such))~~ the assessment roll and the record of the ~~((water))~~ district ~~((commission))~~ commissioners with reference to the assessment~~((, which))~~. The transcript, upon payment of the necessary fees therefor, shall be furnished by the secretary of the ~~((water district commission))~~ board of commissioners and shall be certified by the secretary to contain full, true, and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court, the appellant shall file a sufficient bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of ~~((said))~~ the court, conditioned to prosecute such appeal without delay, and if unsuccessful to pay all costs to which the ~~((water))~~ district is put by reason of such appeal. The court may order the appellant, upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, the appellant shall give written notice to the secretary of ~~((such water))~~ the district~~((;))~~ that such transcript is filed. The notice shall state a time, not less than three days from the service thereof, when the appellant will call up the cause for hearing~~((; and))~~. The superior court shall, at ~~((said))~~ such time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury~~((; and such cause))~~. The appeal shall have preference over all civil causes pending in the court, except ~~((proceedings under an act relating to))~~ eminent domain proceedings and actions of forcible entry and detainer. The judgment of the court shall confirm, unless the court shall find

from the evidence that such assessment is either founded upon ~~((the))~~ a fundamentally wrong basis or a decision of the ~~((council or other legislative body))~~ board of commissioners thereon was arbitrary or capricious, or both~~((;))~~, in which event the judgment of the court shall correct, modify, or annul the assessment insofar as ~~((the same))~~ it affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, who shall modify and correct ~~((such))~~ the assessment roll in accordance with such decision. Appellate review of the judgment of the superior court may be sought as in other civil cases. However, the ~~((review))~~ appeal must be sought within fifteen days after the date of the entry of the judgment of such superior court. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of ~~((such))~~ the assessment roll, who shall thereupon modify and correct ~~((such))~~ the assessment roll in accordance with ~~((such))~~ the decision.

**Sec. 610.** RCW 57.16.110 and 1982 1st ex.s. c 17 s 19 are each amended to read as follows:

Whenever any land against which there has been levied any special assessment by any ~~((water))~~ district shall have been sold in part or subdivided, the board of ~~((water))~~ commissioners of ~~((such))~~ the district shall have the power to order a segregation of the assessment.

Any person desiring to have ~~((such))~~ a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of commissioners of the ~~((water))~~ district ~~((which))~~ that levied the assessment. If the ~~((water))~~ commissioners determine that a segregation should be made, they shall by resolution order the treasurer of the county in which the real property is located to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract~~((;))~~ and the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the treasurer of the county in which the real property is located who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to ~~((such))~~ the charge the board of ~~((water))~~ commissioners may require as a condition to the order of segregation that the person seeking it pay the district the reasonable engineering and clerical costs incident to making the segregation.

**Sec. 611.** RCW 57.16.150 and 1987 c 449 s 16 are each amended to read as follows:

Judgments foreclosing (~~local improvement~~) special assessments pursuant to RCW 35.50.260 may also allow to (~~water~~) districts, in addition to delinquent installments, interest, penalties, and costs, such attorneys' fees as the court may adjudge reasonable.

### PART VII - FINANCES

Sec. 701. RCW 57.16.020 and 1984 c 186 s 51 are each amended to read as follows:

The commissioners may submit to the voters of the district at any general or special election, a proposition that the district incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional (~~and/or statutory~~) tax limitation(~~s~~) for the construction of any part or all of the improvements described in its general comprehensive plan or plans. Elections shall be held as provided in RCW 39.36.050. The proposition authorizing both the bond issue and imposition of excess bond retirement levies (~~shall~~) must be adopted by three-fifths of the voters voting thereon, at which election the total number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in the (~~water~~) district at the last preceding general election. (~~Such~~) The bonds shall not be issued to run for a period longer than (~~twenty~~) thirty years from the date of the issue. (~~Such~~) The bonds shall be issued and sold in accordance with chapter 39.46 RCW. (~~When the general comprehensive plan has been adopted the commissioners shall carry it out to the extent specified in the proposition to incur general indebtedness.~~)

Whenever the proposition to issue general obligation bonds and impose such excess bond retirement levies has been approved, there shall be levied by the officers or governing body charged with the duty of levying taxes, annual levies in excess of the constitutional tax limitation sufficient to meet the annual or semiannual payments of principal and interest on the bonds upon all taxable property within the district.

Sec. 702. RCW 57.20.015 and 1984 c 186 s 54 are each amended to read as follows:

(1) The board of (~~water~~) commissioners of any (~~water~~) district may by resolution, without submitting the matter to the voters of the district, provide for the issuance of refunding general obligation bonds to refund any outstanding general obligation bonds, or any part thereof, at maturity thereof, or before the maturity thereof if they are subject to call for prior redemption or all of the owners thereof consent thereto. Refunding bonds may be combined with an issue of bonds for other district purposes, as long as those other bonds are approved in accordance with applicable law.

(2) The total cost to the district over the life of the refunding bonds or refunding portion of an issue of bonds shall not exceed the total cost to the district which the district would have incurred but for such refunding over the remainder of the life of the bonds to be refunded thereby.

(3) The refunding bonds may be exchanged for the bonds to be refunded thereby, or may be sold in such manner as the board of ~~((water))~~ commissioners deems to be for the best interest of the district, and the proceeds of such sale used exclusively for the purpose of paying, retiring, and canceling the bonds to be refunded and interest thereon. Such bonds may be of any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

~~((4) The provisions of RCW 57.20.010, concerning the issuance and sale of general obligation bonds and providing for annual tax levies in excess of the constitutional and/or statutory tax limitations shall apply to the refunding general obligation bonds issued under this section.))~~

Sec. 703. RCW 57.16.030 and 1987 c 449 s 14 are each amended to read as follows:

(1) The commissioners may, without submitting a proposition to the voters, authorize by resolution the district to issue revenue bonds for the construction costs, interest during the period of construction and six months thereafter, working capital or other costs of the improvements described in any part or all of ~~((the))~~ a general comprehensive plan or plans, or for other purposes or functions of a ~~((water))~~ district authorized by statute. The amount of the bonds to be issued shall be included in the resolution ~~((submitted))~~.

(2) Any resolution authorizing the issuance of revenue bonds may include provision for refunding any local improvement district bonds of a district, out of the proceeds of sale of revenue bonds, and a district may pay off any outstanding local improvement bonds with such funds either by purchase in the open market below their par value and accrued interest or by call at par value and accrued interest at the next succeeding interest payment date. The bonds may be in any form, including bearer bonds or registered bonds as provided by RCW 39.46.030.

~~((When a resolution authorizing revenue bonds has been adopted the commissioners may forthwith carry out the general comprehensive plan to the extent specified.))~~

~~((2))~~ (3) Notwithstanding subsection (1) of this section, ~~((such))~~ district revenue bonds may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 704. RCW 57.16.035 and 1977 ex.s. c 299 s 5 are each amended to read as follows:

Whenever a ~~((water))~~ district shall have adopted a general comprehensive plan and bonds to defray the cost thereof shall have been authorized by resolution of the board of ~~((water))~~ commissioners, and before the completion of the improvements the board of ~~((water))~~ commissioners shall find by resolution that the authorized bonds are not sufficient to defray the cost of such improvements due to the increase of costs of construction subsequent to the adoption of ~~((said))~~ the plan, the board of ~~((water))~~ commissioners may by resolution authorize the issuance and sale of additional ~~((water))~~ revenue bonds for such purpose in excess of those previously issued.

Sec. 705. RCW 57.16.040 and 1984 c 186 s 52 are each amended to read as follows:

In the same manner as provided for the adoption of ~~((the))~~ an original general comprehensive plan, a plan providing for additions and betterments to the original general comprehensive plan may be adopted. Without limiting its generality "additions and betterments" shall include any necessary change in, amendment of, or addition to the general comprehensive plan.

The district may incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional ~~((and/or statutory))~~ tax limitation~~((s))~~ for the construction of the additions and betterments in the same way that general indebtedness may be incurred for the construction of the original general comprehensive plan after submission to the voters of the entire district in the manner the original proposition to incur indebtedness was submitted as provided in RCW 57.16.020 (as recodified by this act). Upon ratification the additions and betterments may be carried out by the commissioners to the extent specified or referred to in the proposition to incur the general indebtedness.

The district may issue revenue bonds to pay for the construction of the additions and the betterments pursuant to resolution of the board of ~~((water))~~ commissioners.

Sec. 706. RCW 57.20.020 and 1991 c 347 s 20 are each amended to read as follows:

(1) ~~((Whenever any issue or issues of water revenue bonds have been authorized in compliance with the provisions of RCW 57.16.010 through 57.16.040, said bonds shall be in bearer form or registered as to principal or interest or both, as provided in RCW 39.46.030, and may provide for conversion between registered and coupon bonds; shall be in such denominations, shall be numbered, shall bear such date, and shall be payable at such time or times up to a maximum period of not to exceed thirty years as shall be determined by the board of water commissioners of the district; shall bear interest at such rate or rates payable at such time or times as authorized by the board; shall be payable at the office of the county treasurer of the county in which the water district is located and may also be payable at such other place or places as the board of water commissioners may determine; shall be executed by the president of the board of water commissioners and attested and sealed by the secretary thereof, one of which signatures may, with the written permission of the signator whose facsimile signature is being used, be a facsimile; and may have facsimile signatures of said president or secretary imprinted on any interest coupons in lieu of original signatures.))~~

The ~~((water district))~~ commissioners shall have power and are required to create a special fund or funds for the sole purpose of paying the interest and principal of ~~((such))~~ revenue bonds into which special fund or funds the ~~((said water district))~~ commissioners shall obligate and bind the ~~((water))~~ district to set aside and pay a fixed proportion of the gross revenues of the water supply.



sewer, or drainage system or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount or amounts without regard to any fixed proportion, and such bonds and the interest thereof shall be payable only out of such special fund or funds, ~~((but))~~ and shall be a lien and charge against all revenues and payments received from any utility local improvement district or districts pledged to secure such bonds, subject only to operating and maintenance expenses.

In creating any such special fund or funds the ~~((water district))~~ commissioners ~~((of such water district))~~ shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not set aside into such special fund a greater amount or proportion of the revenue and proceeds than in their judgment will be available over and above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Any such bonds and interest thereon issued against any such fund as ~~((herein))~~ provided in this section shall be a valid claim of the owner thereof only as against the ~~((said))~~ special fund and its fixed proportion or amount of the revenue pledged to such fund, and shall not constitute an indebtedness of ~~((such water))~~ the district within the meaning of the constitutional provisions and limitations. Each such bond shall state upon its face that it is payable from a special fund, naming the ~~((said))~~ fund and the resolution creating it. ~~((Said))~~ Such bonds shall be sold in such manner, at such price, and at such rate or rates of interest as the ~~((water district))~~ commissioners shall deem for the best interests of the ~~((water))~~ district, either at public or private sale, and the ~~((said))~~ commissioners may provide in any contract for the construction and acquirement of the proposed improvement (and for the refunding of outstanding local improvement district obligations, if any) that payment therefor shall be made in such bonds at par value thereof.

When any such special fund shall have been heretofore or shall be hereafter created and any such bonds shall have been heretofore or shall hereafter be issued against the same a fixed proportion or a fixed amount out of and not to exceed such fixed proportion, or a fixed amount or amounts without regard to any fixed proportion, of revenue shall be set aside and paid into ~~((said))~~ the special fund as provided in the resolution creating such fund or authorizing such bonds ~~((, and))~~. In case any ~~((water))~~ district shall fail thus to set aside and pay ~~((said))~~ the fixed proportion or amount ~~((as aforesaid))~~, the owner of any bond payable from such special fund may bring suit or action against the ~~((water))~~ district and compel such setting aside and payment.

~~(2) ((Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.~~

~~(3) The water district commissioners of any water district, in the event that such water revenue bonds are issued, shall provide for revenues by fixing rates and charges for the furnishing of water supply to those receiving such service,~~

~~such rates and charges to be fixed as deemed necessary by such water district commissioners, so that uniform charges will be made for the same class of customer or service.~~

~~— In classifying customers served or service furnished by such water supply system, the board of water commissioners may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; the location of the various customers within and without the district; the difference in cost of maintenance, operation, repair and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the water furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful practices; capital contributions made to the system including but not limited to assessments; and any other matters which present a reasonable difference as a ground for distinction. Such rates shall be made on a monthly basis as may be deemed proper by such commissioners and as fixed by resolution and shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements and all other charges necessary for efficient and proper operation of the system.)) Revenue bonds payable from a special fund may be issued and sold in accordance with chapter 39.46 RCW.~~

Sec. 707. RCW 57.20.023 and 1959 c 108 s 12 are each amended to read as follows:

The board of ((water)) commissioners may make such covenants as it may deem necessary to secure and guarantee the payment of the principal of and interest on ((water)) revenue bonds of the district, including but not being limited to covenants for the establishment and maintenance of adequate reserves to secure or guarantee the payment of such principal and interest; the protection and disposition of the proceeds of sale of such bonds; the use and disposition of the gross revenues of the water supply system, sewer system, or drainage system of the district and any additions or betterments thereto or extensions thereof; the use and disposition of any utility local improvement district assessments; the creation and maintenance of funds for renewals and replacements of the system; the establishment and maintenance of rates and charges adequate to pay principal and interest of such bonds and to maintain adequate coverage over debt service; the maintenance, operation and management of the system and the accounting, insuring and auditing of the business in connection therewith; the terms upon which such bonds or any of them may be redeemed at the election of the district; limitations upon the right of the district to dispose of its system or any part thereof; the appointment of trustees, depositaries and paying agents to receive, hold, disburse, invest and reinvest all or any part of the proceeds of sale of the bonds and all or any part of the income, revenue and receipts of the district, and the ((board of water)) commissioners may make such other covenants as it may deem necessary to accomplish the most advantageous sale of such bonds. The board of ((water))

commissioners may also provide that revenue bonds payable out of the same source or sources may later be issued on a parity with any revenue bonds being issued and sold.

**Sec. 708.** RCW 57.20.025 and 1977 ex.s. c 299 s 8 are each amended to read as follows:

The board of ~~((water))~~ commissioners of any ~~((water))~~ district may by resolution provide for the issuance of refunding revenue bonds to refund outstanding general obligation bonds and/or revenue bonds, or any part thereof, and/or all outstanding local improvement district bonds, at maturity thereof, or before maturity thereof if they are subject to call for prior redemption or all of the holders thereof consent thereto. The total interest cost to the district over the life of the refunding bonds shall not exceed the total cost to the district which the district would have incurred but for such refunding over the remainder of the life of the bonds to be refunded thereby. The refunding bonds may be exchanged for the bonds to be refunded thereby, or may be sold in such manner as the board of ~~((water))~~ commissioners deems to be for the best interest of the district, and the proceeds used, except as hereinafter provided, exclusively for the purpose of paying, retiring, and canceling the bonds to be refunded and interest thereon.

All unpaid utility local improvement district assessments payable into the revenue bond redemption fund established for payment of the bonds to be refunded shall thereafter when collected be paid into the revenue bond redemption fund established for payment of the refunding revenue bonds.

Whenever local improvement district bonds have been refunded as provided by RCW 57.16.030 ~~((as now or hereafter amended))~~ (as recodified by this act), or pursuant to this section, all local improvement district assessments remaining unpaid shall thereafter when collected be paid into the revenue bond redemption fund established for payment of the refunding revenue bonds, and the cash balance, if any, in the local improvement guaranty fund of the district and the proceeds received from any other assets owned by such fund shall be used in whole or in part as a reserve fund for the refunding revenue bonds or be transferred in whole or in part to any other funds of the district as the board of ~~((water))~~ commissioners may determine. ~~((In the event that))~~ If any warrants are outstanding against the local improvement guaranty fund of the district at the time of the issuance of such refunding revenue bonds, ~~((said))~~ the bonds shall be issued in an amount sufficient also to fund and pay such outstanding warrants.

The provisions of RCW 57.20.020 shall apply to the refunding revenue bonds issued under this title.

**Sec. 709.** RCW 57.20.027 and 1975 1st ex.s. c 25 s 5 are each amended to read as follows:

~~((Water))~~ Districts may also issue revenue warrants and revenue bond anticipation warrants for the same purposes for which such districts may issue

revenue bonds. The provisions of this chapter relating to the authorization, terms, conditions, covenants, issuance and sale of revenue bonds (exclusive of provisions relating to refunding) shall be applicable to such warrants. ~~((Water))~~ Districts issuing revenue bond anticipation warrants may make covenants relative to the issuance of revenue bonds to provide funds for the redemption of part or all of such warrants and may contract for the sale of such bonds and warrants.

**Sec. 710.** RCW 57.20.030 and 1982 1st ex.s. c 17 s 20 are each amended to read as follows:

Every ~~((water))~~ district in the state is ~~((hereby))~~ authorized to create a fund for the purpose of guaranteeing, to the extent of such fund, and in the manner hereinafter provided, the payment of all of its local improvement bonds issued ~~((subsequent to June 9, 1937,))~~ to pay for any local improvement within its confines. Such fund shall be designated "Local Improvement Guaranty Fund ~~((of the ". . . . Water-Sewer District," ". . . . Water District," ". . . . Sewer District," or ". . . . District No. . . . .,"~~ and shall be established by resolution of the board of ~~((water))~~ commissioners. For the purpose of maintaining such fund, every ~~((water))~~ district, after the establishment thereof, shall at all times set aside and pay into such a fund such proportion of the monthly gross revenues of the water supply, sewer, or drainage system of such ~~((water))~~ district as the commissioners thereof may direct by resolution. This proportion may be varied from time to time as the commissioners deem expedient or necessary ~~((:—PROVIDED, HOWEVER, That)).~~ However, under the existence of the conditions set forth in subsections (1) and (2) ~~((next hereunder))~~ of this section, then the proportion must be as ~~((therein))~~ specified ~~((,—to wit))~~ in subsections (1) and (2) of this section:

(1) Whenever any bonds of any local improvement district have been guaranteed under this ~~((aet))~~ section and RCW 57.20.080 and 57.20.090 and the guaranty fund does not have a cash balance equal to twenty percent of all bonds originally guaranteed under this ~~((aet,))~~ section and RCW 57.20.080 and 57.20.090 (excluding issues which have been retired in full), then twenty percent of the gross monthly revenues derived from ~~((aH))~~ water ~~((users)),~~ sewer, and drainage systems in the territory included in ~~((said))~~ the local improvement district (but not necessarily from users in other parts of the ~~((water))~~ district as a whole) shall be set aside and paid into the guaranty fund ~~((:—PROVIDED, HOWEVER)),~~ except that whenever ~~((,))~~ under the requirements of this subsection, ~~((said))~~ the cash balance accumulates so that it is equal to twenty percent of all bonds guaranteed, or to the full amount of all bonds guaranteed, outstanding and unpaid (which amount might be less than twenty percent of the original total guaranteed), then no further money ~~((s))~~ need be set aside and paid into ~~((said))~~ the guaranty fund so long as ~~((said))~~ the condition shall continue.

(2) Whenever any warrants issued against the guaranty fund, as ~~((hereinbelow))~~ provided in this section, remain outstanding and uncalled for lack of funds for six months from the date of issuance thereof; or whenever any coupons or bonds guaranteed under this ~~((aet))~~ section and RCW 57.20.080 and 57.20.090

have been matured for six months and have not been redeemed either in cash or by issuance and delivery of warrants upon the guaranty fund, then twenty percent of the gross monthly revenues (or such portion thereof as the commissioners of the ~~((water))~~ district determine will be sufficient to retire ~~((said))~~ the warrants or redeem ~~((said))~~ the coupons or bonds in the ensuing six months) derived from all water, sewer, and drainage system users in the ~~((water))~~ district shall be set aside and paid into the guaranty fund(~~(=~~ ~~PROVIDED, HOWEVER, That)~~ However, whenever under the requirements of this subsection all warrants, coupons, or bonds specified in this subsection ~~((above))~~ have been redeemed, no further income needs to be set aside and paid into ~~((said))~~ the guaranty fund under the requirements of this subsection until and unless other warrants remain outstanding and unpaid for six months or other coupons or bonds default.

(3) For the purposes of complying with the requirements of setting aside and paying into the local improvement guaranty fund a proportion of the monthly gross revenues of the water supply, sewer, or drainage system of any ~~((water))~~ district, as ~~((hereinabove))~~ provided in subsections (1) and (2) of this section, ~~((said-water))~~ that district shall bind and obligate itself to maintain and operate ~~((said))~~ the applicable system and further bind and obligate itself to establish, maintain, and collect such rates for water, sewer, or drainage as will produce gross revenues sufficient to maintain and operate ~~((said-water-supply))~~ that system and to make necessary provision for the local improvement guaranty fund as specified by this section and RCW 57.20.080 and 57.20.090. ~~((And said-water))~~ The district shall alter its rates for water, sewer, and drainage service from time to time and shall vary the same in different portions of its territory to comply with ~~((the-said))~~ those requirements.

(4) Whenever any coupon or bond guaranteed by this ~~((act))~~ section shall mature and there shall not be sufficient funds in the appropriate local improvement district bond redemption fund to pay the same, then the applicable county treasurer shall pay same from the local improvement guaranty fund of the ~~((water))~~ district; if there shall not be sufficient funds in the ~~((said))~~ guaranty fund to pay same, then the same may be paid by issuance and delivery of a warrant upon the local improvement guaranty fund.

(5) Whenever the cash balance in the local improvement guaranty fund is insufficient for the required purposes, warrants drawing interest at a rate determined by the commissioners may be issued by the applicable county auditor, against the ~~((said))~~ fund to meet any liability accrued against it and must be issued upon demand of the holders of any maturing coupons and/or bonds guaranteed by this section, or to pay for any certificates of delinquency for delinquent installments of assessments as provided in subsection (6) of this section. Guaranty fund warrants shall be a first lien in their order of issuance upon the gross revenues set aside and paid into ~~((said))~~ that fund.

(6) Within twenty days after the date of delinquency of any annual installment of assessments levied for the purpose of paying the local improve-

ment bonds of any ~~((water))~~ district guaranteed under the provisions of this ~~((act))~~ section, it shall be mandatory for the county treasurer of the county in which the real property is located to compile a statement of all installments delinquent, together with the amount of accrued interest and penalty appurtenant to each of ~~((said))~~ the installments. Thereupon the applicable county treasurer shall forthwith purchase (for the ~~((water))~~ district) certificates of delinquency for all such delinquent installments. Payment for all such certificates of delinquency shall be made from the local improvement guaranty fund and if there shall not be sufficient money~~((s))~~ in ~~((said))~~ the fund to pay for such certificates of delinquency, the applicable county treasurer shall accept ~~((said))~~ the local improvement guaranty fund warrants in payment therefor. All ~~((such))~~ of those certificates of delinquency shall be issued in the name of the local improvement guaranty fund and all guaranty fund warrants issued in payment therefor shall be issued in the name of the appropriate local improvement district fund. Whenever any market is available and the commissioners of the ~~((water))~~ district so direct, the applicable county treasurer shall sell any certificates of delinquency belonging to the local improvement guaranty fund~~((:—PROVIDED, That))~~. However, any such sale must not be for less than face value thereof plus accrued interest from date of issuance to date of sale.

~~((Such))~~ (7) Certificates of delinquency, as ~~((above))~~ provided in subsection (6) of this section, shall be issued by the county treasurer of the county in which the real property is located, shall bear interest at the rate of ten percent per annum, shall be in each instance for the face value of the delinquent installment, plus accrued interest to date of issuance of certificate of delinquency, plus a penalty of five percent of such face value, and shall set forth:

- (a) Description of property assessed;
- (b) Date installment of assessment became delinquent;
- (c) Name of owner or reputed owner, if known.

~~((Such))~~ The certificates of delinquency may be redeemed by the owner of the property assessed at any time up to two years from the date of foreclosure of such certificate of delinquency. If any such certificate of delinquency ~~((be))~~ is not redeemed on the second occurring first day of January subsequent to its issuance, the county treasurer who issued the certificate of delinquency shall then proceed to foreclose such certificate of delinquency in the manner specified for the foreclosure of the lien of local improvement assessments, pursuant to chapter 35.50 RCW and if no redemption be made within the succeeding two years shall execute and deliver a deed conveying fee simple title to the property described in the foreclosed certificate of delinquency.

**Sec. 711.** RCW 57.20.080 and 1983 c 167 s 165 are each amended to read as follows:

Whenever there shall be paid out of a guaranty fund any sum on account of principal or interest upon a local improvement bond, or on account of purchase of certificates of delinquency, the ~~((water))~~ district, as trustee for the fund, shall be subrogated to all rights of the owner of the bonds, or any interest,

or delinquent assessment installments, so paid; and the proceeds thereof, or of the assessment or assessments underlying the same, shall become a part of the guaranty fund. There shall also be paid into ~~((each))~~ such guaranty fund the interest received from the bank deposits of the fund, as well as any surplus remaining in the local improvement funds guaranteed by the guaranty fund, after the payment of all outstanding bonds payable primarily out of such local improvement funds. As among the several issues of bonds guaranteed by the fund, no preference shall exist, but defaulted bonds and any defaulted interest payments shall be purchased out of the fund in the order of their presentation.

The commissioners of every ~~((water))~~ district ~~((operating under RCW 57.20.030, 57.20.080, and 57.20.090))~~ that establishes a guaranty fund shall prescribe, by resolution, appropriate rules and regulations for the guaranty fund, not inconsistent herewith. So much of the money of a guaranty fund as is necessary and is not required for other purposes under this section and RCW 57.20.030~~((, 57.20.080,))~~ and 57.20.090 may, at the discretion of the commissioners of the ~~((water))~~ district, be used to purchase property at county tax foreclosure sales or from the county after foreclosure in cases where such property is subject to unpaid local improvement assessments securing bonds guaranteed by the guaranty fund and such purchase is deemed necessary for the purpose of protecting the guaranty fund. In such cases the ~~((said))~~ guaranty fund shall be subrogated to all rights of the ~~((water))~~ district. After so acquiring title to real property, the ~~((water))~~ district may lease or resell and convey the same in the same manner that county property is authorized to be leased or resold and for such prices and on such terms as may be determined by resolution of the board of ~~((water))~~ commissioners. Any provision of law to the contrary notwithstanding, all proceeds resulting from such resales shall belong to and be paid into the guaranty fund.

Sec. 712. RCW 57.20.090 and 1983 c 167 s 166 are each amended to read as follows:

The owner of any local improvement bonds guaranteed under the provisions of this section and RCW 57.20.030~~((,))~~ and 57.20.080~~((, and 57.20.090))~~ shall not have any claim therefor against the ~~((water))~~ district by which the same is issued, except for payment from the special assessments made for the improvement for which ~~((said))~~ the local improvement bonds were issued, and except as against the local improvement guaranty fund of ~~((said water))~~ the district; and the ~~((water))~~ district shall not be liable to any owner of such local improvement bond for any loss to the guaranty fund occurring in the lawful operation thereof by the ~~((water))~~ district. The remedy of the owner of a local improvement bond, in case of nonpayment, shall be confined to the enforcement of the assessment and to the guaranty fund. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each local improvement bond guaranteed by this section and RCW 57.20.030~~((,))~~ and 57.20.080~~((, and 57.20.090))~~. The establishment of a local improvement guaranty fund by any

((water)) district shall not be deemed at variance from any comprehensive plan heretofore adopted by ((such-water)) that district.

((In-the-event)) If any local improvement guaranty fund hereunder authorized at any time has a balance therein in cash, and the obligations guaranteed thereby have all been paid off, then such balance shall be transferred to the maintenance fund of the ((water)) district.

**Sec. 713.** RCW 57.20.110 and 1970 ex.s. c 42 s 35 are each amended to read as follows:

~~((Each and every water district that may hereafter be organized pursuant to this act is hereby))~~ A district is authorized and empowered by and through its board of ((water)) commissioners to contract indebtedness for ((water)) its purposes, and the maintenance thereof not exceeding one-half of one percent of the value of the taxable property in ((such-water)) the district, as the term "value of the taxable property" is defined in RCW 39.36.015.

**Sec. 714.** RCW 57.20.120 and 1984 c 186 s 55 are each amended to read as follows:

~~((Each and every water district hereafter to be organized pursuant to this title,))~~ A district may contract indebtedness in excess of the amount named in RCW 57.20.110, but not exceeding in amount, together with existing indebtedness, two and one-half percent of the value of the taxable property in ((said)) that district, as the term "value of the taxable property" is defined in RCW 39.36.015, and impose excess property tax levies to retire the indebtedness whenever three-fifths of the voters voting at ((said)) the election in such ((water)) district assent thereto, at which election the total number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in the ((water)) district at the last preceding general election, at an election to be held in ((said-water)) the district in the manner provided by this title and RCW 39.36.050(~~(: PROVIDED, That all bonds so to be issued shall be subject to the provisions regarding bonds as set out in RCW 57.20.010))~~).

**Sec. 715.** RCW 57.20.130 and 1983 c 167 s 167 are each amended to read as follows:

Any coupons for the payment of interest on ((said)) bonds of any district shall be considered for all purposes as warrants drawn upon the general fund of the ((said-water)) district issuing such bonds, and when presented to the treasurer of the county having custody of the funds of such ((water)) district at maturity, or thereafter, and when so presented, if there are not funds in the treasury to pay the ((said)) coupons, it shall be the duty of the county treasurer to endorse ((said)) the coupons as presented for payment, in the same manner as county warrants are indorsed, and thereafter ((said)) the coupons shall bear interest at the same rate as the bonds to which ((it-was)) they were attached. When there are no funds in the treasury to make interest payments on bonds not having coupons, the overdue interest payment shall continue bearing interest at



the bond rate until it is paid, unless otherwise provided in the proceedings authorizing the sale of the bonds.

**Sec. 716.** RCW 57.20.135 and 1988 c 162 s 11 are each amended to read as follows:

Upon obtaining the approval of the county treasurer, the board of commissioners of a ~~((water))~~ district with more than twenty-five hundred water customers or sewer customers may designate by resolution some other person having experience in financial or fiscal matters as the treasurer of the district. Such a treasurer shall possess all of the powers, responsibilities, and duties of, and shall be subject to the same restrictions as provided by law for, the county treasurer with regard to a ~~((water))~~ district, and the county auditor with regard to ~~((water))~~ district financial matters. Such treasurer shall be bonded for not less than twenty-five thousand dollars. Approval by the county treasurer authorizing such a ~~((water))~~ district to designate its treasurer shall not be arbitrarily or capriciously withheld.

**Sec. 717.** RCW 57.20.140 and 1983 c 57 s 3 are each amended to read as follows:

~~((Unless the board of commissioners of a water district designates a treasurer under RCW 57.20.135, the county))~~ The treasurer designated under RCW 57.20.135 shall create and maintain a separate fund designated as the maintenance fund or general fund of the district into which shall be paid all money received by ~~((him))~~ the treasurer from the collection of taxes other than taxes levied for the payment of general obligation bonds of the district and all revenues of the district other than assessments levied in local improvement districts or utility local improvement districts, and no money shall be disbursed therefrom except upon warrants of the county auditor issued by authority of the commissioners or upon a resolution of the commissioners ordering a transfer to any other fund of the district. The ~~((county))~~ treasurer also shall ~~((also))~~ maintain such other special funds as may be prescribed by the ~~((water))~~ district, into which shall be placed such money~~((s))~~ as the board of ~~((water))~~ commissioners may by its resolution direct, and from which disbursements shall be made upon proper warrants of the county auditor issued against the same by authority of the board of ~~((water))~~ commissioners.

**Sec. 718.** RCW 57.20.150 and 1959 c 108 s 15 are each amended to read as follows:

Whenever a ~~((water))~~ district has accumulated money~~((s))~~ in the maintenance fund or general fund of the district in excess of the requirements of ~~((such))~~ that fund, the board of ~~((water))~~ commissioners may in its discretion use any of ~~((such))~~ that surplus money~~((s))~~ for any of the following purposes: (1) Redemption or servicing of outstanding obligations of the district~~((s))~~; (2) maintenance expenses of the district~~((s))~~; (3) construction or acquisition of any facilities necessary to carry out the purposes of the district; or (4) any other proper district purpose.

Sec. 719. RCW 57.20.160 and 1986 c 294 s 13 are each amended to read as follows:

Whenever there shall have accumulated in any general or special fund of a ((water)) district money((s)), the disbursement of which is not yet due, the board of ((water)) commissioners may, by resolution, authorize the ((county)) treasurer to deposit or invest such money((s)) in qualified public depositories, or to invest such money((s)) in any investment permitted at any time by RCW 36.29.020(~~+~~ PROVIDED, That)). However, the county treasurer may refuse to invest any district money((s)) the disbursement of which will be required during the period of investment to meet outstanding obligations of the district.

Sec. 720. RCW 57.20.165 and 1981 c 24 s 2 are each amended to read as follows:

((Water)) District money((s)) shall be deposited by the district in ((an)) any account, which may be interest-bearing, subject to such requirements and conditions as may be prescribed by the state auditor. The account shall be in the name of the district except((+)) upon request by the treasurer, the accounts shall be in the name of the ". . .(name of county). . . county treasurer." The treasurer may instruct the financial institutions holding the deposits to transfer them to the treasurer at such times as the treasurer may deem appropriate, consistent with regulations governing and policies of the financial institution.

Sec. 721. RCW 57.20.170 and 1959 c 108 s 17 are each amended to read as follows:

The board of ((water)) commissioners of any ((water)) district may, by resolution, authorize and direct a loan or loans from maintenance funds or general funds of the district to construction funds or other funds of the district(~~+~~ PROVIDED, That such)), so long as that loan ((does)) or loans do not, in the opinion of the board of ((water)) commissioners, impair the ability of the district to operate and maintain its water supply, sewer, drainage, or street lighting systems.

#### PART VIII - WATER AND SEWER SYSTEM EXTENSIONS

Sec. 801. RCW 57.22.010 and 1989 c 389 s 11 are each amended to read as follows:

If the ((water)) district approves an extension to the ((water)) system, the district shall contract with owners of real estate located within the district boundaries, at an owner's request, for the purpose of permitting extensions to the district's ((water)) system to be constructed by such owner at such owner's sole cost where such extensions are required as a prerequisite to further property development. The contract shall contain such conditions as the district may require pursuant to the district's adopted policies and standards. The district shall request comprehensive plan approval for such extension, if required, and connection of the extension to the district system is conditioned upon:

- (1) Construction of such extension according to plans and specifications approved by the district;
- (2) Inspection and approval of such extension by the district;
- (3) Transfer to the district of such extension without cost to the district upon acceptance by the district of such extension;
- (4) Payment of all required connection charges to the district;
- (5) Full compliance with the owner's obligations under such contract and with the district's rules and regulations;
- (6) Provision of sufficient security to the district to ensure completion of the extension and other performance under the contract;
- (7) Payment by the owner to the district of all of the district's costs associated with such extension including, but not limited to, the district's engineering, legal, and administrative costs; and
- (8) Verification and approval of all contracts and costs related to such extension.

**Sec. 802.** RCW 57.22.020 and 1989 c 389 s 12 are each amended to read as follows:

The contract shall also provide, subject to the terms and conditions in this section, for the reimbursement to the owner or the owner's assigns for a period not to exceed fifteen years of a portion of the costs of the ((water)) facilities constructed pursuant to such contract from connection charges received by the district from other property owners who subsequently connect to or use the ((water)) facilities within the fifteen-year period and who did not contribute to the original cost of such ((water)) facilities.

**Sec. 803.** RCW 57.22.030 and 1989 c 389 s 13 are each amended to read as follows:

The reimbursement shall be a pro rata share of construction and ((reimbursement-of)) contract administration costs of the ((water)) project. Reimbursement for ((water)) projects shall include, but not be limited to, design, engineering, installation, and restoration.

**Sec. 804.** RCW 57.22.040 and 1989 c 389 s 14 are each amended to read as follows:

The procedures for reimbursement contracts shall be governed by the following:

- (1) A reimbursement area shall be formulated by the board of commissioners within a reasonable time after the acceptance of the extension. The reimbursement shall be based upon a determination by the board of commissioners of which parcels would require similar ((water)) improvements upon development.
- (2) The contract must be recorded in the appropriate county auditor's office after the final execution of the agreement.

**Sec. 805.** RCW 57.22.050 and 1989 c 389 s 15 are each amended to read as follows:

As an alternative to financing projects under this chapter solely by owners of real estate, ~~((a-water))~~ districts 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 ~~((water-district))~~ board of commissioners has specified the conditions of its participation in a resolution.

### PART IX - ANNEXATION OF TERRITORY

Sec. 901. RCW 57.24.001 and 1989 c 84 s 58 are each amended to read as follows:

Actions taken under this chapter ~~((57.24-RCW))~~ may be subject to potential review by a boundary review board under chapter 36.93 RCW.

Sec. 902. RCW 57.24.010 and 1990 c 259 s 31 are each amended to read as follows:

Territory within the county or counties in which a district is located, or territory adjoining or in close proximity to a district but which is located in another county, may be annexed to and become a part of the district. All annexations shall be accomplished in the following manner: Ten percent of the number of registered voters residing in the territory proposed to be annexed who voted in the last ~~((general))~~ municipal general election may file a petition with the district commissioners and cause the question to be submitted to the voters of the territory whether such territory will be annexed and become a part of the district. If the commissioners concur in the petition, they shall file it with the county auditor of ~~((each))~~ the county in which all or the largest geographic portion of the real property proposed to be annexed is located, who shall, within ten days, examine ~~((and-validate))~~ the signatures thereon and certify to the sufficiency or insufficiency thereof~~((; and for such purpose the county auditor shall have access to all registration books in the possession of the officers of any city or town in the proposed district))~~. If the area proposed to be annexed is located in more than one county, the auditor of the county in which the largest geographic portion of the area proposed to be annexed is located shall be the lead auditor and shall immediately transfer a copy of the petitions to the auditor of each other county in which the area proposed to be annexed is located. Within ten days after the lead auditor received the petition, the auditors of these other counties shall certify to the lead auditor: (1) The number of voters of that county residing in the area proposed to be annexed who voted at the last municipal general election; and (2) the number of valid signatures on the petition of voters of that county residing in the area proposed to be annexed. The lead auditor shall certify the sufficiency of the petition after receiving this information. If the petition contains a sufficient number of valid signatures, the lead county auditor ~~((of the county in which the real property proposed to be annexed is located))~~ shall transmit it, together with a certificate of sufficiency attached thereto, to the ~~((water))~~ commissioners of the district.

If there are no registered voters residing in the territory to be annexed, the petition may be signed by such a number as appear of record to own at least a

majority of the acreage in the territory, and the petition shall disclose the total number of acres of land in the territory and the names of all record owners of land therein. If the commissioners are satisfied as to the sufficiency of the petition and concur therein, they shall send it, together with their certificate of concurrence attached thereto to the county legislative authority of each county in which the territory proposed to be annexed is located.

The county legislative authority, upon receipt of a petition certified to contain a sufficient number of signatures of registered voters, or upon receipt of a petition signed by such a number as own at least a majority of the acreage, together with a certificate of concurrence signed by the ~~((water))~~ commissioners, at a regular or special meeting shall cause to be published once a week for at least two weeks in a newspaper in general circulation throughout the territory proposed to be annexed a notice that the petition has been filed, stating the time of the meeting at which it shall be presented, and setting forth the boundaries of the territory proposed to be annexed.

**Sec. 903.** RCW 57.24.020 and 1982 1st ex.s. c 17 s 22 are each amended to read as follows:

When such petition is presented for hearing, the legislative authority of each county in which the territory proposed to be annexed is located shall hear the petition or may adjourn the hearing from time to time not exceeding one month in all, and any person, firm, or corporation may appear before the county legislative authority and make objections to the proposed boundary lines or to annexation of the territory described in the petition. Upon a final hearing each county legislative authority shall make such changes in the proposed boundary lines within the county as ~~((they))~~ it deems to be proper and shall establish and define such boundaries and shall find whether the proposed annexation as established by the county legislative authority to the ~~((water))~~ district will be conducive to the public health, welfare and convenience and will be of special benefit to the land included within the boundaries of the territory proposed to be annexed to the ~~((water district of the territory proposed to be annexed to the water))~~ 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 territory as so established and defined. No change shall be made by the county legislative authority in the boundary lines, including any territory outside of the boundary lines described in the petition. No person having signed such petition shall be allowed to withdraw ~~((his))~~ such person's name therefrom after the filing of the petition with the board of ~~((water))~~ commissioners.

Upon the entry of the findings of the final hearing each county legislative authority, if ~~((they))~~ it finds the proposed annexation to be conducive to the public health, welfare, and convenience and to be of special benefit to the land proposed to be annexed and included within the boundaries of the district, shall give notice of a special election to be held within the boundaries of the territory proposed to be annexed to the ~~((water))~~ district for the purpose of determining

whether the same shall be annexed to the ~~((water))~~ district. The notice shall particularly describe the boundaries established by the county legislative authority, and shall state the name of the ~~((water))~~ district to which the territory is proposed to be annexed, and the notice shall be published in a newspaper of general circulation in the territory proposed to be annexed at least once a week for a minimum of two successive weeks prior to the election and shall be posted for the same period in at least four public places within the boundaries of the territory proposed to be annexed, which notice shall designate the places within the territory proposed to be annexed where the election shall be held, and the proposition to the voters shall be expressed on ballots which contain the words:

For Annexation to ~~((Water))~~ District

or

Against Annexation to ~~((Water))~~ District

The county legislative authority shall name the persons to act as judges at ~~((such))~~ that election.

Sec. 904. RCW 57.24.040 and 1929 c 114 s 16 are each amended to read as follows:

The ~~((said))~~ annexation election shall be held on the date designated in ~~((such))~~ the notice and shall be conducted in accordance with the general election laws of the state. ~~((In the event))~~ If the original petition for annexation is signed by qualified ~~((electors))~~ voters, then only qualified ~~((electors,))~~ voters at the date of election~~((,))~~ residing in the territory proposed to be annexed, shall be permitted to vote at the ~~((said))~~ election. ~~((In the event))~~

If the original petition for annexation is signed by property owners as provided for in this ~~((act))~~ chapter, then no person shall be entitled to vote at ~~((such))~~ that election unless at the time of the filing of the original petition he or she owned land in the district of record and in addition thereto at the date of election shall be a qualified ~~((elector))~~ voter of the county in which such district is located. It shall be the duty of the county auditor, upon request of the county ~~((commissioners))~~ legislative authority, to certify ~~((to the election officers of any such election,))~~ the names of all persons owning land in the district at the date of the filing of the original petition as shown by the records of ~~((his))~~ the auditor's office; and at any such election the ~~((election officers))~~ county auditor may require any such ~~((landowner))~~ property owner offering to vote to take an oath that ~~((he))~~ the property owner is a qualified ~~((elector))~~ voter of the county before ~~((he))~~ the property owner shall be allowed to vote~~((, PROVIDED, That))~~. However, at any election held under the provisions of this ~~((act))~~ chapter an officer or agent of any corporation having its principal place of business in ~~((said))~~ the county and owning land at the date of filing the original petition in the district duly authorized ~~((thereto))~~ in writing may cast a vote on behalf of such corporation. When so voting ~~((he))~~ the person shall file with the ~~((election officers))~~ county auditor such a written instrument of ~~((his))~~ that person's authority. ~~((The judge or judges at such election shall make return thereof to~~

~~the board of water commissioners, who shall canvass such return and cause a statement of the result of such election to be entered on the record of such commissioners.)~~

If the majority of the votes cast upon the question of such election shall be for annexation, then ~~((such))~~ the territory concerned shall immediately be and become annexed to such ~~((water))~~ district and the same shall then forthwith be a part of the ~~((said-water))~~ district, the same as though originally included in ~~((such))~~ that district.

Sec. 905. RCW 57.24.050 and 1929 c 114 s 17 are each amended to read as follows:

All elections held pursuant to this ~~((act))~~ chapter, whether general or special, shall be conducted by the county election board of the county in which the district is located. The expense of all such elections shall be paid for out of the funds of such ~~((water))~~ district.

Sec. 906. RCW 57.24.070 and 1985 c 141 s 8 are each amended to read as follows:

As an alternative method of annexation, a petition for annexation of an area contiguous to a ~~((water))~~ district may be made in writing, addressed to and filed with the board of commissioners of the district to which annexation is desired. It must be signed by the owners, according to the records of the county auditor, of not less than sixty percent of the area of land for which annexation is petitioned, excluding county and state rights of way, parks, tidelands, lakes, retention ponds, and stream and water courses. Additionally, the petition shall set forth a description of the property according to government legal subdivisions or legal plats, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. ~~((Such))~~ Those county and state properties shall be excluded from local improvement districts or utility local improvement districts in the annexed area and from special assessments, rates, or charges of the district except where service has been regulated and provided to such properties. The owners of such property shall be invited to be included within local improvement districts or utility local improvement districts at the time they are proposed for formation.

Sec. 907. RCW 57.24.090 and 1953 c 251 s 20 are each amended to read as follows:

Following the hearing the board of commissioners shall determine by resolution whether annexation shall be made. It may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the resolution a certified copy shall be filed with the ~~((board of county commissioners))~~ legislative authority of the county in which the annexed property is located.

Sec. 908. RCW 57.24.170 and 1982 c 146 s 4 are each amended to read as follows:

When there is, within a ~~((water))~~ district, unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the ~~((water))~~ district, the board of commissioners may resolve to annex ~~((such))~~ that territory to the ~~((water))~~ district. The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the ~~((water))~~ district and one or more newspapers of general circulation within the area to be annexed.

Sec. 909. RCW 57.24.180 and 1982 c 146 s 5 are each amended to read as follows:

On the date set for hearing under RCW 57.24.170, residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The board of commissioners may provide by resolution for annexation of the territory described in the resolution, but the effective date of the resolution shall be not less than forty-five days after the passage thereof. The board of commissioners shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the resolution, in one or more newspapers of general circulation within the ~~((water))~~ district and in one or more newspapers of general circulation within the area to be annexed. Upon the filing of a timely and sufficient referendum petition under RCW 57.24.190, a referendum election shall be held under RCW 57.24.190, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from~~((+))~~ but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, under RCW 57.24.190, the area annexed shall become a part of the ~~((water))~~ district upon the date fixed in the resolution of annexation.

Sec. 910. RCW 57.24.190 and 1990 c 259 s 32 are each amended to read as follows:

~~((Such))~~ The annexation resolution under RCW 57.24.180 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the board of commissioners, signed by registered voters in number equal to not less than ten percent of the registered voters in the area to be annexed who voted in the last ~~((general))~~ municipal general election, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose by the board of commissioners in accordance with RCW 29.13.010 and 29.13.020. Notice of ~~((such))~~ that election shall be given under RCW 57.24.020 and the election shall be



conducted under RCW 57.24.040. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the ~~((water))~~ district upon the date fixed in the resolution of annexation upon transmitting the resolution to the county legislative authority.

**Sec. 911.** RCW 57.24.200 and 1986 c 258 s 2 are each amended to read as follows:

~~((Water))~~ A district~~((s))~~ may expend funds to inform residents in areas proposed for annexation into the district of the following:

- (1) Technical information and data;
- (2) The fiscal impact of the proposed improvement; and
- (3) The types of improvements planned.

Expenditures under this section shall be limited to research, preparation, printing, and mailing of the information.

**Sec. 912.** RCW 57.24.210 and 1995 c 279 s 2 are each amended to read as follows:

When there is unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to two municipal corporations providing water service, one of which is ~~((either a water or sewer))~~ a water-sewer district, the legislative authority of either of the contiguous municipal corporations may resolve to annex such territory to that municipal corporation, provided a majority of the legislative authority of the other contiguous municipal corporation concurs. In such event, the municipal corporation resolving to annex such territory may proceed to effect the annexation by complying with RCW 57.24.170 through 57.24.190. For purposes of this section, "municipal corporation" means a ~~((water-district, sewer))~~ water-sewer district, city, or town.

**Sec. 913.** RCW 57.24.220 and 1994 c 292 s 8 are each amended to read as follows:

A ~~((water))~~ district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements for public drinking water systems, which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the ~~((water))~~ district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

## PART X - WITHDRAWAL OF TERRITORY

Sec. 1001. RCW 57.28.001 and 1989 c 84 s 59 are each amended to read as follows:

Actions taken under this chapter (~~(57.28 RCW)~~) may be subject to potential review by a boundary review board under chapter 36.93 RCW.

Sec. 1002. RCW 57.28.010 and 1941 c 55 s 1 are each amended to read as follows:

Territory within (~~(an established water)~~) a district (~~(for public supply systems)~~) may be withdrawn therefrom in the following manner and upon the following conditions: The petition for withdrawal shall be in writing and shall designate the boundaries of the territory proposed to be withdrawn from the district and shall be signed by at least twenty-five percent of the qualified (~~(electors)~~) voters residing within the territory so designated who are qualified (~~(electors)~~) voters on the date of filing such petition. The petition shall set forth that the territory proposed to be withdrawn is of such location or character that water and sewer services cannot be furnished to it by (~~(such water)~~) the district at reasonable cost, and shall further set forth that the withdrawal of such territory will be of benefit to such territory and conducive to the general welfare of the balance of the district.

Sec. 1003. RCW 57.28.020 and 1982 1st ex.s. c 17 s 23 are each amended to read as follows:

The petition for withdrawal shall be filed with the county (~~(election officer)~~) auditor of each county in which the (~~(water)~~) district is located, and after the filing no person having signed the petition shall be allowed to withdraw (~~(his)~~) the person's name therefrom. Within ten days after such filing, each county (~~(election officer)~~) auditor shall examine and verify the signatures of signers residing in the respective county. (~~(For such purpose the county election officer shall have access to all appropriate registration books in the possession of the election officers of any incorporated city or town within the water district.)~~) The petition shall be transmitted to the (~~(election officer)~~) auditor of the county in which (~~(the largest land area)~~) all or the major geographic portion of the district is located, who shall certify to the sufficiency or insufficiency of the signatures. If the area proposed to be withdrawn is located in more than one county, the auditor of the county in which the largest geographic portion of the area proposed to be withdrawn is located shall be the lead auditor and shall immediately transfer a copy of the petitions to the auditor of each other county in which the area proposed to be withdrawn is located. Within ten days after the lead auditor received the petition, the auditors of these other counties shall certify to the lead auditor: (1) The number of voters of that county residing in the area proposed to be withdrawn who voted at the last municipal general election; and (2) the number of valid signatures on the petition of voters of that county residing in the area proposed to be withdrawn. The lead auditor shall certify the sufficiency of the petition after receiving this information. If such

petition be found by such county (~~(election officer)~~) auditor to contain sufficient signatures, the petition, together with a certificate of sufficiency attached thereto, shall be transmitted to the board of commissioners of the (~~(water)~~) district.

**Sec. 1004.** RCW 57.28.030 and 1941 c 55 s 3 are each amended to read as follows:

In the event there are no qualified (~~(electors)~~) voters residing within the territory proposed to be withdrawn, (~~(then)~~) the petition for withdrawal may be signed by such persons as appear of record to own at least a majority of the acreage within such territory, in which event the petition shall also state the total number of acres and the names of all record owners of the land within such territory. The petition so signed shall be filed with the board of commissioners of the (~~(water)~~) district, and after such filing no person having signed the same shall be allowed to withdraw (~~(his)~~) that person's name.

**Sec. 1005.** RCW 57.28.035 and 1985 c 153 s 1 are each amended to read as follows:

As an alternative procedure to those set forth in RCW 57.28.010 through 57.28.030, the withdrawal of territory within a (~~(water)~~) district may be commenced by a resolution of the board of commissioners that sets forth boundaries of the territory to be withdrawn and sets a date for the public hearing required under RCW 57.28.050. Upon the final hearing, the board of commissioners shall make such changes in the proposed boundaries as they deem proper, except that no changes in the boundary lines may be made by the board of commissioners to include lands not within the boundaries of the territory as described in such resolution.

Whenever the board of commissioners proposes to commence the withdrawal of any portion of (~~(their)~~) its territory located within a city or town using the alternative procedures herein authorized, (~~(they)~~) it shall first notify such city or town of their intent to withdraw (~~(said)~~) the territory. If the legislative authority of the city or town takes no action within sixty days of receipt of notification, the district may proceed with the resolution method.

If the city or town legislative authority disapproves of use of the alternative procedures, the board of commissioners may proceed using the process established (~~(pursuant to)~~) under RCW 57.28.010 through 57.28.030.

A withdrawal procedure commenced under this section shall be subject to the procedures and requirements set forth in RCW 57.28.040 through 57.28.110.

**Sec. 1006.** RCW 57.28.040 and 1985 c 469 s 59 are each amended to read as follows:

Upon receipt by the board of commissioners of a petition and certificate of sufficiency of the auditor, or if the petition is signed by landowners and the board of commissioners (~~(are)~~) is satisfied as to the sufficiency of the signatures thereon, (~~(they)~~) it shall at a regular or special meeting fix a date for hearing on

the petition and give notice that the petition has been filed, stating the time and place of the meeting of the board of commissioners at which the petition will be heard and setting forth the boundaries of the territory proposed to be withdrawn. The notice shall be published at least once a week for two successive weeks in a newspaper of general circulation therein, and if no such newspaper is printed in the county, then in some newspaper of general circulation in the county and district. Any additional notice of the hearing may be given as the board of commissioners may by resolution direct.

Prior to fixing the time for a hearing on any such petition, the board of commissioners in ~~((their))~~ its discretion may require the petitioners to furnish a satisfactory bond conditioned that the petitioners shall pay all costs incurred by the ~~((water))~~ district in connection with the petition, including the cost of an election if one is held pursuant thereto, and should the petitioners fail or refuse to post such a bond, if one is required by the ~~((water))~~ district board of commissioners, then there shall be no duty on the part of the board of commissioners to act upon the petition.

Sec. 1007. RCW 57.28.050 and 1986 c 109 s 1 are each amended to read as follows:

The petition for withdrawal shall be heard at the time and place specified in such notice or the hearing may be adjourned from time to time, not exceeding one month in all, and any person may appear at such hearing and make objections to the withdrawal of such territory or to the proposed boundary lines thereof. Upon final hearing on the petition for withdrawal, the board of commissioners of the ~~((water))~~ district shall make such changes in the proposed boundary lines as ~~((they))~~ it deems to be proper, except that no changes in the boundary lines shall be made by the board of commissioners to include lands not within the boundaries of the territory as described in such petition. In establishing and defining such boundaries the board of commissioners shall exclude any property which is then being furnished with water or sewer service by the ~~((water))~~ district or which is included in any distribution or collection system the construction of ~~((which has been duly authorized or))~~ which is included within any duly established local improvement district or utility local improvement district, and the territory as finally established and defined must be substantial in area and consist of adjoining or contiguous properties. The board of commissioners shall thereupon make and by resolution adopt findings of fact as to the following questions:

- (1) Would the withdrawal of such territory be of benefit to such territory?
- (2) Would such withdrawal be conducive to the general welfare of the balance of the district?

Such findings shall be entered in the records of the ~~((water))~~ district, together with any recommendations the board of commissioners may by resolution adopt.

**Sec. 1008.** RCW 57.28.060 and 1982 1st ex.s. c 17 s 24 are each amended to read as follows:

Within ten days after the final hearing the board of commissioners of the ((water)) district shall transmit to the county legislative authority of each county in which the ((water)) district is located the petition for withdrawal, together with a copy of the findings and recommendations of the board of commissioners of the ((water)) district certified by the secretary of the ((water)) district to be a true and correct copy of such findings and recommendations as the same appear on the records of the ((water)) district.

**Sec. 1009.** RCW 57.28.070 and 1982 1st ex.s. c 17 s 25 are each amended to read as follows:

Upon receipt of the petition and certified copy of the findings and recommendations adopted by the ((water)) district commissioners, the county legislative authority of each county in which the district is located at a regular or special meeting shall fix a time and place for hearing thereon and shall cause to be published at least once a week for two or more weeks in successive issues of a newspaper of general circulation in the ((water)) district, a notice that such petition has been presented to the county legislative authority stating the time and place of the hearing thereon, setting forth the boundaries of the territory proposed to be withdrawn as such boundaries are established and defined in the findings or recommendations of the board of commissioners of the ((water)) district.

**Sec. 1010.** RCW 57.28.080 and 1941 c 55 s 8 are each amended to read as follows:

((Such)) The petition shall be heard at the time and place specified in ((such)) the notice, or the hearing may be adjourned from time to time, not exceeding one month in all, and any person may appear at ((such)) the hearing and make objections to the withdrawal of ((such)) the territory. Upon final hearing on ((such)) the petition the ((said)) county ((~~commissioners~~)) legislative authority shall thereupon make, enter, and by resolution adopt ((their)) its findings of fact on the questions ((above)) set forth in RCW 57.28.050. If ((such)) the findings of fact answer ((said)) the questions affirmatively, and if they are the same as the findings made by the ((water)) district commissioners, then the county ((~~commissioners~~)) legislative authority shall by resolution declare that ((such)) the territory be withdrawn from ((~~such-water~~)) that district, and thereupon ((such)) the territory shall be withdrawn and excluded from ((~~such-water~~)) that district the same as if it had never been included therein except for the lien of taxes as hereinafter set forth((~~, provided, that~~)). However, the boundaries of the territory withdrawn shall be the boundaries established and defined by the ((~~said-water~~)) district board of commissioners and shall not be altered or changed by the county ((~~commissioners~~)) legislative authority unless the unanimous consent of the ((water)) district commissioners be given in writing to any such alteration or change.

**Sec. 1011.** RCW 57.28.090 and 1982 1st ex.s. c 17 s 26 are each amended to read as follows:

If the findings of any county legislative authority answer any of ~~((such))~~ the questions of fact set forth in RCW 57.28.050 in the negative, or if any of the findings of the county legislative authority are not the same as the findings of the ~~((water))~~ district board of commissioners upon the same question, then in either of such events, the petition for withdrawal shall be deemed denied. Thereupon, and in such event, the county legislative authority of each county in which the district is located shall by resolution cause a special election to be held not less than thirty days or more than sixty days from the date of the final hearing of any county legislative authority upon the petition for withdrawal, at which election the proposition expressed on the ballots shall be substantially as follows:

"Shall the territory established and defined by the ~~((water))~~ district board of commissioners at ~~((their))~~ its meeting held on the . . . . . (insert date of final hearing of ~~((water))~~ district board of commissioners upon the petition for withdrawal) be withdrawn from ~~((water))~~ district . . . . . (naming it).

YES  NO

**Sec. 1012.** RCW 57.28.100 and 1982 1st ex.s. c 17 s 27 are each amended to read as follows:

Notice of ~~((such))~~ the election shall be posted and published in the same manner provided by law for the posting and publication of notice of elections to annex territory to ~~((water))~~ districts. The territory described in the notice shall be that established and defined by the ~~((water))~~ district board of commissioners. All qualified voters residing within the ~~((water))~~ district shall have the right to vote at the election. If a majority of the votes cast favor the withdrawal from the ~~((water))~~ district of such territory, then within ten days after the official canvass of ~~((such))~~ the election the county legislative authority of each county in which the district is located~~(s)~~ shall by resolution establish that the territory has been withdrawn, and the territory shall thereupon be withdrawn and excluded from the ~~((water))~~ district the same as if it had never been included therein except for the lien of any taxes as hereinafter set forth.

**Sec. 1013.** RCW 57.28.110 and 1941 c 55 s 11 are each amended to read as follows:

~~((Any and all))~~ Taxes or assessments levied or assessed against property located in territory withdrawn from a ~~((water))~~ district shall remain a lien and be ~~((collectible))~~ collected as by law provided when ~~((such))~~ the taxes or assessments are levied or assessed prior to ~~((such))~~ the withdrawal or when ~~((such))~~ the levies or assessments are duly made to provide revenue for the payment of general obligations or general obligation bonds of the ~~((water))~~ district duly incurred or issued prior to ~~((such))~~ the withdrawal.

**PART XI - CONSOLIDATION OF DISTRICTS AND  
TRANSFER OF TERRITORY**

**Sec. 1101.** RCW 57.32.001 and 1989 c 84 s 60 are each amended to read as follows:

Actions taken under this chapter (~~(57.32 RCW)~~) may be subject to potential review by a boundary review board under chapter 36.93 RCW.

**Sec. 1102.** RCW 57.32.010 and 1989 c 308 s 11 are each amended to read as follows:

Two or more (~~(water)~~) districts may be joined into one consolidated (~~(water)~~) district. The consolidation may be initiated in either of the following ways: (1) Ten percent of the (~~(legal electors)~~) voters residing within each of the (~~(water)~~) districts proposed to be consolidated may petition the board of (~~(water)~~) commissioners of (~~(each of)~~) their respective (~~(water)~~) districts to cause the question to be submitted to the (~~(legal electors)~~) voters of the (~~(water)~~) districts proposed to be consolidated; or (2) the board(~~(s)~~) of (~~(water)~~) commissioners of each of the (~~(water)~~) districts proposed to be consolidated may by resolution determine that the consolidation of the districts shall be conducive to the public health, welfare, and convenience and to be of special benefit to the lands of the districts.

**Sec. 1103.** RCW 57.32.020 and 1982 1st ex.s. c 17 s 30 are each amended to read as follows:

If the consolidation proceedings are initiated by petitions, upon the filing of such petitions with the boards of (~~(water)~~) commissioners of the (~~(water)~~) districts, the boards of (~~(water)~~) commissioners of each district shall file such petitions with the (~~(election officer)~~) auditor of (~~(each)~~) the county in which (~~(any)~~) all or the largest geographic portion of the respective districts is located, who shall within ten days examine and verify the signatures of the signers residing in the county. (~~(The petition shall be transmitted by the other county election officers to the county election officer of the county in which the largest land area involved in the petitions is located, who shall certify to the sufficiency or insufficiency of the signatures.)~~ If the districts proposed to be consolidated include areas located in more than one county, the auditor of the county in which the largest geographic portion of the consolidating districts is located shall be the lead auditor and shall immediately transfer a copy of the petitions to the auditor of each other county in which the consolidating districts are located. Within ten days after the lead auditor received the petition, the auditors of these other counties shall certify to the lead auditor: (1) The number of voters of that county residing in each consolidating district; and (2) the number of valid signatures on the petition of voters of that county residing in each consolidating district. The lead auditor shall certify the sufficiency of the petition after receiving this information. If all of such petitions shall be found to contain a sufficient number of signatures, the county (~~(election officer)~~) auditor shall transmit the same, together with a certificate of sufficiency attached thereto, to

the board((s)) of ((water)) commissioners of each of the districts proposed for consolidation. ((In the event that))

If there are no ((legal electors)) voters residing in one or more of the ((water)) districts proposed to be consolidated, such petitions may be signed by such a number of landowners as appear of record to own at least a majority of the acreage in the pertinent ((water)) district, and the petitions shall disclose the total number of acres of land in ((the said water)) that district and shall also contain the names of all record owners of land therein.

**Sec. 1104.** RCW 57.32.021 and 1967 ex.s. c 39 s 8 are each amended to read as follows:

Upon receipt by the boards of ((water)) commissioners of the districts proposed for consolidation, hereinafter referred to as the "consolidating districts", of the lead county auditor's certificate of sufficiency of the petitions, or upon adoption by the boards of ((water)) commissioners of the consolidating districts of their resolutions for consolidation, the boards of ((water)) commissioners of the consolidating districts shall, within ninety days, enter into an agreement providing for consolidation. The agreement shall set forth the method and manner of consolidation, a comprehensive plan or scheme of water supply, sewer, and drainage services for the consolidated district, and((,)) if the comprehensive plan or scheme of water supply, sewer, and drainage services provides that one or more of the consolidating districts or the proposed consolidated district issue revenue bonds for either the construction ((and/or)) or other costs of any part or all of ((said)) the comprehensive plan, or both, then the details thereof shall be set forth. The requirement that a comprehensive plan or scheme of water supply, sewer, and drainage services for the consolidated district be set forth in the agreement for consolidation((,)) shall be satisfied if the existing comprehensive plans or schemes of the consolidating districts are incorporated therein by reference and any changes or additions thereto are set forth in detail.

**Sec. 1105.** RCW 57.32.022 and 1994 c 223 s 71 are each amended to read as follows:

The ((respective)) boards of ((water)) commissioners of the consolidating districts shall certify the agreement to the county ((election officer)) auditors of ((each county)) the respective counties in which the districts are located. A special election shall be called by the county ((election officer)) auditors for the purpose of submitting to the voters of each of the consolidating districts the proposition of whether or not the several districts shall be consolidated into one ((water)) district. The proposition shall give the title of the proposed consolidated district. Notice of the election shall be given and the election conducted in accordance with the general election laws.

**Sec. 1106.** RCW 57.32.023 and 1994 c 223 s 72 are each amended to read as follows:



If at the election a majority of the voters in each of the consolidating districts vote in favor of the consolidation, the county canvassing board shall so declare in its canvass and the return of such election shall be made within ten days after the date thereof. Upon the return the consolidation shall be effective and the consolidating districts shall cease to exist and shall then be and become a new ~~((water))~~ district and municipal corporation of the state of Washington. The name of ~~((such))~~ the new ~~((water))~~ district shall be "~~((Water District No. . . . .))~~ Water-Sewer District," ". . . . . Water District," ". . . . . Sewer District," or ". . . . . District No.,"(~~(-)~~) which shall be the name appearing on the ballot. The district shall have all and every power, right, and privilege possessed by other water-sewer, sewer, or water districts of the state of Washington. The district may issue revenue bonds to pay for the construction of any additions and betterments set forth in the comprehensive plan of water supply, sewer, and drainage services contained in the agreement for consolidation and any future additions and betterments to the comprehensive plan of water supply, sewer, and drainage services, as its board of ~~((water))~~ district commissioners shall by resolution adopt, without submitting a proposition therefor to the voters of the district.

Sec. 1107. RCW 57.32.024 and 1967 ex.s. c 39 s 11 are each amended to read as follows:

Upon the formation of any consolidated ~~((water))~~ district, all funds, rights, and property, real and personal, of the former districts, shall vest in and become the property of the consolidated district. Unless the agreement for consolidation provides to the contrary, any outstanding indebtedness of any form, owed by the districts, shall remain the obligation of the area of the original debtor district and the ~~((water))~~ board of commissioners of the consolidated ~~((water))~~ district shall make such levies, assessments, or charges for service upon that area or the ~~((water))~~ users therein as shall pay off the indebtedness at maturity.

Sec. 1108. RCW 57.32.130 and 1985 c 141 s 9 are each amended to read as follows:

The ~~((water))~~ commissioners of ~~((all-water))~~ the districts consolidated into any new consolidated ~~((water))~~ district shall become ~~((water))~~ commissioners thereof until their respective terms of office expire or until they resign from office if the resignation is before the expiration of their terms of office. At each election of ~~((water))~~ commissioners following the consolidation, only one position shall be filled, so that as the terms of office expire, the total number of ~~((water))~~ commissioners in the consolidated ~~((water))~~ district shall be reduced to three. However, if the agreement provides that the consolidated district eventually will be governed by a five-member board of commissioners, one commissioner shall be elected to a six-year term of office at the first district general election following the consolidation, two commissioners shall be elected to six-year terms of office at the second district general election following the

consolidation, and two commissioners shall be elected to six-year terms of office at the third district general election following the consolidation.

Sec. 1109. RCW 57.32.160 and 1987 c 449 s 18 are each amended to read as follows:

A part of one (~~(water or sewer)~~) district may be transferred into an adjacent (~~(water)~~) district if the area can be better served thereby. Such transfer can be accomplished by a petition, directed to both districts, signed by the owners according to the records of the county auditor of not less than sixty percent of the area of land to be transferred. If a majority of the commissioners of each district approves the petition, copies of the approving resolutions shall be filed with the county legislative authority which shall act upon the petition as a proposed action in accordance with RCW 57.02.040.

## PART XII - MERGER OF DISTRICTS

Sec. 1201. RCW 57.36.001 and 1989 c 84 s 61 are each amended to read as follows:

Actions taken under this chapter (~~(57.36 RCW)~~) may be subject to potential review by a boundary review board under chapter 36.93 RCW.

Sec. 1202. RCW 57.36.010 and 1989 c 308 s 12 are each amended to read as follows:

Whenever (~~(two water)~~) one or more districts desire to merge (~~(, either district, hereinafter)~~) into another district, the district or districts desiring to merge into the other district shall be referred to as the "merging district" (~~(, may merge into the other district, hereinafter)~~) or "merging districts" and the district into which the merging district or districts desire to merge shall be referred to as the "merger district." (~~(, and)~~) after the merger, the merger district (~~(will)~~) shall survive under its original name or number.

Sec. 1203. RCW 57.36.020 and 1967 ex.s. c 39 s 4 are each amended to read as follows:

A merger of (~~(two water)~~) districts may be initiated in either of the following ways:

(1) Whenever the boards of (~~(water)~~) commissioners of (~~(both such)~~) districts determine by resolution that the merger of such districts shall be conducive to the public health, welfare, and convenience and to be of special benefit to the lands of such districts.

(2) Whenever ten percent of the (~~(legal electors)~~) voters residing within the merging district or districts petition the board of (~~(water)~~) commissioners of the merging (~~(water)~~) district or districts for a merger, and the board of (~~(water)~~) commissioners of the merger district determines by resolution that the merger of the districts shall be conducive to the public health, welfare, and convenience of the (~~(two)~~) districts.

Sec. 1204. RCW 57.36.030 and 1982 1st ex.s. c 17 s 33 are each amended to read as follows:

Whenever a merger is initiated in either of the two ways provided under this chapter, the boards of ~~((water))~~ commissioners of the ~~((two))~~ districts shall enter into an agreement providing for the merger. ~~((Said))~~ The agreement must be entered into within ninety days following completion of the last act in initiation of the merger.

The respective boards of ~~((water))~~ commissioners shall certify the agreement to the county ~~((election-officer))~~ auditor of each county in which the districts are located. ~~((The))~~ Each county ~~((election-officer))~~ auditor shall call a special election for the purpose of submitting to the voters of the ~~((merging))~~ respective districts the proposition of whether the merging district or districts shall be merged into the merger district. Notice of the elections shall be given and the elections conducted in accordance with the general election laws.

Sec. 1205. RCW 57.36.040 and 1982 c 104 s 2 are each amended to read as follows:

If at such election a majority of the voters of the merging ~~((water))~~ district or districts shall vote in favor of the merger, the county canvassing board shall so declare in its canvass and the return of such election shall be made within ten days after the date thereof, and upon such return the merger shall be effective and the merging ~~((water))~~ district or districts shall cease to exist and shall become a part of the merger ~~((water))~~ district. The ~~((water))~~ commissioners of the merging district or districts shall hold office as commissioners of the new ~~((consolidated-water))~~ merged district until their respective terms of office expire or until they resign from office if the resignation is before the expiration of their terms of office. ~~((At the district election immediately preceding the time when the total number of remaining water commissioners is reduced to two through expiration of terms of office, one water commissioner shall be elected for a four year term of office. At the next district election, one water commissioner shall be elected for a four year term of office and one shall be elected for a six year term of office. Thereafter, each water commissioner shall be elected for a six year term of office in the manner provided by RCW 57.12.020 and 57.12.030 for elections in an existing district.))~~ The election of commissioners in the merger district after the merger shall occur as provided in RCW 57.32.130 in a consolidated district after the consolidation.

Sec. 1206. RCW 57.40.135 and 1988 c 162 s 4 are each amended to read as follows:

A person who serves on the board of commissioners of a ~~((sewer))~~ merging district ~~((that merges under this chapter into a water district, for which the person also serves on the board of commissioners, shall only hold one position on the board of commissioners of the district that results from the merger))~~ and a merger district shall hold only one position on the board of commissioners of the merger district and shall only receive compensation, expenses, and benefits that are available to a single commissioner.

**Sec. 1207.** RCW 57.36.050 and 1967 ex.s. c 39 s 7 are each amended to read as follows:

All funds and property, real and personal, of the merging district or districts, shall vest in and become the property of the merger district. Unless the agreement of merger provides to the contrary, any outstanding indebtedness of any form, owed by the districts, shall remain the obligation of the area of the original debtor district; and the ~~((water))~~ commissioners of the merger ~~((water))~~ district shall make such levies, assessments, or charges for service upon ~~((said))~~ such area or the ~~((water))~~ users therein as shall pay off such indebtedness at maturity.

### PART XIII - DISPOSITION OF PROPERTY

**Sec. 1301.** RCW 57.42.010 and 1973 1st ex.s. c 56 s 1 are each amended to read as follows:

Subject to the provisions of RCW 57.42.020 and 57.42.030, any ~~((water))~~ district created under the provisions of this title may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to a public utility district in the same county on such terms as may be mutually agreed upon by the board of commissioners of each district.

**Sec. 1302.** RCW 57.42.020 and 1973 1st ex.s. c 56 s 2 are each amended to read as follows:

No ~~((water))~~ district shall dispose of its property to a public utility district unless the respective board of commissioners of each district shall determine by resolution that such disposition is in the public interest and conducive to the public health, welfare, and convenience. Copies of each resolution, together with copies of the proposed disposition agreement, shall be filed with the legislative authority of the county in which the ~~((water))~~ district is located~~((,))~~ and with the superior court of that county. Unless the proposed agreement provides otherwise, any outstanding indebtedness of any form~~((,))~~ owed by the water district~~((,))~~ shall remain the obligation of the area of the ~~((water))~~ district, and the board of commissioners of the public utility district ~~((commissioners))~~ shall be empowered to make such levies, assessments, or charges upon that area or the water, sewer, or drainage users therein as shall pay off the indebtedness at maturity.

**Sec. 1303.** RCW 57.42.030 and 1973 1st ex.s. c 56 s 3 are each amended to read as follows:

Within ninety days after the resolutions and proposed agreement have been filed with the court, the court shall fix a date for a hearing and shall direct that notice of the hearing be given by publication. After reviewing the proposed agreement and considering other evidence presented at the hearing, the court may determine by decree that the proposed disposition is in the public interest and conducive to the public health, welfare, and convenience. In addition, the decree shall authorize the payment of all or a portion of the indebtedness of the

((water)) district relating to property disposed of under such decree. Pursuant to the court decree, the ((water)) district shall dispose of its property under the terms of the disposition agreement with the public utility district.

#### PART XIV - LOW-INCOME CUSTOMER ASSISTANCE

**Sec. 1401.** RCW 57.46.010 and 1995 c 399 s 149 are each amended to read as follows:

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

**Sec. 1402.** RCW 57.46.020 and 1995 c 399 s 150 are each amended to read as follows:

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

**Sec. 1403.** RCW 57.46.030 and 1993 c 45 s 7 are each amended to read as follows:

Contributions received under a program implemented by a ((water)) district in compliance with this chapter shall not be considered a commingling of funds.

## PART XV - DISINCORPORATION

**Sec. 1501.** RCW 57.90.001 and 1989 c 84 s 63 are each amended to read as follows:

Actions taken under this chapter (~~(57.90 RCW)~~) may be subject to potential review by a boundary review board under chapter 36.93 RCW.

**Sec. 1502.** RCW 57.90.010 and 1991 c 363 s 137 are each amended to read as follows:

Water-sewer, sewer, water, (~~(sewer,)~~) park and recreation, metropolitan park, county rural library, cemetery, flood control, mosquito control, diking and drainage, irrigation or reclamation, weed, health, or fire protection districts, and any air pollution control authority, hereinafter referred to as "special districts(~~(-s)~~)," which are located wholly or in part within a county with a population of two hundred ten thousand or more may be disincorporated when the district has not actively carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period.

**Sec. 1503.** RCW 57.90.020 and 1982 1st ex.s. c 17 s 35 are each amended to read as follows:

Upon the filing with the county legislative authority of each county in which the district is located of a resolution of any governmental unit calling for the disincorporation of a special district, or upon the filing with the county legislative authority of each county in which the district is located of the petition of twenty percent of the (~~(qualified electors)~~) voters within a special district calling for the disincorporation of (~~(a)~~) the special district, the county legislative authority shall hold public hearings to determine whether or not any services have been provided within a consecutive five year period and whether the best interests of all persons concerned will be served by the proposed dissolution of the special district.

**Sec. 1504.** RCW 57.90.030 and 1963 c 55 s 3 are each amended to read as follows:

If the (~~(board of)~~) county (~~(commissioners)~~) legislative authority finds that no services have been provided within the preceding consecutive five-year period and that the best interests of all persons concerned will be served by disincorporating the special district, it shall order that such action be taken, specify the manner in which it is to be accomplished and supervise the liquidation of any assets and the satisfaction of any outstanding indebtedness.

**Sec. 1505.** RCW 57.90.040 and 1963 c 55 s 4 are each amended to read as follows:

(~~(In the event)~~) If a special district is disincorporated the proceeds of the sale of any of its assets, together with money(~~(s)~~) on hand in the treasury of the special district, shall after payment of all costs and expenses and all outstanding indebtedness be paid to the county treasurer to be placed to the credit of the school district, or districts, in which such special district is situated.

**Sec. 1506.** RCW 57.90.050 and 1963 c 55 s 5 are each amended to read as follows:

~~((In the event))~~ If a special district is disincorporated and the proceeds of the sale of any of its assets, together with money~~((s))~~ on hand in the treasury of the special district, are insufficient to retire any outstanding indebtedness, together with all costs and expenses of liquidation, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall levy assessments in the manner provided by law against the property in the special district in amounts sufficient to retire ~~((said))~~ the indebtedness and pay ~~((such))~~ the costs and expenses.

**Sec. 1507.** RCW 57.90.100 and 1971 ex.s. c 125 s 1 are each amended to read as follows:

Whenever as the result of abandonment of an irrigation district right of way real property held by an irrigation district is to be sold or otherwise disposed of, notice shall be given to the owners of the lands adjoining that real property and such owners shall have ~~((a))~~ the right of first refusal to purchase at the appraised price all or any part of the real property to be sold or otherwise disposed of which adjoins or is adjacent to their land.

Real property to be sold or otherwise disposed of under this section shall have been first appraised by the county assessor or by a person designated by ~~((him))~~ the county assessor.

Notice under this section shall be sufficient if sent by registered mail to the owner~~((and))~~ at the address~~((as))~~ shown in the tax records of the county in which the land is situated. Notice under this section shall be in addition to any ~~((other))~~ notice required by law.

After sixty days from the date of sending of notice, if no applications for purchase have been received by the irrigation district or other person or entity sending notice, the rights of first refusal of owners of adjoining lands shall be deemed to have been waived, and the real property may be ~~((sold or otherwise))~~ disposed of or sold.

If two or more owners of adjoining lands apply to purchase the same real property, or apply to purchase overlapping parts of the real property, the respective rights of the applicants may be determined in the superior court of the county in which the real property is situated~~((and))~~. The court may divide the real property in question between some or all of the applicants or award the whole to one applicant, as justice may require.

#### PART XVI - TECHNICAL CORRECTIONS

**Sec. 1601.** RCW 35.13.900 and 1995 c 279 s 3 are each amended to read as follows:

Nothing in this chapter precludes or otherwise applies to an annexation by a city or town of unincorporated territory as authorized by RCW ~~((56.24.180, 56.24.200, and 56.24.205, or))~~ 57.24.170, 57.24.190, and 57.24.210.

**Sec. 1602.** RCW 35.58.570 and 1989 c 389 s 1 are each amended to read as follows:

(1) A metropolitan municipal corporation that is engaged in the transmission, treatment, and disposal of sewage may impose a capacity charge on users of the metropolitan municipal corporation's sewage facilities when the user connects, reconnects, or establishes a new service. The capacity charge shall be approved by the council of the metropolitan municipal corporation and reviewed and reapproved annually.

(2) The capacity charge shall be based upon the cost of the sewage facilities' excess capacity that is necessary to provide sewerage treatment for new users to the system. The capacity charge, which may be collected over a period of fifteen years, shall not exceed:

(a) Seven dollars per month per residential customer equivalent for connections and reconnections occurring prior to January 1, 1996; and

(b) Ten dollars and fifty cents per month per residential customer equivalent for connections and reconnections occurring after January 1, 1996, and prior to January 1, 2001.

For connections and reconnections occurring after January 1, 2001, the capacity charge shall not exceed fifty percent of the basic sewer rate per residential customer equivalent established by the metropolitan municipal corporation at the time of the connection or reconnection.

(3) The capacity charge for a building other than a single-family residence shall be based on the projected number of residential customer equivalents to be represented by the building, considering its intended use.

(4) The council of the metropolitan municipal corporation shall enforce the collection of the capacity charge in the same manner provided for the collection, enforcement, and payment of rates and charges for water-sewer districts provided in (~~RCW 56.16.100 and 56.16.110~~) section 314 of this act. At least thirty days before commencement of an action to foreclose a lien for a capacity charge, the metropolitan municipal corporation shall send written notice of delinquency in payment of the capacity charge to any first mortgage or deed of trust holder of record at the address of record.

(5) As used in this section, "sewage facilities" means capital projects identified since January 1, 1982, to July 23, 1989, in the metropolitan municipal corporation's comprehensive water pollution abatement plan. "Residential customer equivalent" shall have the same meaning used by the metropolitan municipal corporation in determining rates and charges at the time the capacity charge is imposed.

**Sec. 1603.** RCW 35.97.050 and 1983 c 216 s 5 are each amended to read as follows:

If the legislative authority of a municipality deems it advisable that the municipality purchase, acquire, or construct a heating system, or make any additions or extensions to a heating system, the legislative authority shall so provide by an ordinance or a resolution specifying and adopting the system or



plan proposed, declaring the estimated cost thereof, as near as may be, and specifying the method of financing and source of funds. Any construction, alteration, or improvement of a heating system by any county, city, town, irrigation district, water-sewer district, (~~sewer district,~~) or port district shall be in compliance with the appropriate competitive bidding requirements in Titles 35, 36, 53, (~~56,~~) 57, or 87 RCW.

**Sec. 1604.** RCW 35A.14.901 and 1995 c 279 s 4 are each amended to read as follows:

Nothing in this chapter precludes or otherwise applies to an annexation by a code city of unincorporated territory as authorized by RCW (~~56.24.180, 56.24.200, and 56.24.205, or~~) 57.24.170, 57.24.190, and 57.24.210.

**Sec. 1605.** RCW 35A.56.010 and 1987 c 331 s 79 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 68.52 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)~~) (17) chapter 70.44 RCW, relating to public hospital districts; (~~(19)~~) (18) Title 54 RCW, relating to public utility districts; (~~(20)~~) (19) chapter 91.08 RCW, relating to public waterway districts; (~~(21) Title 56 RCW for sewer districts; (22)~~) (20) chapter 89.12 RCW, relating to reclamation districts; (~~(23)~~) (21) chapters 57.02 through 57.36 RCW, relating to water-sewer districts; and (~~(24)~~) (22) chapter 17.04 RCW, relating to weed districts.

**Sec. 1606.** RCW 35A.70.010 and 1967 ex.s. c 119 s 35A.70.010 are each amended to read as follows:

Every code city shall have authority to protect waters within the city or comprising part of the city's water supply pursuant to the authority provided

therefor by RCW 9.66.050, 54.16.050, (~~56.08.010~~;) 69.30.130, 57.08.010, 8.12.030, 70.54.010 and 70.54.030.

**Sec. 1607.** RCW 36.29.160 and 1963 c 4 s 36.29.160 are each amended to read as follows:

The county treasurer shall make segregation, collect, and receive from any owner or owners of any subdivision or portion of any lot, tract or parcel of land upon which assessments or charges have been made or may be made hereafter in public utility districts, (~~sewer districts~~;) water-sewer districts, or county road improvement districts, under the terms of Title 54 RCW, (~~Title 56 RCW~~;) Title 57 RCW, or chapter 36.88 RCW, such portion of the assessments or charges levied or to be levied against such lot, tract or parcel of land in payment of such assessment or charges as the board of commissioners of the public utility district, (~~sewer district~~;) the water-sewer district commissioners or the board of county commissioners, respectively, shall certify to be chargeable to such subdivision, which certificate shall state that such property as segregated is sufficient security for the assessment or charges. Upon making collection upon any such subdivision the county treasurer shall note such payment upon his records and give receipt therefor.

**Sec. 1608.** RCW 36.93.090 and 1995 c 131 s 1 are each amended to read as follows:

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within one hundred eighty days a notice of intention with the board: PROVIDED, That when the initiator is the legislative body of a governmental unit, the notice of intention may be filed immediately following the body's first acceptance or approval of the action. The board may review any such proposed actions pertaining to:

(1) The: (a) Creation, incorporation, or change in the boundary, other than a consolidation, of any city, town, or special purpose district; (b) consolidation of special purpose districts, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That the change in the boundary of a city or town arising from the annexation of contiguous city or town owned property held for a public purpose shall be exempted from the requirements of this section; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water-sewer district pursuant to RCW 57.08.065 or chapter 57.40 RCW(~~(, as now or hereafter amended)~~); or

~~(4) ((The establishment of or change in the boundaries of a mutual sewer and water system or separate water system by a sewer district pursuant to RCW 56.20.015 or chapter 56.36 RCW, as now or hereafter amended; or~~

~~—(5))~~ The extension of permanent water or sewer service outside of its existing service area by a city, town, or special purpose district. The service area of a city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated to serve pursuant to a coordinated water system plan approved in accordance with RCW 70.116.050; and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is designated to serve pursuant to a comprehensive sewerage plan approved in accordance with chapter 36.94 RCW and RCW 90.48.110.

**Sec. 1609.** RCW 36.94.420 and 1985 c 141 s 1 are each amended to read as follows:

If so provided in the transfer agreement, the area served by the system shall, upon completion of the transfer, be deemed annexed to and become a part of the water-sewer ((or sewer)) district acquiring the system. The county shall provide notice of the hearing by the county legislative authority on the ordinance executing the transfer agreement under RCW 36.94.330 as follows: (1) By mailed notice to all ratepayers served by the system at least fifteen days prior to the hearing; and (2) by notice in a newspaper of general circulation once at least fifteen days prior to the hearing.

In the event of an annexation under this section resulting from the transfer of a system of sewerage or combined water and sewer systems from a county to a water-sewer district governed by Title 57 RCW, the water-sewer district shall have all the powers of a water-sewer district provided by chapter 57.36 RCW ((57.40.150)), as if a water-sewer district had been merged into a water-sewer district. ~~((In the event of an annexation under this section as a result of the transfer of a system of water or combined water and sewer systems from a county to a sewer district governed by Title 56 RCW, the sewer district shall have all the powers of a sewer district provided by RCW 56.36.060 as if a water district had been merged into the sewer district.))~~

**Sec. 1610.** RCW 41.04.190 and 1992 c 146 s 13 are each amended to read as follows:

The cost of a policy or plan to a public agency or body is not additional compensation to the employees or elected officials covered thereby. The elected officials to whom this section applies include but are not limited to commissioners elected under chapters 28A.315, 52.14, 53.12, 54.12, ~~((56.12,))~~ 57.12, 70.44, and 87.03 RCW, as well as any county elected officials who are provided insurance coverage under RCW 41.04.180. Any officer authorized to disburse such funds may pay in whole or in part to an insurance carrier or health care service contractor the amount of the premiums due under the contract.

**Sec. 1611.** RCW 43.99F.020 and 1990 1st ex.s. c 15 s 9 are each amended to read as follows:

For the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred thirty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW (~~56.08.020~~) 57.16.010. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold.

**Sec. 1612.** RCW 82.02.020 and 1990 1st ex.s. c 17 s 42 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. Except as provided in RCW 82.02.050 through 82.02.090, 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 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. A local govern-

ment shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is 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 RCW 36.73.120 nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

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.

**Sec. 1613.** RCW 84.09.030 and 1994 c 292 s 4 are each amended to read as follows:

Except as follows, the boundaries of counties, cities and all other taxing districts, for purposes of property taxation and the levy of property taxes, shall be the established official boundaries of such districts existing on the first day of March of the year in which the property tax levy is made.

The official boundaries of a newly incorporated taxing district shall be established at a different date in the year in which the incorporation occurred as follows:

(1) Boundaries for a newly incorporated city shall be established on the last day of March of the year in which the initial property tax levy is made, and the boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was incorporated within its boundaries shall be altered as of this date to exclude this area, if the budget for the newly incorporated city is filed pursuant to RCW 84.52.020 and the levy request of the newly incorporated city is made pursuant to RCW 84.52.070. Whenever a proposed city incorporation is on the March special election ballot, the county auditor shall submit the legal description of the proposed city to the department of revenue on or before the first day of March;

(2) Boundaries for a newly incorporated port district shall be established on the first day of October if the boundaries of the newly incorporated port district are coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year;

(3) Boundaries of any other newly incorporated taxing district shall be established on the first day of June of the year in which the property tax levy is made if the taxing district has boundaries coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year;

(4) Boundaries for a newly incorporated water-sewer district shall be established on the fifteenth of June of the year in which the proposition under RCW 57.04.050 authorizing a water district excess levy is approved.

The boundaries of a taxing district shall be established on the first day of June if territory has been added to, or removed from, the taxing district after the first day of March of that year with boundaries coterminous with the boundaries of another taxing district as they existed on the first day of March of that year. However, the boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was annexed to a city or town within its boundaries shall be altered as of this date to exclude this area. 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.

No property tax levy shall be made for any taxing district whose houndaries are not established as of the dates provided in this section.

**Sec. 1614.** RCW 84.38.020 and 1995 c 329 s 1 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) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.

(2) "Department" means the state department of revenue.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

(5) "Residence" has the meaning given in RCW 84.36.383, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations.

(6) "Special assessment" means the charge or obligation imposed by a city, town, county, or other municipal corporation upon property specially benefited by a local improvement, including assessments under chapters 35.44, 36.88, 36.94, 53.08, 54.16, (~~56.20,~~) 57.16, 86.09, and 87.03 RCW and any other relevant chapter.

**Sec. 1615.** RCW 84.52.052 and 1993 c 284 s 4 are each amended to read as follows:

The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. As used in this section, the term "taxing district" means any county, metropolitan park district, park and recreation service area, park and recreation district, (~~sewer district,~~) water-sewer district, solid waste disposal district, public facilities district, flood control zone district, county rail district, service district, public hospital district, road district, rural county library district, island library district, rural partial-county library district, intercounty rural library district, fire protection district,

cemetery district, city, town, transportation benefit district, emergency medical service district with a population density of less than one thousand per square mile, or cultural arts, stadium, and convention district.

Any such taxing district may levy taxes at a rate in excess of the rate specified in RCW 84.52.050 through 84.52.056 and 84.52.043, or 84.55.010 through 84.55.050, when authorized so to do by the voters of such taxing district in the manner set forth in Article VII, section 2(a) of the Constitution of this state (~~(, as amended by Amendment 64 and as thereafter amended,)~~) at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the county legislative authority, or council, board of commissioners, or other governing body of any such taxing district, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no."

**Sec. 1616.** RCW 90.03.510 and 1986 c 278 s 63 are each amended to read as follows:

Whenever a county, city, town, water-sewer district, or flood control zone district imposes rates or charges to fund storm water control facilities or improvements and the operation and maintenance of such facilities or improvements under RCW 35.67.020, 35.92.020, 36.89.080, 36.94.140, (~~(56.08.010, or 56.16.090)~~) section 301 of this act, or section 314 of this act, it may provide a credit for the value of storm water control facilities or improvements that a person or entity has installed or located that mitigate or lessen the impact of storm water which otherwise would occur.

**Sec. 1617.** RCW 90.03.525 and 1986 c 278 s 54 are each amended to read as follows:

The rate charged by a local government utility to the department of transportation with respect to state highway right of way or any section of state highway right of way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, (~~(56.08)~~) 57.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway right of way or any section of state highway right of way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right of way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights of way. The utility imposing the charge and the department of transportation may, however,



agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the extent and adequacy of storm water control facilities constructed by the department and upon the actual benefits to state highway rights of way from the storm water control facilities constructed by the local government utility. If a different rate is agreed to, a report so stating shall be submitted to the legislative transportation committee. If the local government utility and the department of transportation cannot agree upon the proper rate, and after a report has been submitted to the legislative transportation committee and after ninety days from submission of such report, either may commence an action in the superior court for the county in which the state highway right of way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights of way from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights of way shall be deemed an actual benefit to the state highway rights of way. The rate for sections of state highway right of way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right of way within the same jurisdiction.

#### PART XVII - MISCELLANEOUS

NEW SECTION. Sec. 1700. Part headings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 1701. (1) RCW 56.02.070, 56.02.100, and 56.02.110, as amended by this act, are each recodified as sections in chapter 57.02 RCW.

(2) RCW 56.04.080, 56.04.120, and 56.04.130, as amended by this act, are each recodified as sections in chapter 57.04 RCW.

(3) RCW 56.02.030, 56.02.080, and 56.36.070 are each recodified as sections in chapter 57.06 RCW.

(4) RCW 56.08.060 and 56.08.012, as amended by this act, and 56.08.170 are each recodified as sections in chapter 57.08 RCW.

(5) RCW 56.08.030, as amended by this act, is recodified as a section in chapter 57.16 RCW.

(6) RCW 56.20.030, as amended by this act, is recodified as a section in chapter 57.16 RCW.

(7) RCW 57.16.020, 57.16.030, 57.16.035, and 57.16.040 are each recodified as sections in chapter 57.20 RCW.

(8) RCW 57.40.135, as amended by this act, is recodified as a section in chapter 57.36 RCW.

NEW SECTION. **Sec. 1702.** The following acts or parts of acts are each repealed:

- (1) RCW 56.02.010 and 1953 c 250 s 26;
- (2) RCW 56.02.040 and 1959 c 103 s 18;
- (3) RCW 56.02.050 and 1971 ex.s. c 272 s 12;
- (4) RCW 56.02.055 and 1982 1st ex.s. c 17 s 1;
- (5) RCW 56.02.060 and 1988 c 162 s 5 & 1971 ex.s. c 139 s 1;
- (6) RCW 56.02.120 and 1982 1st ex.s. c 17 s 2;
- (7) RCW 56.04.001 and 1989 c 84 s 50;
- (8) RCW 56.04.020 and 1974 ex.s. c 58 s 1, 1971 ex.s. c 272 s 1, 1945 c 140 s 1, 1943 c 74 s 1, & 1941 c 210 s 1;
- (9) RCW 56.04.030 and 1990 c 259 s 21, 1987 c 33 s 1, 1945 c 140 s 2, & 1941 c 210 s 2;
- (10) RCW 56.04.040 and 1945 c 140 s 3 & 1941 c 210 s 3;
- (11) RCW 56.04.050 and 1990 c 259 s 22, 1987 c 33 s 2, 1973 1st ex.s. c 195 s 61, 1953 c 250 s 1, 1945 c 140 s 4, & 1941 c 210 s 4;
- (12) RCW 56.04.060 and 1945 c 140 s 5 & 1941 c 210 s 6;
- (13) RCW 56.04.065 and 1983 c 88 s 1;
- (14) RCW 56.04.070 and 1985 c 141 s 2, 1981 c 45 s 3, & 1941 c 210 s 5;
- (15) RCW 56.04.090 and 1994 c 81 s 79, 1945 c 140 s 16, & 1941 c 210 s 47;
- (16) RCW 56.08.010 and 1989 c 389 s 2, 1989 c 308 s 1, & 1987 c 449 s 1;
- (17) RCW 56.08.013 and 1985 c 98 s 1 & 1977 ex.s. c 146 s 1;
- (18) RCW 56.08.014 and 1983 c 198 s 1;
- (19) RCW 56.08.015 and 1984 c 147 s 6 & 1969 c 119 s 1;
- (20) RCW 56.08.020 and 1990 1st ex.s. c 17 s 34, 1982 c 213 s 1, 1979 c 23 s 1, 1977 ex.s. c 300 s 1, 1971 ex.s. c 272 s 2, 1959 c 103 s 2, 1953 c 250 s 4, 1947 c 212 s 2, 1945 c 140 s 10, 1943 c 74 s 2, & 1941 c 210 s 11;
- (21) RCW 56.08.040 and 1953 c 250 s 6, 1951 c 129 s 1, 1943 c 74 s 3, & 1941 c 210 s 13;
- (22) RCW 56.08.050 and 1977 ex.s. c 300 s 2, 1953 c 250 s 7, & 1941 c 210 s 15;
- (23) RCW 56.08.065 and 1989 c 84 s 51;
- (24) RCW 56.08.070 and 1994 c 31 s 1;
- (25) RCW 56.08.075 and 1987 c 449 s 2 & 1982 c 105 s 2;
- (26) RCW 56.08.080 and 1993 c 198 s 17, 1989 c 308 s 5, 1984 c 172 s 1, & 1953 c 51 s 1;
- (27) RCW 56.08.090 and 1993 c 198 s 18, 1989 c 308 s 6, 1988 c 162 s 1, 1984 c 103 s 2, & 1953 c 51 s 2;
- (28) RCW 56.08.092 and 1986 c 244 s 15;
- (29) RCW 56.08.100 and 1991 sp.s. c 30 s 24, 1991 c 82 s 1, 1981 c 190 s 5, 1973 c 24 s 1, & 1961 c 261 s 1;

- (30) RCW 56.08.105 and 1973 c 125 s 6;
- (31) RCW 56.08.110 and 1995 c 301 s 75, 1973 1st ex.s. c 195 s 62, 1970 ex.s. c 47 s 4, & 1961 c 267 s 1;
- (32) RCW 56.08.120 and 1967 c 178 s 1;
- (33) RCW 56.08.130 and 1967 c 178 s 2;
- (34) RCW 56.08.140 and 1991 c 82 s 2 & 1967 c 178 s 3;
- (35) RCW 56.08.150 and 1967 c 178 s 4;
- (36) RCW 56.08.160 and 1967 c 178 s 5;
- (37) RCW 56.08.180 and 1982 c 213 s 3;
- (38) RCW 56.08.190 and 1987 c 309 s 3;
- (39) RCW 56.08.200 and 1995 c 376 s 14 & 1991 c 190 s 1;
- (40) RCW 56.12.010 and 1985 c 330 s 5, 1980 c 92 s 1, 1969 ex.s. c 148 s 7, 1959 c 103 s 4, 1955 c 373 s 1, 1945 c 140 s 8, & 1941 c 210 s 9;
- (41) RCW 56.12.015 and 1994 c 223 s 62, 1991 c 190 s 2, 1990 c 259 s 23, & 1987 c 449 s 3;
- (42) RCW 56.12.020 and 1994 c 223 s 63, 1979 ex.s. c 126 s 38, 1963 c 200 s 17, 1955 c 55 s 12, & 1953 c 110 s 1;
- (43) RCW 56.12.030 and 1994 c 223 s 64, 1990 c 259 s 24, 1986 c 41 s 1, 1985 c 141 s 3, 1981 c 169 s 2, 1953 c 250 s 9, 1947 c 212 s 1, 1945 c 140 s 7, & 1941 c 210 s 8;
- (44) RCW 56.12.040 and 1987 c 449 s 4;
- (45) RCW 56.12.050 and 1994 c 223 s 65;
- (46) RCW 56.16.010 and 1984 c 186 s 46, 1973 1st ex.s. c 195 s 63, 1953 c 250 s 10, 1951 2nd ex.s. c 26 s 1, & 1941 c 210 s 14;
- (47) RCW 56.16.020 and 1987 c 449 s 5, 1977 ex.s. c 300 s 3, 1959 c 103 s 5, 1953 c 250 s 11, 1951 c 129 s 2, & 1941 c 210 s 16;
- (48) RCW 56.16.030 and 1989 c 389 s 3, 1984 c 186 s 47, 1977 ex.s. c 300 s 4, 1973 1st ex.s. c 195 s 64, 1959 c 103 s 6, 1953 c 250 s 12, 1951 2nd ex.s. c 26 s 2, 1951 c 129 s 3, 1945 c 140 s 11, & 1941 c 210 s 17;
- (49) RCW 56.16.035 and 1977 ex.s. c 300 s 5 & 1959 c 103 s 7;
- (50) RCW 56.16.040 and 1984 c 186 s 48, 1983 c 167 s 155, 1973 1st ex.s. c 195 s 65, 1970 ex.s. c 56 s 80, 1969 ex.s. c 232 s 85, 1953 c 250 s 13, 1951 2nd ex.s. c 26 s 3, 1945 c 140 s 12, & 1941 c 210 s 18;
- (51) RCW 56.16.050 and 1984 c 186 s 49, 1970 ex.s. c 42 s 34, 1945 c 140 s 15, & 1941 c 210 s 42;
- (52) RCW 56.16.060 and 1983 c 167 s 156, 1975 1st ex.s. c 25 s 1, 1971 ex.s. c 272 s 4, 1970 ex.s. c 56 s 81, 1969 ex.s. c 232 s 86, 1959 c 103 s 8, & 1941 c 210 s 19;
- (53) RCW 56.16.065 and 1975 1st ex.s. c 25 s 4;
- (54) RCW 56.16.070 and 1959 c 103 s 9 & 1941 c 210 s 20;
- (55) RCW 56.16.080 and 1983 c 167 s 157, 1975 1st ex.s. c 25 s 2, 1970 ex.s. c 56 s 82, & 1941 c 210 s 21;
- (56) RCW 56.16.085 and 1959 c 103 s 10;

- (57) RCW 56.16.090 and 1991 c 347 s 19, 1974 ex.s. c 58 s 3, 1959 c 103 s 11, & 1941 c 210 s 22;
- (58) RCW 56.16.100 and 1977 ex.s. c 300 s 6, 1971 ex.s. c 272 s 5, 1953 c 250 s 14, & 1941 c 210 s 23;
- (59) RCW 56.16.110 and 1977 ex.s. c 300 s 7, 1971 ex.s. c 272 s 6, 1953 c 250 s 15, & 1941 c 210 s 24;
- (60) RCW 56.16.115 and 1984 c 186 s 50, 1977 ex.s. c 300 s 8, 1973 1st ex.s. c 195 s 66, 1959 c 103 s 12, & 1953 c 250 s 16;
- (61) RCW 56.16.130 and 1983 c 167 s 158 & 1941 c 210 s 45;
- (62) RCW 56.16.135 and 1988 c 162 s 10 & 1983 c 57 s 2;
- (63) RCW 56.16.140 and 1983 c 57 s 1, 1971 ex.s. c 272 s 7, 1959 c 103 s 13, & 1941 c 210 s 46;
- (64) RCW 56.16.150 and 1959 c 103 s 14;
- (65) RCW 56.16.160 and 1986 c 294 s 12, 1983 c 66 s 21, 1981 c 24 s 3, 1973 1st ex.s. c 140 s 2, & 1959 c 103 s 15;
- (66) RCW 56.16.165 and 1981 c 24 s 1;
- (67) RCW 56.16.170 and 1959 c 103 s 16;
- (68) RCW 56.20.010 and 1987 c 169 s 1, 1971 ex.s. c 272 s 8, & 1941 c 210 s 26;
- (69) RCW 56.20.015 and 1983 c 167 s 159, 1981 c 45 s 5, 1980 c 12 s 1, 1977 ex.s. c 300 s 9, & 1974 ex.s. c 58 s 4;
- (70) RCW 56.20.020 and 1986 c 256 s 1, 1977 ex.s. c 300 s 10, 1974 ex.s. c 58 s 5, 1965 ex.s. c 40 s 1, 1953 c 250 s 17, & 1941 c 210 s 27;
- (71) RCW 56.20.032 and 1989 c 243 s 10;
- (72) RCW 56.20.033 and 1987 c 315 s 5;
- (73) RCW 56.20.040 and 1953 c 250 s 19 & 1941 c 210 s 29;
- (74) RCW 56.20.050 and 1941 c 210 s 30;
- (75) RCW 56.20.060 and 1941 c 210 s 31;
- (76) RCW 56.20.070 and 1971 ex.s. c 272 s 10, 1969 c 126 s 1, & 1941 c 210 s 33;
- (77) RCW 56.20.080 and 1991 c 190 s 4, 1971 ex.s. c 272 s 11, 1971 c 81 s 125, 1965 ex.s. c 40 s 2, & 1941 c 210 s 32;
- (78) RCW 56.20.090 and 1953 c 250 s 20;
- (79) RCW 56.20.120 and 1987 c 449 s 7;
- (80) RCW 56.22.010 and 1989 c 389 s 4;
- (81) RCW 56.22.020 and 1989 c 389 s 5;
- (82) RCW 56.22.030 and 1989 c 389 s 6;
- (83) RCW 56.22.040 and 1989 c 389 s 7;
- (84) RCW 56.22.050 and 1989 c 389 s 8;
- (85) RCW 56.24.001 and 1989 c 84 s 52;
- (86) RCW 56.24.070 and 1990 c 259 s 25, 1989 c 308 s 3, 1988 c 162 s 13, 1985 c 469 s 56, 1982 1st ex.s. c 17 s 3, & 1967 ex.s. c 11 s 1;
- (87) RCW 56.24.080 and 1985 c 469 s 57 & 1967 ex.s. c 11 s 2;
- (88) RCW 56.24.090 and 1967 ex.s. c 11 s 3;

- (89) RCW 56.24.100 and 1967 ex.s. c 11 s 4;
- (90) RCW 56.24.110 and 1967 ex.s. c 11 s 5;
- (91) RCW 56.24.120 and 1985 c 141 s 4 & 1967 ex.s. c 11 s 6;
- (92) RCW 56.24.130 and 1967 ex.s. c 11 s 7;
- (93) RCW 56.24.140 and 1967 ex.s. c 11 s 8;
- (94) RCW 56.24.150 and 1967 ex.s. c 11 s 9;
- (95) RCW 56.24.180 and 1982 c 146 s 1;
- (96) RCW 56.24.190 and 1982 c 146 s 2;
- (97) RCW 56.24.200 and 1990 c 259 s 26 & 1982 c 146 s 3;
- (98) RCW 56.24.205 and 1995 c 279 s 1 & 1987 c 449 s 8;
- (99) RCW 56.24.210 and 1986 c 258 s 1;
- (100) RCW 56.24.900 and 1967 ex.s. c 11 s 11;
- (101) RCW 56.28.001 and 1989 c 84 s 53;
- (102) RCW 56.28.010 and 1953 c 250 s 27;
- (103) RCW 56.28.020 and 1985 c 153 s 2;
- (104) RCW 56.32.001 and 1989 c 84 s 54;
- (105) RCW 56.32.010 and 1989 c 308 s 9, 1975 1st ex.s. c 86 s 1, & 1967 c 197 s 2;
- (106) RCW 56.32.020 and 1975 1st ex.s. c 86 s 2 & 1967 c 197 s 3;
- (107) RCW 56.32.030 and 1975 1st ex.s. c 86 s 3 & 1967 c 197 s 4;
- (108) RCW 56.32.040 and 1975 1st ex.s. c 86 s 4 & 1967 c 197 s 5;
- (109) RCW 56.32.050 and 1975 1st ex.s. c 86 s 5 & 1967 c 197 s 6;
- (110) RCW 56.32.060 and 1967 c 197 s 7;
- (111) RCW 56.32.070 and 1985 c 141 s 5 & 1967 c 197 s 8;
- (112) RCW 56.32.080 and 1989 c 308 s 10, 1975 1st ex.s. c 86 s 6, & 1967 c 197 s 9;
- (113) RCW 56.32.090 and 1967 c 197 s 10;
- (114) RCW 56.32.100 and 1975 1st ex.s. c 86 s 7 & 1967 c 197 s 11;
- (115) RCW 56.32.110 and 1994 c 289 s 1, 1975 1st ex.s. c 86 s 8, & 1967 c 197 s 12;
- (116) RCW 56.32.115 and 1975 1st ex.s. c 86 s 9;
- (117) RCW 56.32.120 and 1967 c 197 s 13;
- (118) RCW 56.32.160 and 1987 c 449 s 9;
- (119) RCW 56.36.001 and 1989 c 84 s 55;
- (120) RCW 56.36.010 and 1982 1st ex.s. c 17 s 4 & 1969 ex.s. c 148 s 1;
- (121) RCW 56.36.020 and 1969 ex.s. c 148 s 2;
- (122) RCW 56.36.030 and 1971 ex.s. c 146 s 7 & 1969 ex.s. c 148 s 3;
- (123) RCW 56.36.040 and 1982 c 104 s 1, 1981 c 45 s 6, & 1969 ex.s. c 148 s 4;
- (124) RCW 56.36.045 and 1988 c 162 s 3;
- (125) RCW 56.36.050 and 1969 ex.s. c 148 s 5;
- (126) RCW 56.36.060 and 1981 c 45 s 7 & 1969 ex.s. c 148 s 6;
- (127) RCW 56.40.010 and 1995 c 399 s 147 & 1993 c 45 s 1;
- (128) RCW 56.40.020 and 1995 c 399 s 148 & 1993 c 45 s 2; and

(129) RCW 56.40.030 and 1993 c 45 s 3.

**NEW SECTION. Sec. 1703.** The following acts or parts of acts are each repealed:

- (1) RCW 57.08.010 and 1994 c 81 s 81 & 1991 c 82 s 4;
- (2) RCW 57.08.045 and 1981 c 45 s 10, 1959 c 108 s 4, & 1953 c 251 s 3;
- (3) RCW 57.08.080 and 1982 1st ex.s. c 17 s 12 & 1959 c 108 s 2;
- (4) RCW 57.08.090 and 1982 1st ex.s. c 17 s 13, 1977 ex.s. c 299 s 1, & 1959 c 108 s 3;
- (5) RCW 57.08.130 and 1967 ex.s. c 135 s 2;
- (6) RCW 57.12.045 and 1987 c 449 s 13;
- (7) RCW 57.20.100 and 1984 c 230 s 84, 1983 c 3 s 163, 1973 1st ex.s. c 195 s 73, 1951 2nd ex.s. c 25 s 4, 1951 c 62 s 1, & 1929 c 114 s 18;
- (8) RCW 57.40.100 and 1982 1st ex.s. c 17 s 34 & 1971 ex.s. c 146 s 1;
- (9) RCW 57.40.110 and 1971 ex.s. c 146 s 2;
- (10) RCW 57.40.120 and 1971 ex.s. c 146 s 3;
- (11) RCW 57.40.130 and 1982 c 104 s 3, 1981 c 45 s 12, & 1971 ex.s. c 146 s 4;
- (12) RCW 57.40.140 and 1971 ex.s. c 146 s 5; and
- (13) RCW 57.40.150 and 1981 c 45 s 13 & 1971 ex.s. c 146 s 6.

**NEW SECTION. Sec. 1704.** This act shall take effect July 1, 1997.

Passed the Senate March 2, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 231

[Engrossed Substitute Senate Bill 6168]

### LIMITED LIABILITY COMPANIES ACT—REVISIONS

AN ACT Relating to limited liability companies; amending RCW 1.16.080, 19.80.005, 19.80.010, 25.04.720, 25.15.010, 25.15.020, 25.15.045, 25.15.150, 25.15.270, and 25.15.325; adding new sections to chapter 25.15 RCW; and creating a new section.

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

**Sec. 1.** RCW 1.16.080 and 1891 c 23 s 1, part are each amended to read as follows:

(1) The term "person" may be construed to include the United States, this state, or any state or territory, or any public or private corporation or limited liability company, as well as an individual.

(2) Unless the context clearly indicates otherwise, the terms "association," "unincorporated association," and "person, firm, or corporation" or substantially identical terms shall, without limiting the application of any term to any other type of legal entity, be construed to include a limited liability company.

**Sec. 2.** RCW 19.80.005 and 1984 c 130 s 2 are each amended to read as follows:

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

(1) "Trade name" means a word or name, or any combination of a word or name, used by a person to identify the person's business which:

(a) Is not, or does not include, the true and real name of all persons conducting the business; or

(b) Includes words which suggest additional parties of interest such as "company," "and sons," or "and associates."

(2) "Business" means an occupation, profession, or employment engaged in for the purpose of seeking a profit.

(3) "Executed" by a person means that a document signed by such person is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the person submitting the document to the department of licensing.

(4) "Person" means any individual, partnership, limited liability company, or corporation conducting or having an interest in a business in the state.

(5) "True and real name" means:

(a) The surname of an individual coupled with one or more of the individual's other names, one or more of the individual's initials, or any combination;

(b) The designation or appellation by which an individual is best known and called in the business community where that individual transacts business, if this is used as that individual's legal signature;

(c) The registered corporate name of a domestic corporation as filed with the secretary of state;

(d) The registered corporate name of a foreign corporation authorized to do business within the state of Washington as filed with the secretary of state;

(e) The registered partnership name of a domestic limited partnership as filed with the secretary of state;

(f) The registered partnership name of a foreign limited partnership as filed with the secretary of state; or

(g) The name of a general partnership which includes in its name the true and real names, as defined in (a) through (f) of this subsection, of each general partner as required in RCW 19.80.010.

**Sec. 3.** RCW 19.80.010 and 1984 c 130 s 3 are each amended to read as follows:

Each person or persons who shall carry on, conduct, or transact business in this state under any trade name shall register that trade name with the department of licensing as set forth in this section:

(1) Sole proprietorship or general partnership: The registration shall set forth the true and real name or names of each person conducting the same,

together with the post office address or addresses of each such person and the name of the general partnership, if applicable.

(2) Foreign or domestic limited partnership: The registration shall set forth the limited partnership name as filed with the office of the secretary of state.

(3) Foreign or domestic limited liability company: The registration shall set forth the limited liability company name as filed with the office of the secretary of state.

(4) Foreign or domestic corporation: The registration shall set forth the corporate name as filed with the office of the secretary of state.

~~((4))~~ (5) The registration shall be executed by:

(a) The sole proprietor of a sole proprietorship;

(b) A general partner of a domestic or foreign general or limited partnership; or

(c) An officer of a domestic or foreign corporation.

Sec. 4. RCW 25.04.720 and 1995 c 337 s 5 are each amended to read as follows:

(1) A person or group of persons licensed or otherwise legally authorized to render professional services, as defined in RCW 18.100.030, within this state may organize and become a member or members of a limited liability partnership under the provisions of this chapter for the purposes of rendering professional service. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a limited liability partnership organized for the purpose of rendering the same professional services. Nothing in this section prohibits a limited liability partnership from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state.

(2)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.64, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may join and render their individual professional services through one limited liability partnership and are to be considered, for the purpose of forming a limited liability partnership, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) Notwithstanding any other provision of this chapter, health care professionals who are licensed pursuant to chapters 18.57 and 18.71 RCW may join and render their individual professional services through one limited liability partnership and are to be considered, for the purpose of forming a limited liability partnership, as rendering the "same specific professional services" or "same professional services" or similar terms.

(c) Formation of a limited liability partnership under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130



RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

Sec. 5. RCW 25.15.010 and 1994 c 211 s 102 are each amended to read as follows:

(1) The name of each limited liability company as set forth in its certificate of formation:

(a) Must contain ~~((either))~~ the words "Limited Liability Company," the words "Limited Liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC";

(b) Except as provided in subsection (1)(d) of this section, may contain the name of a member or manager;

(c) Must not contain language stating or implying that the limited liability company is organized for a purpose other than those permitted by RCW 25.15.030;

(d) Must not contain any of the words or phrases: "Bank," "banking," "banker," "trust," "cooperative," "partnership," "corporation," "incorporated," or the abbreviations "corp.," "Ltd.," or "inc.," or "L.P.," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(e) Must be distinguishable upon the records of the secretary of state from the names described in RCW 23B.04.010(1)(d) and 25.10.020(1)(d), and the names of any limited liability company reserved, registered, or formed under the laws of this state or qualified to do business as a foreign limited liability company in this state.

(2) A limited liability company may apply to the secretary of state for authorization to use any name which is not distinguishable upon the records of the secretary of state from one or more of the names described in subsection (1)(e) of this section. The secretary of state shall authorize use of the name applied for if the other corporation, limited partnership, or limited liability company consents in writing to the use and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.

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

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

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

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

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

(4) This chapter does not control the use of assumed business names or "trade names."

Sec. 6. RCW 25.15.020 and 1994 c 211 s 104 are each amended to read as follows:

(1) Each limited liability company shall continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified 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 the same city as the registered office in conjunction with the registered office address if the limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent for service of process on the limited liability company, which agent may be either an individual resident of this state whose business office is identical with the limited liability company's registered office, or a domestic corporation, limited partnership, or limited liability company, or a foreign corporation, limited partnership, or limited liability company authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who 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.

~~(2) ((A registered agent may change the address of the registered office of the limited liability company or companies for which such registered agent is registered agent to another address in this state by filing with the secretary of state a certificate, executed by such registered agent, setting forth the names of all the limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such limited liability companies, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the limited liability companies recited in the certificate. Upon the filing of such certificate, the secretary of state shall furnish to the registered agent a certified copy of the same, and thereafter, or until further change of address, as authorized by law, the registered office in this~~

~~state of each of the limited liability companies recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a limited liability company, such registered agent shall file with the secretary of state a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such limited liability companies. Upon the filing of such certificate, the secretary of state shall furnish to the registered agent a certified copy of the certificate. Filing a certificate under this section shall be deemed to be an amendment of the certificate of formation of each limited liability company affected thereby and each such limited liability company shall not be required to take any further action with respect thereto, to amend its certificate of formation under RCW 25.15.075. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each limited liability company affected thereby.~~

~~(3) The registered agent of one or more limited liability companies may resign and appoint a successor registered agent by filing a certificate with the secretary of state, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected limited liability company ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such limited liability companies as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such limited liability company's registered office in this state. The secretary of state shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the certificate of formation of each limited liability company affected thereby and each such limited liability company shall not be required to take any further action with respect thereto, to amend its certificate of formation under RCW 25.15.075.~~

~~(4) The registered agent of a limited liability company may resign without appointing a successor registered agent by filing a certificate with the secretary of state stating that it resigns as registered agent for the limited liability company identified in the certificate, but such resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, that at least thirty days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the limited liability company for which such registered agent is resigning as registered agent, at the principal office thereof within or outside this state, if known to such registered agent or, if not,~~

~~to the last known address of the attorney or other individual at whose request such registered agent was appointed for such limited liability company, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the limited liability company for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning))~~ A limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accord with subsection (1) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(3) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any limited liability company for which the agent is the registered agent by notifying the limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (2) of this section and recites that the limited liability company has been notified of the change.

(4) A registered agent may resign as agent by signing and delivering to the secretary of state for filing a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the limited liability company at its principal office. The agency appointment is terminated, and the registered office discontinued is so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 7. RCW 25.15.045 and 1995 c 337 s 14 are each amended to read as follows:

(1) A person or group of persons licensed or otherwise legally authorized to render professional services within this state may organize and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service. A "professional limited liability company" is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation, and its managers, members, agents, and employees shall be subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional limited liability company organized for the purpose of rendering the same professional services. Nothing

in this section prohibits a professional limited liability company from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state. Notwithstanding RCW 18.100.065, persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional limited liability company so long as each member personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one manager of the company is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) Each member in charge of an office of the company in this state is duly licensed or otherwise legally authorized to practice the profession in this state.

(2) If the company's members are required to be licensed to practice such profession, and the company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or such greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the company's members shall be personally liable to the extent that, had such insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(3) For purposes of applying the provisions of chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" shall mean manager, "shareholder" shall mean member, "corporation" shall mean professional limited liability company, "articles of incorporation" shall mean certificate of formation, "shares" or "capital stock" shall mean a limited liability company interest, "incorporator" shall mean the person who executes the certificate of formation, and "bylaws" shall mean the limited liability company agreement.

(4) The name of a professional limited liability company must contain either the words "Professional Limited Liability Company," or the words "Professional Limited Liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a professional limited liability company organized to render dental services shall contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or PLLC.

(5) Subject to the provisions in article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers, other than the secretary and the treasurer, are licensed or otherwise legally

authorized to render the same specific professional services as the professional limited liability company; and

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services.

**Sec. 8.** RCW 25.15.150 and 1994 c 211 s 401 are each amended to read as follows:

(1) Unless the certificate of formation vests management of the limited liability company in a manager or managers((?)); (a) Management of the business or affairs of the limited liability company shall be vested in the members; and (b) each member is an agent of the limited liability company for the purpose of its business and the act of any member for apparently carrying on in the usual way the business of the limited liability company binds the limited liability company unless the member so acting has in fact no authority to act for the limited liability company in the particular matter and the person with whom the member is dealing has knowledge of the fact that the member has no such authority. Subject to any provisions in the limited liability company agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the certificate of formation vests management of the limited liability company in one or more managers, then such persons shall have such power to manage the business or affairs of the limited liability company as is provided in the limited liability company agreement. Unless otherwise provided in the limited liability company agreement, such persons:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members at the time of such action;

(b) Need not be members of the limited liability company or natural persons; and

(c) Unless they have been earlier removed or have earlier resigned, shall hold office until their successors shall have been elected and qualified.

(3) If the certificate of formation vests management of the limited liability company in a manager or managers, no member, acting solely in the capacity as a member, is an agent of the limited liability company.

**Sec. 9.** RCW 25.15.270 and 1994 c 211 s 801 are each amended to read as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) The dissolution date, if any, specified in a limited liability company agreement~~(, or thirty years from the date of the formation of the limited liability company if no such date is set forth in the limited liability company agreement)~~. If a date is not specified in the agreement or the agreement does not specify perpetual existence, then the dissolution date is thirty years after the date of formation. If a dissolution date is specified in the agreement, it is renewable by consent of all the members;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) An event of dissociation of a member, unless the business of the limited liability company is continued either by the consent of all the remaining members within ninety days following the occurrence of any such event or pursuant to a right to continue stated in the limited liability company agreement;

(5) The entry of a decree of judicial dissolution under RCW 25.15.275;

(6) At any time there are fewer than two members unless, within ninety days following the event of dissociation upon which the number of members is reduced below two, one or more additional members are admitted so that there are at least two members; or

(7) The expiration of two years after the effective date of dissolution under RCW 25.15.285 without the reinstatement of the limited liability company.

Sec. 10. RCW 25.15.325 and 1994 c 211 s 904 are each amended to read as follows:

(1) A foreign limited liability company may register with the secretary of state under any name (whether or not it is the name under which it is registered in the jurisdiction of its formation) that includes the words "Limited Liability Company," the words "Limited Liability" and the abbreviation "Co.," or the abbreviation "L.L.C." and that could be registered by a domestic limited liability company. A foreign limited liability company may apply to the secretary of state for authorization to use a name which is not distinguishable upon the records of the office of the secretary of state from the names described in RCW 23B.04.010(1)(d), and the names of any domestic or foreign limited liability company reserved, registered, or formed under the laws of this state. The secretary of state shall authorize use of the name applied for if the other corporation, limited liability company, or limited partnership consents in writing to the use and files with the secretary of state documents necessary to change its name, or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying foreign limited liability company.

(2) Each foreign limited liability company shall continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address

or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified 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 the same city as the registered office in conjunction with the registered office address if the foreign limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent for service of process on the foreign limited liability company, which agent may be either an individual resident of this state whose business office is identical with the foreign limited liability company's registered office, or a domestic corporation, a limited partnership or limited liability company, or a foreign corporation authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who 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 filled with or as a part of the document first appointing a registered agent. In the event any individual, limited liability company, limited partnership, 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.

~~(3) ((A registered agent may change the address of the registered office of the foreign limited liability company or companies for which the registered agent is registered agent to another address in this state by filing with the secretary of state a certificate, executed by such registered agent, setting forth the names of all the foreign limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such foreign limited liability companies, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the foreign limited liability companies recited in the certificate. Upon the filing of such certificate, the secretary of state shall furnish to the registered agent a certified copy of the same, and thereafter, or until further change of address, as authorized by law, the registered office in this state of each of the foreign limited liability companies recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a foreign limited liability company, such registered agent shall file with the secretary of state a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the foreign limited liability companies represented by such registered agent, and the address at which such registered agent has maintained the registered office for~~



~~each of such foreign limited liability companies. Upon the filing of such certificate, the secretary of state shall furnish to the registered agent a certified copy of the same. Filing a certificate under this section shall be deemed to be an amendment of the application for registration of each foreign limited liability company affected thereby and each foreign limited liability company shall not be required to take any further action with respect thereto, to amend its application under RCW 25.15.330. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each foreign limited liability company affected thereby.~~

~~(4) The registered agent of one or more foreign limited liability companies may resign and appoint a successor registered agent by filing a certificate with the secretary of state, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected foreign limited liability company ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such foreign limited liability company as has ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such foreign limited liability company's registered office in this state. The secretary of state shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the application for registration of each foreign limited liability company affected thereby and each such foreign limited liability company shall not be required to take any further action with respect thereto, to amend its application under RCW 25.15.330.~~

~~(5) The registered agent of a foreign limited liability company may resign without appointing a successor registered agent by filing a certificate with the secretary of state stating that it resigns as registered agent for the foreign limited liability company identified in the certificate, but such resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, if an individual, or of the president, a vice president, or the secretary thereof if a corporation, that at least thirty days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the foreign limited liability companies for which such registered agent is resigning as registered agent, at the principal office thereof within or outside this state, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such foreign limited liability company, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the foreign limited liability company for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such foreign limited liability company fails to obtain and designate a new registered agent as aforesaid prior to the expiration~~

~~of the period of one hundred twenty days after the filing by the registered agent of the certificate of resignation, such foreign limited liability company shall not be permitted to do business in this state and its registration shall be deemed to be canceled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the foreign limited liability company for which the resigned registered agent had been acting shall thereafter be upon the secretary of state in accordance with RCW 25.15.360))~~ A foreign limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the foreign limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accord with subsection (2)(a) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(4) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the foreign limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (3) of this section and recites that the foreign limited liability company has been notified of the change.

(5) A registered agent of any foreign limited liability company may resign as agent by signing and delivering to the secretary of state for filing a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the foreign limited liability company at its principal office address shown in its most recent annual report, or the address of its principal place of business shown in its application for certificate of registration if no annual report has been filed. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

NEW SECTION. Sec. 11. A new section is added to chapter 25.15 RCW under "Article IX" to read as follows:

The secretary of state may commence a proceeding under section 11 of this act to revoke registration of a foreign limited liability company authorized to transact business in this state if:

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

(2) The foreign limited liability company does not inform the secretary of state under RCW 25.15.330 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty days of the change, resignation, or discontinuance;

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

(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability company records in the jurisdiction under which the foreign limited liability company was organized stating that the foreign limited liability company has been dissolved or its certificate or articles of formation canceled.

NEW SECTION. Sec. 12. A new section is added to chapter 25.15 RCW under "Article IX" to read as follows:

(1) If the secretary of state determines that one or more grounds exist under section 10 of this act for revocation of a foreign limited liability company's registration, the secretary of state shall give the foreign limited liability company written notice of the determination by first class mail, postage prepaid, stating in the notice the ground or grounds for and effective date of the secretary of state's determination, which date shall not be earlier than the date on which the notice is mailed.

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

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

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

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

(6) Revocation of a foreign limited liability company's registration does not terminate the authority of the registered agent of the foreign limited liability company.

NEW SECTION. Sec. 13. Section 8, chapter . . . , Laws of 1996 (section 8 of this act) does not apply to a limited liability company formed prior to the effective date of this act, unless the certificate of formation of the limited liability company is amended after the effective date of this act to provide that the limited liability company has perpetual duration.

Passed the Senate March 4, 1996.  
Passed the House March 1, 1996.  
Approved by the Governor March 28, 1996.  
Filed in Office of Secretary of State March 28, 1996.

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**CHAPTER 232**

[Senate Bill 6253]

**SENTENCING GUIDELINES COMMISSION—DUTIES REVISED**

AN ACT Relating to the sentencing guidelines commission; amending RCW 9.94A.040, 9.94A.060, 13.40.025, 13.40.030, 13.50.010, and 72.09.300; amending 1995 c 269 s 3603 (uncodified); adding a new section to chapter 9.94A RCW; creating a new section; repealing RCW 13.40.027; providing an effective date; and declaring an emergency.

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

Sec. I. RCW 9.94A.040 and 1995 c 269 s 303 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The legislature finds that the commission, having accomplished its original statutory directive to implement this chapter, and having expertise in sentencing practice and policies, shall((, following a public hearing or hearings)):

~~(a) ((Devise a series of recommended standard sentence ranges for all felony offenses and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's criminal history, if any;~~

~~—(b) Devise recommended prosecuting standards in respect to charging of offenses and plea agreements; and~~

~~—(c) Devise recommended standards to govern whether sentences are to be served consecutively or concurrently.~~

~~—(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.~~

~~—(4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:~~

~~— (a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one third of the maximum;~~

~~— (b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy five percent of the maximum term in the range; and~~

~~— (c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.~~

~~— (5) In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines. The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.~~

~~— (6) This commission shall conduct a study to determine the capacity of correctional facilities and programs which are or will be available. While the commission need not consider such capacity in arriving at its recommendations, the commission shall project whether the implementation of its recommendations would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentences which shall be consistent with such capacity.~~

~~— (7) The commission may) Evaluate state sentencing policy, to include whether the sentencing ranges and standards are consistent with and further:~~

~~(i) The purposes of this chapter as defined in RCW 9.94A.010; and~~

~~(ii) The intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender.~~

~~The commission shall provide the governor and the legislature with its evaluation and recommendations under this subsection not later than December 1, 1996, and every two years thereafter;~~

~~(b) Recommend to the legislature revisions or modifications to the standard sentence ranges, state sentencing policy, prosecuting standards, and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity((-);~~

~~((8) ~~The commission shall~~) (c) Study the existing criminal code and from time to time make recommendations to the legislature for modification((-);~~

~~((9) ~~The commission may (a))~~ (d)(i) Serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; ((b)) (ii) develop and maintain a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence~~

forms for all adult felons; and ~~((e))~~ (iii) conduct ongoing research regarding adult and juvenile sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the adult criminal justice system and the juvenile justice system;

~~((10) The staff and executive officer of the commission may provide staffing and services to the juvenile disposition standards commission, if authorized by RCW 13.40.025 and 13.40.027. The commission may conduct joint meetings with the juvenile disposition standards commission.~~

~~—((11) The commission shall)~~ (e) Assume the powers and duties of the juvenile disposition standards commission after June 30, ((1997-)) 1996;

~~((12))~~ (f) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally, specifically review the guidelines relating to the confinement of minor and first offenders as well as the use of diversion, and review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth;

(g) Solicit the comments and suggestions of the juvenile justice community concerning disposition standards, and make recommendations to the legislature regarding revisions or modifications of the standards in accordance with section 2 of this act. The evaluations shall be submitted to the legislature on December 1 of each odd-numbered year. The department of social and health services shall provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders, and with recommendations for modification of the disposition standards. The office of the administrator for the courts shall provide the commission with available data on diversion and dispositions of juvenile offenders under chapter 13.40 RCW; and

(h) Not later than December 1, 1997, and at least every two years thereafter, based on available information, report to the governor and the legislature on:

(i) Racial disproportionality in juvenile and adult sentencing;

(ii) The capacity of state and local juvenile and adult facilities and resources; and

(iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range.

except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) The sentencing guidelines commission shall recommend to the legislature no later than December 1, 1996, disposition standards for all offenses subject to the juvenile justice act, chapter 13.40 RCW.

(2) The standards shall establish, in accordance with the purposes of chapter 13.40 RCW, ranges that may include terms of confinement and/or community supervision established on the basis of the current offense and the history and seriousness of previous offenses, but in no case may the period of confinement and supervision exceed that to which an adult may be subjected for the same offense or offenses.

(3) Standards recommended for offenders listed in RCW 13.40.020(1) shall include a range of confinement that may not be less than thirty days. No standard range may include a period of confinement that includes both more than thirty, and thirty or fewer, days. Disposition standards recommended by the commission shall provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole.

(4) Standards of confinement that may be proposed may relate only to the length of the proposed terms and not to the nature of the security to be imposed.

(5) The commission's recommendations for the disposition standards shall result in a simplified sentencing system. In setting the new standards, the commission shall focus on the need to protect public safety by emphasizing punishment, deterrence, and confinement for violent and repeat offenders. The seriousness of the offense shall be the most important factor in determining the length of confinement, while the offender's age and criminal history shall count as contributing factors. The commission shall increase judicial flexibility and discretion by broadening standard ranges of confinement. The commission shall provide for the use of basic training camp programs. Alternatives to total confinement shall be considered for nonviolent offenders.

(6) In setting new standards, the commission must also study the feasibility of creating a disposition option allowing a court to order minor/first or middle offenders into inpatient substance abuse treatment. To determine the feasibility of that option, the commission must review the number of existing beds and funding available through private, county, state, or federal resources, criteria for

eligibility for funding, competing avenues of access to those beds, the current system's method of prioritizing the needs for limited bed space, the average length of stay in inpatient treatment, the costs of that treatment, and the cost-effectiveness of inpatient treatment compared to outpatient treatment.

(7) In setting new standards, the commission must also recommend disposition and institutional options for serious or chronic offenders between the ages of fifteen and twenty-five who currently must either be released from juvenile court jurisdiction at age twenty-one or who are prosecuted as adults because the juvenile system is inadequate to address the seriousness of their crimes, their rehabilitation needs, or public safety. One option must include development of a youthful offender disposition option that combines adult criminal sentencing guidelines and juvenile disposition standards and addresses: (a) Whether youthful offenders would be under jurisdiction of the department of corrections or the department of social and health services; (b) whether current age restrictions on juvenile court jurisdiction would be modified; and (c) whether the department of social and health services or the department of corrections would provide institutional and community correctional services. The option must also recommend an implementation timeline and plan, identify funding and capital construction or improvement options to provide separate facilities for youthful offenders, and identify short and long-term fiscal impacts.

(8) In developing the new standards, the commission must review disposition options in other states and consult with interested parties including superior court judges, prosecutors, defense attorneys, juvenile court administrators, victims' advocates, the department of corrections and the department of social and health services, and members of the legislature.

(9) The commission shall consider whether juveniles prosecuted under the juvenile justice system for committing violent, sex, or repeated property offenses should be automatically prosecuted as adults when their term of confinement under the adult sentencing system is longer than their term of confinement under the juvenile system. The commission shall consider the option of allowing the prosecutor to determine in which system the juvenile should be prosecuted based on the anticipated length of confinement in both systems if the court imposes an exceptional sentence or manifest injustice above the standard range as requested by the prosecutor.

**Sec. 3.** RCW 9.94A.060 and 1993 c 11 s 1 are each amended to read as follows:

(1) The commission consists of ~~((sixteen))~~ twenty voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, subject to confirmation by the senate.

(2) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;



(b) The director of financial management or designee, as an ex officio member;

(c) ~~Until ((June 30, 1998, the chair of))~~ the indeterminate sentence review board ceases to exist pursuant to RCW 9.95.0011, the chair of the board, as an ex officio member;

(d) ~~The ((chair of the clemency and pardons board))~~ head of the state agency, or the agency head's designee, having responsibility for juvenile corrections programs, as an ex officio member;

(e) Two prosecuting attorneys;

(f) Two attorneys with particular expertise in defense work;

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

(i) ~~((Three))~~ Four members of the public who are not ~~((and have never been))~~ prosecutors, defense attorneys, judges, or law enforcement officers, one of whom is a victim of crime or a crime victims' advocate;

(j) One person who is an elected official of a county government, other than a prosecuting attorney or sheriff;

(k) One person who is an elected official of a city government;

(l) One person who is an administrator of juvenile court services.

In making the appointments, the governor shall endeavor to assure that the commission membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the association of superior court judges in respect to the members who are judges, ((and)) of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer, of the Washington state association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, and of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services.

(3)(a) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed. ~~((However, the governor shall stagger the terms by appointing four of the initial members for terms of one year, four for terms of two years, and four for terms of three years.))~~

(b) The governor shall stagger the terms of the members appointed under subsection (2)(j), (k), and (l) of this section by appointing one of them for a term of one year, one for a term of two years, and one for a term of three years.

(4) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(5) The members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members shall be reimbursed by their respective houses as provided under RCW 44.04.120, as now existing or hereafter amended. Members shall be compensated in accordance with RCW 43.03.250.

Sec. 4. RCW 13.40.025 and 1995 c 269 s 302 are each amended to read as follows:

(1) There is established a juvenile disposition standards commission to propose disposition standards to the legislature in accordance with RCW 13.40.030 and perform the other responsibilities set forth in this chapter.

(2) The commission shall be composed of the secretary or the secretary's designee and the following nine members appointed by the governor, subject to confirmation by the senate: (a) A superior court judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c) a law enforcement officer; (d) an administrator of juvenile court services; (e) a public defender actively practicing in juvenile court; (f) a county legislative official or county executive; and (g) three other persons who have demonstrated significant interest in the adjudication and disposition of juvenile offenders. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; of Washington prosecutors in respect to the prosecuting attorney or deputy prosecuting attorney member; of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer; of juvenile court administrators in respect to the member who is a juvenile court administrator; and of the state bar association in respect to the public defender member; and of the Washington association of counties in respect to the member who is either a county legislative official or county executive.

(3) The secretary or the secretary's designee shall serve as chairman of the commission.

(4) The secretary shall serve on the commission during the secretary's tenure as secretary of the department. The term of the remaining members of the commission shall be three years. The initial terms shall be determined by lot conducted at the commission's first meeting as follows: (a) Four members shall serve a two-year term; and (b) four members shall serve a three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated in accordance with RCW 43.03.240.

(6) The commission shall cease to exist on June 30, ~~((1997))~~ 1996, and its powers and duties shall be transferred to the sentencing guidelines commission established under RCW 9.94A.040.

Sec. 5. RCW 13.40.030 and 1989 c 407 s 3 are each amended to read as follows:

~~(1)((a) The juvenile disposition standards commission shall recommend to the legislature no later than November 1st of each year disposition standards for all offenses. The standards shall establish, in accordance with the purposes of this chapter, ranges which may include terms of confinement and/or community supervision established on the basis of a youth's age, the instant offense, and the history and seriousness of previous offenses, but in no case may the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards recommended for offenders listed in RCW 13.40.020(1) shall include a range of confinement which may not be less than thirty days. No standard range may include a period of confinement which includes both more than thirty, and thirty or less, days. Disposition standards recommended by the commission shall provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole not to exceed eighteen months. Standards of confinement which may be proposed may relate only to the length of the proposed terms and not to the nature of the security to be imposed. In developing recommended disposition standards, the commission shall consider the capacity of the state juvenile facilities and the projected impact of the proposed standards on that capacity.~~

~~—(b))~~ The secretary shall submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review no later than November 1st of each year. At the same time the secretary shall submit a report on security at juvenile facilities during the preceding year. The report shall include the number of escapes from each juvenile facility, the most serious offense for which each escapee had been confined, the number and nature of offenses found to have been committed by juveniles while on escape status, the number of authorized leaves granted, the number of failures to comply with leave requirements, the number and nature of offenses committed while on leave, and the number and nature of offenses committed by juveniles while in the community on minimum security status; to the extent this information is available to the secretary. The department shall include security status definitions in the security guidelines it submits to the legislature pursuant to this section.

(2) ~~(In developing recommendations for)~~ The permissible ranges of confinement ((under this section the commission shall be) resulting from a finding of manifest injustice under RCW 13.40.0357 are subject to the following limitations:

(a) Where the maximum term in the range is ninety days or less, the minimum term in the range may be no less than fifty percent of the maximum term in the range;

(b) Where the maximum term in the range is greater than ninety days but not greater than one year, the minimum term in the range may be no less than seventy-five percent of the maximum term in the range; and

(c) Where the maximum term in the range is more than one year, the minimum term in the range may be no less than eighty percent of the maximum term in the range.

Sec. 6. RCW 13.50.010 and 1994 sp.s. c 7 s 541 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.040 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the ((juvenile disposition standards)) sentencing guidelines commission under RCW 13.40.025 and 9.94A.040 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

Sec. 7. RCW 72.09.300 and 1994 sp.s. c 7 s 542 are each amended to read as follows:

(1) Every county legislative authority shall by resolution or ordinance establish a local law and justice council. The county legislative authority shall determine the size and composition of the council, which shall include the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal

prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections. Officials designated may appoint representatives.

(2) A combination of counties may establish a local law and justice council by intergovernmental agreement. The agreement shall comply with the requirements of this section.

(3) The local law and justice council shall develop a local law and justice plan for the county. The council shall design the elements and scope of the plan, subject to final approval by the county legislative authority. The general intent of the plan shall include seeking means to maximize local resources including personnel and facilities, reduce duplication of services, and share resources between local and state government in order to accomplish local efficiencies without diminishing effectiveness. The plan shall also include a section on jail management. This section may include the following elements:

(a) A description of current jail conditions, including whether the jail is overcrowded;

(b) A description of potential alternatives to incarceration;

(c) A description of current jail resources;

(d) A description of the jail population as it presently exists and how it is projected to change in the future;

(e) A description of projected future resource requirements;

(f) A proposed action plan, which shall include recommendations to maximize resources, maximize the use of intermediate sanctions, minimize overcrowding, avoid duplication of services, and effectively manage the jail and the offender population;

(g) A list of proposed advisory jail standards and methods to effect periodic quality assurance inspections of the jail;

(h) A proposed plan to collect, synthesize, and disseminate technical information concerning local criminal justice activities, facilities, and procedures;

(i) A description of existing and potential services for offenders including employment services, substance abuse treatment, mental health services, and housing referral services.

(4) The council may propose other elements of the plan, which shall be subject to review and approval by the county legislative authority, prior to their inclusion into the plan.

(5) The county legislative authority may request technical assistance in developing or implementing the plan from other units or agencies of state or local government, which shall include the department, the office of financial management, and the Washington association of sheriffs and police chiefs.

(6) Upon receiving a request for assistance from a county, the department may provide the requested assistance.

(7) The secretary may adopt rules for the submittal, review, and approval of all requests for assistance made to the department. The secretary may also appoint an advisory committee of local and state government officials to recommend policies and procedures relating to the state and local correctional systems and to assist the department in providing technical assistance to local governments. The committee shall include representatives of the county sheriffs, the police chiefs, the county prosecuting attorneys, the county and city legislative authorities, and the jail administrators. The secretary may contract with other state and local agencies and provide funding in order to provide the assistance requested by counties.

(8) The department shall establish a base level of state correctional services, which shall be determined and distributed in a consistent manner state-wide. The department's contributions to any local government, approved pursuant to this section, shall not operate to reduce this base level of services.

(9) The council shall establish an advisory committee on juvenile justice proportionality. The council shall appoint the county juvenile court administrator and at least five citizens as advisory committee members. The citizen advisory committee members shall be representative of the county's ethnic and geographic diversity. The advisory committee members shall serve two-year terms and may be reappointed. The duties of the advisory committee include:

(a) Monitoring and reporting to the ~~((juvenile disposition standards))~~ sentencing guidelines commission on the proportionality, effectiveness, and cultural relevance of:

(i) The rehabilitative services offered by county and state institutions to juvenile offenders; and

(ii) The rehabilitative services offered in conjunction with diversions, deferred dispositions, community supervision, and parole;

(b) Reviewing citizen complaints regarding bias or disproportionality in that county's juvenile justice system;

(c) By September 1 of each year, beginning with 1995, submit to the ~~((juvenile disposition standards))~~ sentencing guidelines commission a report summarizing the advisory committee's findings under (a) and (b) of this subsection.

**Sec. 8.** 1995 c 269 s 3603 (uncodified) is amended to read as follows:  
Section 301 of this act shall take effect June 30, ~~((1997))~~ 1996.

**NEW SECTION.** **Sec. 9.** RCW 13.40.027 and 1993 c 415 s 9, 1992 c 205 s 103, 1989 c 407 s 2, 1986 c 288 s 9, & 1981 c 299 s 4 are each repealed.

**\*NEW SECTION.** **Sec. 10.** *1996 c . . . s 3 (section 3 of this act) is repealed, effective June 30, 1999.*

\*Sec. 10 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1996, in the supplemental omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 12. (1) Sections 1 through 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

(2) Section 9 of this act takes effect July 1, 1996.

Passed the Senate March 6, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 28, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 10, Senate Bill No. 6253 entitled:

"AN ACT Relating to the sentencing guidelines commission;"

Senate Bill No. 6253 updates the powers and duties and expands the membership of the Sentencing Guidelines Commission (Commission). This legislation recognizes the need to assess the current status of adult felony sentencing as well as the need to reform disposition standards for juvenile offenders. In order to provide needed representation and perspective on the Commission, membership is increased to add a victim of crime or victims' advocate, a county elected official, a city elected official, a juvenile court administrator, and the head of the state agency responsible for juvenile corrections (currently the assistant secretary for the Juvenile Rehabilitation Administration of the Department of Social and Health Services). The chair of the Clemency and Pardons Board is removed from membership.

Section 10 of Senate Bill No. 6253 repeals these changes and restores the Commission's current membership structure effective June 30, 1999. Because the Commission's responsibilities are not expected to change at that time, there is no reason for repealing these changes. The need for this representation and variety of perspectives will be at least as great in 1999 as it is now. Further, the repeal would not provide a significant savings to taxpayers since Commission members serve part-time and receive only reimbursement of actual costs and, in the case of citizen members, per diem for meetings.

For these reasons, I have vetoed section 10 of Senate Bill No. 6253.

With the exception of section 10, Senate Bill No. 6253 is approved."

## CHAPTER 233

[Substitute Senate Bill 6267]

### PRINCIPAL INTERNSHIP SUPPORT PROGRAM—REVISIONS

AN ACT Relating to the principal internship support program; and amending RCW 28A.415.270 and 28A.415.280.

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

**Sec. 1.** RCW 28A.415.270 and 1993 c 336 s 404 are each amended to read as follows:

(1) To the extent funds are appropriated, the Washington state principal internship support program is created beginning in the 1994-95 school year.



The purpose of the program is to provide funds to school districts to ~~((hire substitutes))~~ provide partial release time for district employees who are in a principal preparation program to complete an internship with a mentor principal. Funds may be used in a variety of ways to accommodate flexible implementation in releasing the intern to meet program requirements.

(2) Participants in the principal internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school principal preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the principal internship support program and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor principal for each principal intern applicant, and shall agree to provide the internship applicant ~~((at least))~~ release time not to exceed the equivalent of forty-five student days ~~((of release time for the internship))~~ by means of this funding source; and

(d) Educational service districts, with the assistance of an advisory board, shall select internship participants.

(3)~~((a))~~ The maximum amount of state funding for each internship shall ~~((be the estimated state wide average))~~ not exceed the actual daily rate cost of providing a substitute teacher for the equivalent of forty-five school days.

~~((b))~~ (4) Funds appropriated for the principal internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district. ~~((Participants should be selected to reflect the percentage of minorities of the student population in the educational service district region, and to the extent practicable, represent an equal number of women and men.~~

~~— If it is not possible to find qualified candidates reflecting the percentage of minorities of the student population of the educational service district, the educational service district shall select those qualified candidates who meet these criteria and leave the remaining positions unfilled, and any unspent funds shall revert to the state general fund.))~~ If it is not possible to find qualified candidates within the educational service district, the positions remain unfilled, and any unspent funds shall revert to the superintendent of public instruction for supplementary direct disbursement.

The superintendent of public instruction shall allocate any remaining unfilled positions and unspent funds among the educational service districts that have qualified candidates but not enough positions for them.

This subsection does not preclude the superintendent of public instruction from permitting the affected educational service districts to make the supplementary selections.

~~((e))~~ (5) Once principal internship participants have been selected, the educational service districts shall allocate the funds to the appropriate school districts. The funds shall be used to pay for ~~((replacement substitute staff))~~ partial release time while the school district employee is completing the principal internship.

~~((d))~~ (6) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction.

Sec. 2. RCW 28A.415.280 and 1993 c 336 s 405 are each amended to read as follows:

(1) To the extent funds are appropriated, the Washington state superintendent and program administrator internship support program is created beginning in the 1994-95 school year. The purpose of the program is to provide funds to school districts to ~~((hire substitutes))~~ provide partial release time for district employees who are in a superintendent or program administrator preparation program to complete an internship with a mentor administrator. Funds may be used in a variety of ways to accommodate flexible implementation in releasing the intern to meet program requirements.

(2) Participants in the superintendent and program administrator internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school district superintendent or program administrator preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the internship support program and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor administrator for each intern applicant and shall agree to provide the internship applicant ~~((at least))~~ release time not to exceed the equivalent of forty-five student days ~~((of release time for the internship))~~ by means of this funding source; and

(d) Educational service districts, with the assistance of an advisory board, shall select internship participants.

(3)(a) The maximum amount of state funding for each internship shall ~~((be the estimated state wide average))~~ not exceed the actual daily rate cost of providing a substitute teacher for the equivalent of forty-five school days ~~((as calculated by the superintendent of public instruction)).~~

(b) Funds appropriated for the internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district. ~~((To the extent practicable, participants should be selected to reflect the racial and ethnic diversity of the student population in the educational service district region, and represent an equal number of women and men.))~~

(c) Once internship participants have been selected, the educational service districts shall allocate the funds to the appropriate school districts. The funds shall be used to pay for ~~((replacement substitute staff))~~ partial release time while the school district employee is completing the internship.

(d) If an educational service district has unfilled superintendent or program administrator internship positions, the positions and unspent funds shall revert to the superintendent of public instruction for supplementary direct disbursement among the educational service districts.

The superintendent of public instruction shall allocate any remaining unfilled positions and unspent funds among the educational service districts that have qualified candidates but not enough positions for them.

This subsection does not preclude the superintendent of public instruction from permitting the affected educational service districts to make the supplementary selections.

(e) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction.

Passed the Senate February 10, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 234

[Engrossed Senate Bill 6277]

### GAME FISH LICENSES—CREDITS

AN ACT Relating to vouchers for game fish licenses; amending RCW 77.32.360; adding a new section to chapter 77.32 RCW; and providing an expiration date.

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

**Sec. 1.** RCW 77.32.360 and 1995 c 116 s 7 are each amended to read as follows:

(1) Each person who returns a steelhead catch record card to an authorized license dealer within thirty days following the period for which it was issued shall be given a credit equal to five dollars towards that day's purchase of any license, permit, transport tag, or stamp required by this chapter. This subsection does not apply to annual steelhead catch record cards for persons under the age of fifteen.

(2) Each person who returns a steelhead catch record card to the department within thirty days following the period for which it was issued shall be issued a nontransferable credit equal to five dollars towards the purchase of the next year's steelhead fishing license. Lost, stolen, or destroyed credits will not be replaced. This subsection does not apply to annual steelhead catch record cards for persons under the age of fifteen.

(3) Catch record cards necessary for proper management of the state's game fish resources shall be administered under rules adopted by the director and issued at no charge.

NEW SECTION. Sec. 2. A new section is added to chapter 77.32 RCW to read as follows:

(1) Each person who returns a 1995 steelhead fishing license to the department shall be issued a nontransferable credit equal to six dollars towards a 1997 steelhead fishing license. A person who purchased a 1995 steelhead fishing license but is no longer in possession of the license may apply to the department for a six-dollar credit by completing a written affidavit provided by the department.

(2) Each person who returns a 1995 juvenile steelhead fishing license to the department shall be issued a nontransferable credit equal to two dollars towards the appropriate 1997 steelhead fishing license. A person who purchased a 1995 juvenile steelhead fishing license but is no longer in possession of the license may apply to the department for a two-dollar credit by completing a written affidavit provided by the department.

(3) A person who purchased a 1995 steelhead fishing license or a 1995 juvenile steelhead fishing license is eligible for no more than one credit issued under this section.

(4) This section expires December 31, 1997.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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**CHAPTER 235**

{Senate Bill 6286}

**RIGHTS TO DIES, MOLDS, FORMS, AND PATTERNS**

AN ACT Relating to rights to dies, molds, forms, and patterns; adding a new chapter to Title 63 RCW; and adding a new chapter to Title 60 RCW.

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) "Customer" means an individual or entity that causes or did cause a molder to fabricate, cast, or otherwise make a die, mold, or form.

(2) "Molder" means an individual or entity, including but not limited to a tool or die maker, that fabricates, casts, or otherwise makes a die, mold, or form.

(3) "Within three years after the last use" means the three-year period after the last use of a die, mold, or form, regardless of whether or not any portion of that period predates the effective date of this act.

**NEW SECTION.** Sec. 2. (1) In the absence of a written agreement otherwise, the customer has title and all rights to a die, mold, or form in the molder's possession.

(2) If a customer does not claim possession from a molder of a die, mold, or form within three years after the last use of the die, mold, or form, title and all rights to the die, mold, or form may be transferred to the molder for the purpose of destroying or otherwise disposing of the die, mold, or form.

(3) At least one hundred twenty days before seeking title and rights to a die, mold, or form in its possession, a molder shall send notice, via registered or certified mail, to the chief executive officer of the customer or, if the customer is not a business entity, to the customer's last known address. The notice must state that the molder intends to seek title and rights to the die, mold, or form. The notice must also include the name, address, and phone number of the molder.

(4) If a customer does not respond in person or by mail within one hundred twenty days after the date the notice was sent, or does not make other contractual arrangements with the molder for storage of the die, mold, or form, title and all rights of the customer transfer by operation of law to the molder. Thereafter, the molder may destroy or otherwise dispose of the die, mold, or form without any risk of liability to the customer.

**NEW SECTION.** Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Customer" means an individual or entity that contracts with, causes, or caused a plastic fabricator to use a die, mold, form, or pattern to manufacture, assemble, or otherwise make a plastic product.

(2) "Plastic fabricator," "fabricator," or "molder" means an individual or entity, including but not limited to a tool or die maker, that contracts to or uses a die mold, form, or pattern to manufacture, assemble, or otherwise make a plastic product for a customer.

**NEW SECTION.** Sec. 4. (1) A plastic fabricator, molder, and person conducting a plastic fabricating business has a lien, dependent on possession, on a die, mold, form, or pattern belonging to the customer for the amount owing from the customer for plastic fabrication work and for the value of materials used in the work. The fabricator may retain possession of the die, mold, form, or pattern until the charges are paid. This lien does not have priority over any security interest in the die, mold, form, or pattern that is perfected at the time the fabricator acquires the lien.

(2) Before a lien is enforced, the fabricator must cause written notice to be delivered personally or by registered or certified mail to the last known address of the customer. The notice must state that the fabricator will exercise its lien right because of nonpayment. The notice must also state the amount of money owed and demand payment. The fabricator's name, address, and phone number must be included in the notice.

(3) If the fabricator is not paid the total due within sixty days after the notice has been received by the customer, the fabricator may foreclose the lien by notice and sale as provided in this section, if the die, mold, form, or pattern is in the fabricator's possession. The fabricator must send notice of intended sale, by registered or certified mail with return receipt requested, to the last known address of the customer. The notice must include: A description of the die, mold, form, or pattern to be sold; a statement of intent to sell the die, mold, form, or pattern at public sale; the date, time, and place of the sale; and an itemized statement of moneys owing.

If there is no return receipt or if the postal service returns the notice as undeliverable, the fabricator shall publish notice of intention to sell the die, mold, form, or pattern at public sale in a newspaper of general circulation in the county where the die, mold, form, or pattern is physically located. The publication must include: A description of the die, mold, form, or pattern; the name, address, and phone number of the customer; the name, address, and phone number of the fabricator; and the date, time, and place of the sale.

The fabricator is entitled to the amount owing plus the costs of holding, preparing for sale, and selling the die, mold, form, or pattern. The fabricator is also entitled to reasonable attorneys' fees incurred.

(4) If the sale proceeds exceed the amount owing, the excess must be paid to subsequent lien holders. Any remainder must be remitted to the customer.

(5) A public sale may not be held under this section if it is in violation of a right of a customer under federal patent or copyright law.

**NEW SECTION.** Sec. 5. (1) Sections 1 and 2 of this act shall constitute a new chapter in Title 63 RCW.

(2) Sections 3 and 4 of this act shall constitute a new chapter in Title 60 RCW.

Passed the Senate March 4, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 236

[Senate Bill 6289]

### FRATERNAL BENEFIT SOCIETIES—REGULATION

AN ACT Relating to fraternal benefit societies; amending RCW 48.36A.100, 48.36A.290, and 48.36A.310; adding new sections to chapter 48.36A RCW; and repealing RCW 48.36A.300.

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

**Sec. 1.** RCW 48.36A.100 and 1987 c 366 s 10 are each amended to read as follows:

A domestic society organized on or after January 1, 1988, shall be formed as follows, but not until it has and continues to maintain unimpaired 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.

(7) The commissioner may, by rule, require domestic fraternal societies to have and maintain a larger amount of surplus than the minimum amount of capital and surplus prescribed under RCW 48.05.340, based upon the type, volume, and nature of insurance business transacted, consistent with the principles of risk-based capital modified to recognize the special characteristics of fraternal benefit societies.

Sec. 2. RCW 48.36A.290 and 1987 c 366 s 29 are each amended to read as follows:

(1) 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 and must have and continue to maintain unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340. A society may be licensed to transact business in this state upon filing with the commissioner:

~~((1))~~ (a) A duly certified copy of its articles of incorporation;

~~((2))~~ (b) A copy of its bylaws, certified by its secretary or corresponding officer;

~~((3))~~ (c) A power of attorney to the commissioner as prescribed in RCW 48.36A.410;

~~((4))~~ (d) 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))~~ (e) 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))~~ (f) Copies of its certificate forms; and

~~((7))~~ (g) 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.

(2) After June 30, 1997, a foreign or alien society which does not have unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340 may not issue any new policies or certificates until the society has unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340; however, a foreign or alien society may continue to issue new policies or certificates to members of the society who have an existing policy or certificate in force with the society on June 30, 1997. Once such a foreign or alien society obtains unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340, the society must continue to maintain unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340;

(3) After June 30, 1997, a foreign or alien society which had unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340 on December 31, 1996, must continue to maintain unimpaired surplus in the minimum amount of total capital and surplus required by RCW 48.05.340; and

(4) The commissioner may, by rule, require foreign or alien fraternal societies to have and maintain a larger amount of surplus than the minimum amount of capital and surplus prescribed under RCW 48.05.340, based upon the type, volume, and nature of insurance business transacted, consistent with the principles of risk-based capital modified to recognize the special characteristics of fraternal benefit societies.

Sec. 3. RCW 48.36A.310 and 1987 c 366 s 31 are each amended to read as follows:

(1) ~~((When the commissioner, upon investigation, finds that a foreign or alien society transacting or applying to transact business in this state))~~ The commissioner may refuse, suspend, or revoke a fraternal benefit society's license, if the society:

(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))~~ (e) Has a membership of less than four hundred after an existence of one year or more;

(f) Is found by the commissioner to be in such a condition that its further transaction of insurance in this state would be hazardous to certificate holders and the people in this state;

(g) Refuses to remove or discharge a trustee, director, or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude;

(h) Refuses to be examined, or if its trustees, directors, officers, employees, or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination;

(i) Fails to pay any final judgment rendered against it in this state upon any certificate, or undertaking issued by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final determination, whichever date is the later;

(j) Is found by the commissioner, after investigation or upon receipt of reliable information, to be managed by persons, whether by its trustees, directors, officers, or by any other means, who are incompetent or

untrustworthy or so lacking in fraternal benefit society managerial experience as to make a proposed operation hazardous to its members; or that there is good reason to believe it is affiliated directly or indirectly through ownership, control, or business relations, with any person or persons whose business operations are or have been found to be in violation of any law or rule, to the detriment of the members of the society or of the public, by bad faith or by manipulation of the assets, or of accounts, or of reinsurance of the society; or

(k) Does business through agents or other representatives in this state or in any other state who are not properly licensed under applicable laws and rules.

(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. 4. The commissioner shall give a society notice of his or her intention to suspend, revoke, or refuse to renew its license not less than ten days before the effective date of the order of suspension, revocation or refusal, except that advance notice of intention is not required where the order results from a domestic society's failure to make good a deficiency of assets as required by the commissioner.

NEW SECTION. Sec. 5. The commissioner shall not suspend a society's license for a period in excess of one year, and shall state in his or her order of suspension the period during which the order is effective.

NEW SECTION. Sec. 6. A society whose license has been suspended, revoked, or refused may not subsequently be authorized unless the grounds for the suspension, revocation, or refusal no longer exist and the society is otherwise fully qualified.

NEW SECTION. Sec. 7. Upon the suspension, revocation, or refusal of a society's license, the commissioner shall give notice to the society and shall suspend, revoke, or refuse the authority of its agents to represent it in this state and give notice to the agents.

NEW SECTION. Sec. 8. The following standards may be considered by the commissioner to determine whether the continued operation of any society transacting an insurance business in this state might be deemed to be hazardous to the certificate holders or creditors. The commissioner may consider:

(1) Adverse findings reported in either a financial condition or market conduct examination report, or both, of a state insurance department that could lead to impairment of surplus;

(2) The national association of insurance commissioners insurance regulatory information system and its related reports;

(3) The ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income that could lead to an impairment of surplus;

(4) The society's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the society's ability to meet its outstanding obligations as they mature;

(5) The ability of an assuming reinsurer to perform and whether the society's reinsurance program provides sufficient protection for the society's remaining surplus after taking into account the society's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(6) The society's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in nonadmitted assets, and cash refunds paid to members, is greater than fifty percent of the society's remaining surplus as regards certificate holders in excess of the minimum required;

(7) Whether any affiliate, subsidiary, or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligation;

(8) Contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount that in the opinion of the commissioner may affect the solvency of the society;

(9) The age and collectibility of receivables;

(10) Whether the management of a society, including officers, trustees, directors, or any other person who directly or indirectly controls the operation of the society, fails to possess and demonstrate the competence, fitness, and reputation deemed necessary to serve the society in such a position;

(11) Whether management of a society has failed to respond to inquiries relative to the condition of the society or has furnished misleading information concerning an inquiry;

(12) Whether management of a society either has filed any false or misleading sworn financial statement, or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the society;

(13) Whether the society has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; and

(14) Whether the society has experienced or will experience in the foreseeable future, either cash flow problems or liquidity problems, or both.

**NEW SECTION.** Sec. 9. (1) For the purpose of making a determination of a society's financial condition, the commissioner may:

(a) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(b) Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

(c) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(d) Increase the society's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the society will be called upon to meet the obligation undertaken within the next twelve-month period.

(2) If the commissioner determines that the continued operation of the society authorized to transact business in this state may be hazardous to the certificate holders, then the commissioner may, in conjunction with or in lieu of a notice required or permitted by section 4 of this act, issue an order requiring the society to:

(a) Reduce the total amount of present and potential liability for policy benefits by reinsurance;

(b) Reduce, suspend, or limit the volume of business being accepted or renewed;

(c) Reduce general insurance and commission expenses by specified methods;

(d) Increase the society's surplus;

(e) Suspend or limit the declaration and payment of refunds by a society to its members;

(f) File reports in a form acceptable to the commissioner concerning the market value of a society's assets;

(g) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;

(h) Document the adequacy of premium rates in relation to the risks insured; or

(i) File, in addition to regular annual statements, interim financial reports on the form adopted by the national association of insurance commissioners or on a format promulgated by the commissioner.

(3) Any society subject to an order under subsection (2) of this section may make a written demand for a hearing, subject to the requirements of RCW 48.04.010, by specifying in what respects it is aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.

**NEW SECTION. Sec. 10.** (1) Any rehabilitation, liquidation, or conservation of a domestic fraternal benefit society is the same as the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The commissioner may apply for an order directing the commissioner to rehabilitate, liquidate, or conserve a domestic fraternal benefit society upon any one or more of the following grounds: That the domestic fraternal benefit society:

(a) Is insolvent; or

(b) Has ceased transacting insurance business for a period of one year; or

(c) Is insolvent and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any law except this code; or

(d) Any of the matters set forth in RCW 48.36A.310.

(2) The priority of the distribution of claims from a domestic fraternal benefit society's estate shall be as set forth in RCW 48.31.280.

NEW SECTION. Sec. 11. RCW 48.36A.300 and 1987 c 366 s 30 are each repealed.

NEW SECTION. Sec. 12. Sections 4 through 10 of this act are each added to chapter 48.36A RCW.

Passed the Senate March 2, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 237

[Substitute Senate Bill 6322]

### RECREATIONAL VEHICLE SANITARY DISPOSAL FACILITIES

AN ACT Relating to recreational vehicle sanitary disposal facilities; amending RCW 46.16.063, 46.68.170, and 47.38.050; and providing an effective date.

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

Sec. 1. RCW 46.16.063 and 1980 c 60 s 2 are each amended to read as follows:

In addition to other fees for the licensing of vehicles there shall be paid and collected annually for each camper, travel trailer, and motor home as the same are defined in RCW 82.50.010 a fee of ~~((one))~~ three dollars to be deposited in the RV account of the motor vehicle fund. Under RCW 43.135.055, the department of transportation may increase RV account fees by a percentage that exceeds the fiscal growth factor. After consultation with citizen representatives of the recreational vehicle user community, the department of transportation may implement RV account fee adjustments no more than once every four years. RV account fee adjustments must be preceded by evaluation of the following factors: Maintenance of a self-supporting program, levels of service at existing RV sanitary disposal facilities, identified needs for improved RV service at safety rest areas state-wide, sewage treatment costs, and inflation. If the department chooses to adjust the RV account fee, it shall notify the department of licensing six months before implementation of the fee increase. Adjustments in the RV account fee must be in increments of no more than fifty cents per biennium.

Sec. 2. RCW 46.68.170 and 1980 c 60 s 3 are each amended to read as follows:

There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction ~~((and))~~, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas ~~((on federal-aid highways))~~ in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW.

Sec. 3. RCW 47.38.050 and 1980 c 60 s 1 are each amended to read as follows:

The department of transportation shall construct and maintain recreational vehicle sanitary disposal systems in the following safety rest areas lying along highways which are a part of the interstate highway system:

(1) Gee Creek safety rest area, northbound and southbound on Interstate 5 in Clark county;

(2) Sea-Tac safety rest area, northbound on Interstate 5 in King county;

(3) Silver Lake safety rest area, southbound on Interstate 5 in Snohomish county;

(4) Winchester Wasteway safety rest area, eastbound and westbound on Interstate 90 in Grant county;

(5) Sprague safety rest area, eastbound on Interstate 90 in Lincoln county;  
~~((and))~~

(6) Selah Creek safety rest area, northbound and southbound on Interstate 82 in Yakima county;

(7) Indian John Hill safety rest area, eastbound and westbound on Interstate 90 in Kittitas county;

(8) Smokey Point safety rest area, northbound and southbound on Interstate 5 in Snohomish county;

(9) Schrag safety rest area, westbound on Interstate 90 in Adams county.

NEW SECTION. Sec. 4. Section 1 of this act takes effect with motor vehicle fees due or to become due September 1, 1996.

Passed the Senate March 4, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 238

[Engrossed Senate Bill 6413]

### SUCCESSOR EMPLOYER CONTRIBUTION RATES—REVISIONS

AN ACT Relating to the selection of successor employer contribution rates; amending RCW 50.29.062; and creating new sections.

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

Sec. 1. RCW 50.29.062 and 1995 c 56 s 1 are each amended to read as follows:

Predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer, its contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs. From and after January 1 following the transfer, the successor's contribution rate for each rate year shall be based on its experience with payrolls and benefits including the experience of the acquired business or portion of a business from the date of transfer, as of the regular computation date for that rate year.

(2) If the successor is not an employer at the time of the transfer, it shall pay contributions at the lowest rate determined under either of the following:

(a) (i) For transfers before January 1, 1997, the contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year and continuing until the successor qualifies for a different rate in its own right;

(ii) For transfers on or after January 1, 1997, the contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience relating to the assignment of that rate class attributable to the predecessor is transferred to the successor. Beginning with the January 1 following the transfer, the successor's contribution rate shall be based on the transferred experience of the acquired business and the successor's experience after the transfer; or

(b) The contribution rate equal to the average industry rate as determined by the commissioner, but not less than one percent, and continuing until the successor qualifies for a different rate in its own right. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, must 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.

(3) If the successor is not an employer at the time of the transfer and simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, its rate from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the highest rate class applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition, but not less than one percent.

(4) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(5) In all cases, from and after January 1 following the transfer, the predecessor's contribution rate for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year including the experience of the acquired business or portion of business



up to the date of transfer: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

**NEW SECTION. Sec. 2.** This act applies to unemployment contribution rates effective on and after January 1, 1996.

**NEW SECTION. Sec. 3.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state 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 that 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.

Passed the Senate March 4, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 239

[Substitute Senate Bill 6422]

### GENERAL AVIATION FACILITIES—PROTECTION FROM INCOMPATIBLE LAND USES

AN ACT Relating to protecting general aviation facilities from encroachment of incompatible land uses; reenacting and amending RCW 36.70A.070; adding a new section to chapter 36.70 RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; and adding a new section to chapter 36.70A RCW.

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

**Sec. 1.** RCW 36.70A.070 and 1995 c 400 s 3 and 1995 c 377 s 1 are each reenacted and amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land

uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The rural element shall permit appropriate land uses that are compatible with the rural character of such lands and provide for a variety of rural densities and uses and may also provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural uses not characterized by urban growth.

(6) A transportation element that implements, and is consistent with, the land use element. The transportation element shall include the following subelements:

- (a) Land use assumptions used in estimating travel;
- (b) Facilities and services needs, including:

(i) An inventory of air, water, and ~~(land)~~ ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning;

(ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(e) Demand-management strategies.

After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

The transportation element described in this subsection, and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, must be consistent.

**NEW SECTION.** Sec. 2. A new section is added to chapter 36.70 RCW to read as follows:

Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation. All proposed and adopted plans and regulations shall be filed with the aviation division of the department of transportation within a reasonable time after release for public consideration and comment. Each county, city, and town may obtain technical assistance from the aviation division of the department of transportation to develop plans and regulations consistent with this section.

Any additions or amendments to comprehensive plans or development regulations required by this section may be adopted during the normal course of land-use proceedings.

This section applies to every county, city, and town, whether operating under chapter 35.63, 35A.63, 36.70, 36.70A RCW, or under a charter.

**NEW SECTION.** Sec. 3. A new section is added to chapter 35.63 RCW to read as follows:

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to section 2 of this act.

**NEW SECTION.** Sec. 4. A new section is added to chapter 35A.63 RCW to read as follows:

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to section 2 of this act.

**NEW SECTION.** Sec. 5. A new section is added to chapter 36.70A RCW to read as follows:

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to section 2 of this act.

Passed the Senate February 9, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 240

[Engrossed Substitute Senate Bill 6514]

## PRESERVATION SERVICES FOR FAMILIES—ENHANCEMENT

AN ACT Relating to preservation services; amending RCW 74.14C.010, 74.14C.020, 74.14C.030; and creating a new section.

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

***\*NEW SECTION. Sec. 1. The legislature intends this act to accomplish the following: (1) Prevent unnecessary out-of-home placement by targeting services to families most at risk; (2) Increase flexibility in the delivery of preservation services; (3) allow the use of paraprofessional workers and community support systems; (4) allow the use of follow-up as necessary; (5) increase the maximum service duration; and (6) increase the maximum caseload.***

\*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 74.14C.010 and 1995 c 311 s 2 are each amended to read as follows:

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) "Community support systems" means the support that may be organized through extended family members, friends, neighbors, religious organizations, community programs, cultural and ethnic organizations, or other support groups or organizations.

(3) "Family preservation services" means in-home or community-based services drawing on the strengths of the family and its individual members while addressing family needs to strengthen and keep the family together where possible and may include:

(a) Respite care of children to provide temporary relief for parents and other caregivers;

(b) Services designed to improve parenting skills with respect to such matters as child development, family budgeting, coping with stress, health, safety, and nutrition; and

(c) Services designed to promote the well-being of children and families, increase the strength and stability of families, increase parents' confidence and competence in their parenting abilities, promote a safe, stable, and supportive family environment for children, and otherwise enhance children's development.

Family preservation services shall have the characteristics delineated in RCW 74.14C.020 (2) and (3).

~~((3))~~ (4) "Imminent" means a decision has been made by the department that, without intensive family preservation services, a petition requesting the removal of a child from the family home will be immediately filed under chapter 13.32A or 13.34 RCW, or that a voluntary placement agreement will be immediately initiated.

~~((4))~~ (5) "Intensive family preservation services" means community-based services that are delivered primarily in the home, that follow intensive service models with demonstrated effectiveness in reducing or avoiding the need for unnecessary imminent out-of-home placement, and that have all of the characteristics delineated in RCW 74.14C.020 (1) and (3).

~~((5))~~ (6) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

~~((6))~~ (7) "Paraprofessional worker" means any individual who is trained and qualified to provide assistance and community support systems development to families and who acts under the supervision of a preservation services therapist. The paraprofessional worker is not intended to replace the role and responsibilities of the preservation services therapist.

(8) "Preservation services" means family preservation services and intensive family preservation services that consider the individual family's cultural values and needs.

Sec. 3. RCW 74.14C.020 and 1995 c 311 s 3 are each amended to read as follows:

(1) Intensive family preservation services shall have all of the following characteristics:

(a) Services are provided by specially trained service providers who have received at least forty hours of training from recognized intensive in-home services experts. Service providers deliver the services in the family's home, and other environments of the family, such as their neighborhood or schools;

(b) Caseload size averages two families per service provider unless paraprofessional services are utilized, in which case a provider may, but is not required to, handle an average caseload of five families;

(c) The services to the family are provided by a single service provider who may be assisted by paraprofessional workers, with backup providers identified to provide assistance as necessary;

(d) Services are available to the family within twenty-four hours following receipt of a referral to the program; and

(e) Duration of service is limited to a maximum of forty days, unless ~~((the department authorizes an additional provision of service through an exception to policy))~~ paraprofessional workers are used, in which case the duration of services is limited to a maximum of ninety days. The department may authorize an additional provision of service through an exception to policy when the department and provider agree that additional services are needed.

(2) Family preservation services shall have all of the following characteristics:

(a) Services are delivered primarily in the family home or community;

(b) Services are committed to reinforcing the strengths of the family and its members and empowering the family to solve problems and become self-sufficient;

(c) Services are committed to providing support to families through community organizations including but not limited to school, church, cultural, ethnic, neighborhood, and business;

(d) Services are available to the family within forty-eight hours of referral unless an exception is noted in the file;

(e) Duration of service is limited to a maximum of ~~((ninety days))~~ six months, unless the department ~~((authorizes an additional provision of service through an exception to policy))~~ requires additional follow-up on an individual case basis; and

(f) Caseload size no more than ten families per service provider, which can be adjusted ~~((according to exceptions defined))~~ when paraprofessional workers are used or required by the department.

(3) Preservation services shall include the following characteristics:

(a) Services protect the child and strengthen the family;

(b) Service providers have the authority and discretion to spend funds, up to a maximum amount specified by the department, to help families obtain necessary food, shelter, or clothing, or to purchase other goods or services that will enhance the effectiveness of intervention;

(c) Services are available to the family twenty-four hours a day and seven days a week;

(d) Services enhance parenting skills, family and personal self-sufficiency, functioning of the family, and reduce stress on families; and

(e) Services help families locate and use additional assistance including, but not limited to, the development and maintenance of community support systems, counseling and treatment services, housing, child care, education, job training, emergency cash grants, state and federally funded public assistance, and other basic support services.

Sec. 4. RCW 74.14C.030 and 1995 c 311 s 4 are each amended to read as follows:

(1) The department shall be the lead administrative agency for preservation services and may receive funding from any source for the implementation or expansion of such services. The department shall:

(a) Provide coordination and planning with the advice of the community networks for the implementation and expansion of preservation services; and

(b) Monitor and evaluate such services to determine whether the programs meet measurable standards specified by this chapter and the department.

(2) The department may: (a) Allow its contractors for preservation services to use paraprofessional workers when the department and provider determine the use appropriate. The department may also use paraprofessional workers, as appropriate, when the department provides preservation services; and (b) allow follow-up to be provided, on an individual case basis, when the department and provider determine the use appropriate.

(3) In carrying out the requirements of this section, the department shall consult with qualified agencies that have demonstrated expertise and experience in preservation services.

~~((3))~~ (4) The department may provide preservation services directly and shall, within available funds, enter into outcome-based, competitive contracts with social service agencies to provide preservation services, provided that such agencies meet measurable standards specified by this chapter and by the department. The standards shall include, but not be limited to, satisfactory performance in the following areas:

(a) The number of families appropriately connected to community resources;

(b) Avoidance of new referrals accepted by the department for child protective services or family reconciliation services within one year of the most recent case closure by the department;

(c) Consumer satisfaction;

(d) For reunification cases, reduction in the length of stay in out-of-home placement; and

(e) Reduction in the level of risk factors specified by the department.

~~((4))~~ (5)(a) The department shall not provide intensive family preservation services unless it is demonstrated that provision of such services prevent out-of-home placement in at least seventy percent of the cases served for a period of at least six months following termination of services. The department's caseworkers may only provide preservation services if there is no other qualified entity willing or able to do so.

(b) Contractors shall demonstrate that provision of intensive family preservation services prevent out-of-home placement in at least seventy percent of the cases served for a period of no less than six months following termination of services. The department may increase the period of time based on additional research and data. If the contractor fails to meet the seventy percent requirement the department may: (I) Review the conditions that may have contributed to the failure to meet the standard and renew the contract if the department determines: (A) The contractor is making progress to meet the standard; or (B) conditions unrelated to the provision of services, including case mix and severity of cases, contributed to the failure; or (ii) reopen the contract for other bids.

(c) The department shall cooperate with any person who has a contract under this section in providing data necessary to determine the amount of reduction in foster care. For the purposes of this subsection "prevent out-of-home placement" means that a child who has been a recipient of intensive family preservation services has not been placed outside of the home, other than for a single, temporary period of time not exceeding fourteen days.

(6) The department shall adopt rules to implement this chapter.



Passed the Senate March 4, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 28, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 6514 entitled:

"AN ACT Relating to preservation services;"

Substitute Senate Bill No. 6514 authorizes the use of paraprofessional workers to provide support services to families receiving preservation services from the Department of Social and Health Services (DSHS) or its contractors. This bill also allows DSHS and its contractors, when using paraprofessionals, to serve more families and to provide preservation services for a longer period of time.

Section 1 of this measure states that it is the intent of the legislature to target preservation services to families "most at risk". This language suggests that DSHS must prioritize the provision of preservation services to families who are at high risk of having their children removed from their home due to abuse or neglect. More specifically, this language may be read as suggesting that the department serve high risk families before serving families who are at lower risk of an out-of-home placement, but who nevertheless have placed their children in danger and who could benefit from services designed to prevent the situation from escalating into a crisis resulting in an out-of-home placement.

While I agree that scarce resources should be targeted whenever possible, section 1 seems to be unduly restrictive and contrary to the prevention-oriented focus of Engrossed Substitute Senate Bill No. 5885. That important legislation, which was enacted last year and for which the legislature has appropriated funding this year, contained a clear expression of the legislature's intent to provide "up-front services" to strengthen families and to prevent out-of-home placements. Last year's measure also expanded preservation services to include less intensive services for families who are at lower risk of an out-of-home placement.

The 1996 supplemental operating budget, Engrossed Substitute Senate Bill No. 6251, expressly provides funding both for the existing intensive preservation services for high risk families and for the new preservation services established last year for lower risk families. Section 1 appears to be inconsistent with this legislative direction.

For these reasons, I have vetoed section 1 of Substitute Senate Bill No. 6514.

With the exception of section 1, Substitute Senate Bill No. 6514 is approved."

## CHAPTER 241

[Engrossed Substitute Senate Bill 6521]

### ELECTRICAL ADMINISTRATION PROCEDURES—REVISIONS

AN ACT Relating to electrical administration procedures; amending RCW 19.28.125, 19.28.210, 19.28.310, 19.28.510, and 19.28.550; and adding new sections to chapter 19.28 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 19.28 RCW to read as follows:

The department may deny renewal of a certificate or license issued under this chapter, if the applicant for renewal owes outstanding penalties for a final judgment under this chapter. The department shall notify the applicant of the denial by registered mail, return receipt requested, to the address on the

application. The applicant may appeal the denial within twenty days by filing a notice of appeal with the department accompanied by a certified check for two hundred dollars which shall be returned to the applicant if the decision of the department is not upheld by the board. The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW. The electrical board shall review the proposed decision at the next regularly scheduled board meeting. If the board sustains the decision of the department, the two hundred dollars must be applied to the cost of the hearing.

NEW SECTION. Sec. 2. A new section is added to chapter 19.28 RCW to read as follows:

The department may audit the records of an electrical contractor that has verified the hours of experience submitted by an electrical trainee to the department under RCW 19.28.510(2) in the following circumstances: Excessive hours were reported; hours reported outside the normal course of the contractor's business; the type of hours reported do not reasonably match the type of permits purchased; or for other similar circumstances in which the department demonstrates a likelihood of excessive hours being reported. The department shall limit the audit to records necessary to verify hours. The department shall adopt rules implementing audit procedures. Information obtained from an electrical contractor under the provisions of this section is confidential and is not open to public inspection under chapter 42.17 RCW.

Sec. 3. RCW 19.28.125 and 1988 c 81 s 6 are each amended to read as follows:

(1) Each applicant for an electrical contractor's license, other than an individual, shall designate a supervisory employee or member of the firm to take the required administrator's examination. Effective July 1, 1987, a supervisory employee designated as the administrator shall be a full-time supervisory employee. This person shall be designated as administrator under the license. No person may qualify as administrator for more than one contractor. If the relationship of the administrator with the electrical contractor is terminated, the contractor's license is void within ninety days unless another administrator is qualified by the board. However, if the administrator dies, the contractor's license is void within one hundred eighty days unless another administrator is qualified by the board. A certificate issued under this section is valid for two years from the nearest birthdate of the administrator, unless revoked or suspended, and further is nontransferable. The department may deny an application for an administrator's certificate for up to two years if the applicant's previous administrator's certificate has been revoked for a serious violation and all appeals concerning the revocation have been exhausted. For the purposes of this section only, a serious violation is a violation that presents imminent danger to the public. The certificate may be renewed for a two-year period without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within ninety days after the expiration date. If the

certificate is not renewed before the expiration date, the individual shall pay twice the usual fee. An individual holding more than one administrator's certificate under this chapter shall not be required to pay annual fees for more than one certificate. A person may take the administrator's test as many times as necessary without limit.

(2) The administrator shall:

(a) Be a member of the firm or a supervisory employee and shall be available during working hours to carry out the duties of an administrator under this section;

(b) Ensure that all electrical work complies with the electrical installation laws and rules of the state;

(c) Ensure that the proper electrical safety procedures are used;

(d) Ensure that all electrical labels, permits, and licenses required to perform electrical work are used;

(e) See that corrective notices issued by an inspecting authority are complied with; and

(f) Notify the department in writing within ten days if the administrator terminates the relationship with the electrical contractor.

(3) The department shall not by rule change the administrator's duties under subsection (2) of this section.

**Sec. 4.** RCW 19.28.210 and 1992 c 240 s 2 are each amended to read as follows:

(1) The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies. Nothing contained in this chapter may be construed as providing any authority for any subdivision of government to adopt by ordinance any provisions contained or provided for in this chapter except those pertaining to cities and towns pursuant to RCW 19.28.010(~~((2))~~) (3).

(2) Upon request, electrical inspections will be made by the department within forty-eight hours, excluding holidays, Saturdays, and Sundays. If, upon written request, the electrical inspector fails to make an electrical inspection within twenty-four hours, the serving utility may immediately connect electrical power to the installation if the necessary electrical work permit is displayed: **PROVIDED**, That if the request is for an electrical inspection that relates to a mobile home installation, the applicant shall provide proof of a current building permit issued by the local government agency authorized to issue such permits as a prerequisite for inspection approval or connection of electrical power to the mobile home.

(3) Whenever the installation of any wiring, device, appliance, or equipment is not in accordance with this chapter, or is in such a condition as to be dangerous to life or property, the person, firm, partnership, corporation, or other entity owning, using, or operating it shall be notified by the department and shall within fifteen days, or such further reasonable time as may upon request be granted, make such repairs and changes as are required to remove the

danger to life or property and to make it conform to this chapter. The director, through the inspector, is hereby empowered to disconnect or order the discontinuance of electrical service to conductors or equipment that are found to be in a dangerous or unsafe condition and not in accordance with this chapter. Upon making a disconnection the inspector shall attach a notice stating that the conductors have been found dangerous to life or property and are not in accordance with this chapter. It is unlawful for any person to reconnect such defective conductors or equipment without the approval of the department, and until the conductors and equipment have been placed in a safe and secure condition, and in a condition that complies with this chapter.

(4) The director, through the electrical inspector, has the right during reasonable hours to enter into and upon any building or premises in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of new construction or altered electrical wiring, electrical devices, equipment, or material contained in or on the buildings or premises. No electrical wiring or equipment subject to this chapter may be concealed until it has been approved by the inspector making the inspection. At the time of the inspection, electrical wiring or equipment subject to this chapter must be sufficiently accessible to permit the inspector to employ any testing methods that will verify conformance with the national electrical code and any other requirements of this chapter.

(5) Persons, firms, partnerships, corporations, or other entities making electrical installations shall obtain inspection and approval from an authorized representative of the department as required by this chapter before requesting the electric utility to connect to the installations. Electric utilities may connect to the installations if approval is clearly indicated by certification of the electrical work permit required to be affixed to each installation or by equivalent means, except that increased or relocated services may be reconnected immediately at the discretion of the utility before approval if an electrical work permit is displayed. The permits shall be furnished upon payment of the fee to the department.

(6) The director, subject to the recommendations and approval of the board, shall set by rule a schedule of license and electrical work permit fees that will cover the costs of administration and enforcement of this chapter. The rules shall be adopted in accordance with the administrative procedure act, chapter 34.05 RCW. No fee may be charged for plug-in mobile homes, recreational vehicles, or portable appliances.

(7) Nothing in this chapter shall authorize the inspection of any wiring, appliance, device, or equipment, or installations thereof, by any utility or by any person, firm, partnership, corporation, or other entity employed by a utility in connection with the installation, repair, or maintenance of lines, wires, apparatus, or equipment owned by or under the control of the utility. All work covered by the national electric code not exempted by the 1981 edition of the national electric code 90-2(B)(5) shall be inspected by the department.

**Sec. 5.** RCW 19.28.310 and 1988 c 81 s 10 are each amended to read as follows:

The department has the power, in case of (~~continued~~) serious noncompliance with the provisions of this chapter, to revoke or suspend for such a period as it determines, any electrical contractor license or electrical contractor administrator certificate issued under this chapter. The department shall notify the holder of the license or certificate of the revocation or suspension by certified mail. A revocation or suspension is effective (~~fifteen~~) twenty days after the holder receives the notice. Any revocation or suspension is subject to review by an appeal to the board. The filing of an appeal stays the effect of a revocation or suspension until the board makes its decision. The appeal shall be filed within (~~fifteen~~) twenty days after notice of the revocation or suspension is given by certified mail sent to the address of the holder of the license or certificate as shown on the application for the license or certificate, and shall be effected by filing a written notice of appeal with the department, accompanied by a certified check for two hundred dollars, which shall be returned to the holder of the license or certificate if the decision of the department is not sustained by the board. The hearing shall be conducted in accordance with chapter 34.05 RCW. If the board sustains the decision of the department, the two hundred dollars shall be applied by the department to the payment of the per diem and expenses of the members of the board incurred in the matter, and any balance remaining after payment of per diem and expenses shall be paid into the electrical license fund.

**Sec. 6.** RCW 19.28.510 and 1983 c 206 s 13 are each amended to read as follows:

(1) No person may engage in the electrical construction trade without having a current journeyman electrician certificate of competency or a current specialty electrician certificate of competency issued by the department in accordance with this chapter. Electrician certificate of competency specialties include, but are not limited to: Residential, domestic appliances, pump and irrigation, limited energy system, signs, and nonresidential maintenance.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade or who is learning the electrical construction trade may work in the electrical construction trade if supervised by a certified journeyman electrician or a certified specialty electrician in that electrician's specialty. All apprentices and individuals learning the electrical construction trade shall obtain an electrical training certificate from the department. The certificate shall authorize the holder to learn the electrical construction trade while under the direct supervision of a journeyman electrician or a specialty electrician working in his or her specialty. The holder of the electrical training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the electrical construction industry for the previous year

and the number of hours worked for each employer. An annual fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and individuals learning the electrical construction trade shall have their electrical training certificates in their possession at all times that they are performing electrical work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued an electrical training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a journeyman electrician or an appropriate specialty electrician who has an applicable certificate of competency issued under this chapter. Either a journeyman electrician or an appropriate specialty electrician shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. The ratio of noncertified individuals to certified journeymen or specialty electricians working on a job site shall be:

(a) From September 1, 1979, through December 31, 1982, not more than three noncertified electricians working on any one job site for every certified journeyman or specialty electrician;

(b) Effective January 1, 1983, not more than two noncertified individuals working on any one job site for every specialty electrician or journeyman electrician working as a specialty electrician;

(c) Effective January 1, 1983, not more than one noncertified individual working on any one job site for every certified journeyman electrician.

The ratio requirements do not apply to a trade school program in the electrical construction trade established during 1946.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the electrical construction trade in a school approved by the commission for vocational education, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4) The electrical contractor shall accurately verify and attest to the electrical trainee hours worked by electrical trainees on behalf of the electrical contractor.

Sec. 7. RCW 19.28.550 and 1993 c 192 s 1 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination provided in RCW 19.28.540; and who have complied with RCW 19.28.510 through 19.28.620 and the rules adopted under this chapter. The certificate shall bear the date of issuance, and shall expire on ~~((October 31st or April 30th, not less than six months nor more than three years~~

~~immediately following the date of issuance~~) the holder's birthday. The certificate shall be renewed every three years, upon application, on or before the holder's birthdate. A fee shall be assessed for each certificate and for each annual renewal.

(2) If the certificate holder demonstrates to the department that he or she has satisfactorily completed an annual eight-hour continuing education course, the certificate may be renewed without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within ninety days after the expiration date.

(a) The contents and requirements for satisfactory completion of the continuing education course shall be determined by the director and approved by the board.

(b) The department shall accept proof of a certificate holder's satisfactory completion of a continuing education course offered in another state as meeting the requirements for maintaining a current Washington state certificate of competency if the department is satisfied the course is comparable in nature to that required in Washington state for maintaining a current certificate of competency.

(3) If the certificate is not renewed before the expiration date, the individual shall pay twice the usual fee. The department shall set the fees by rule for issuance and renewal of a certificate of competency. The fees shall cover but not exceed the costs of issuing the certificates and of administering and enforcing the electrician certification requirements of this chapter.

(4) The certificates of competency and temporary permits provided for in this chapter grant the holder the right to work in the electrical construction trade as a journeyman electrician or specialty electrician in accordance with their provisions throughout the state and within any of its political subdivisions without additional proof of competency or any other license, permit, or fee to engage in such work.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 242

[Engrossed Senate Bill 6544]

### BAIL BOND AGENCY BRANCH OFFICES—REGULATION

AN ACT Relating to bail bond agency branch offices; amending RCW 18.185.010 and 18.185.100; and adding new sections to chapter 18.185 RCW.

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

Sec. 1. RCW 18.185.010 and 1993 c 260 s 2 are each amended to read as follows:

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

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

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

(3) "Collateral or security" means property of any kind given as security to obtain a bail bond.

(4) "Bail bond agency" means a business that sells and issues corporate surety bail bonds or that provides security in the form of personal or real property to insure the appearance of a criminal defendant before the courts of this state or the United States.

(5) "Qualified agent" means an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license.

(6) "Bail bond agent" means a person who is employed by a bail bond agency and engages in the sale or issuance of bail bonds, but does not mean a clerical, secretarial, or other support person who does not participate in the sale or issuance of bail bonds.

(7) "Licensee" means a bail bond agency or a bail bond agent or both.

(8) "Branch office" means any office physically separated from the principal place of business of the licensee from which the licensee or an employee or agents conduct any activity meeting the criteria of bail bond agency.

NEW SECTION. Sec. 2. A new section is added to chapter 18.185 RCW to read as follows:

A branch office may not operate under a business name other than the name of the principal bail bond agency and must have a qualified bail bond agent as manager of the office. The qualified agent shall comply with the provisions of RCW 18.185.100.

Sec. 3. RCW 18.185.100 and 1993 c 260 s 11 are each amended to read as follows:

(1) Every qualified agent shall keep adequate records for three years of all collateral and security received, all trust accounts required by this section, and all bail bond transactions handled by the bail bond agency, as specified by rule. The records shall be open to inspection without notice by the director or authorized representatives of the director.

(2) Every qualified agent who receives collateral or security is a fiduciary of the property and shall keep adequate records for three years of the receipt, safekeeping, and disposition of the collateral or security. Every qualified agent shall maintain a trust account in a federally insured financial institution located in this state. All moneys, including cash, checks, money orders, wire transfers, and credit card sales drafts, received as collateral or security or otherwise held for a bail bond agency's client shall be deposited in the trust account not later than the third banking day following receipt of the funds or money. A qualified agent shall not in any way encumber the corpus of the trust account or



commingle any other moneys with moneys properly maintained in the trust account. Each qualified agent required to maintain a trust account shall report annually under oath to the director the account number and balance of the trust account, and the name and address of the institution that holds the trust account, and shall report to the director within ten business days whenever the trust account is changed or relocated or a new trust account is opened.

(3) Whenever a bail bond is exonerated by the court, the ~~((bail bond agency))~~ qualified agent shall, within five business days after written notification of exoneration and upon written demand, return all collateral or security to the person entitled thereto.

NEW SECTION. Sec. 4. A new section is added to chapter 18.185 RCW to read as follows:

If a licensee maintains a branch office, the licensee shall not operate that branch office until a branch office license has been received from the director. A bail bond agency 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 a fee as prescribed by the director by rule. The director shall issue a separate license for each branch office showing the location of each branch which shall be prominently displayed in the office for which it is issued. A corporation, partnership, or sole proprietorship shall not establish more than one principal office within this state.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 243

[Substitute Senate Bill 6576]

### ADULT ADOPTEES—PRIVACY

AN ACT Relating to certified statements filed by adult adoptees concerning disclosure of adoption records; amending RCW 26.33.330 and 26.33.343; adding a new section to chapter 26.33 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 it is in the best interest of the people of the state of Washington to support the adoption process in a variety of ways, including protecting the privacy interests of adult adoptees when the confidential intermediary process is used.

NEW SECTION. Sec. 2. A new section is added to chapter 26.33 RCW to read as follows:

(1) An adopted person over the age of eighteen may file with the department of health a certified statement declaring any one or more of the following:

(a) The adoptee refuses to consent to the release of any identifying information to a biological parent, biological sibling, or other biological relative and does not wish to be contacted by a confidential intermediary except in the case of a medical emergency as determined by a court of competent jurisdiction;

(b) The adoptee consents to the release of any identifying information to a confidential intermediary appointed under RCW 26.33.343, a biological parent, biological sibling, or other biological relative;

(c) The adoptee desires to be contacted by his or her biological parents, biological siblings, other biological relatives, or a confidential intermediary appointed under RCW 26.33.343;

(d) The current name, address, and telephone number of the adoptee who desires to be contacted.

(2) The certified statement shall be filed with the department of health and placed with the adoptee's original birth certificate if the adoptee was born in this state, or in a separate registry file for reference purposes if the adoptee was born in another state or outside of the United States. When the statement includes a request for confidentiality or a refusal to consent to the disclosure of identifying information, a prominent notice stating substantially the following shall also be placed at the front of the file: "AT THE REQUEST OF THE ADOPTEE, ALL RECORDS AND IDENTIFYING INFORMATION RELATING TO THIS ADOPTION SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE DISCLOSED OR RELEASED WITHOUT A COURT ORDER SO DIRECTING."

(3) An adopted person who files a certified statement under subsection (1) of this section may subsequently file another certified statement requesting to rescind or amend the prior certified statement.

**Sec. 3.** RCW 26.33.330 and 1990 c 145 s 3 are each amended to read as follows:

(1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343. In determining whether good cause exists, the court shall consider any certified statement on file with the department of health as provided in section 2 of this act.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records.

**Sec. 4.** RCW 26.33.343 and 1990 c 145 s 1 are each amended to read as follows:

(1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. A petition under this section shall state whether a certified statement is on file with the

department of health as provided for in section 2 of this act and shall also state the intent of the adoptee as set forth in any such statement. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or adopted person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent. The court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(2)(a) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the intermediary engages in conduct which violates professional or ethical standards.

(b) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I, . . . . ., signing under penalty of contempt of court, state: "As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/                       date

(c) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(3) If the confidential intermediary is unable to locate the person being sought within one year, the confidential intermediary shall make a recommendation to the court as to whether or not a further search is warranted, and the reasons for this recommendation.

(4) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

(a) Is less than twenty-five years of age and is residing with the adoptive parent; or

(b) Is less than twenty-five years of age and is a dependent of the adoptive parent.

(5) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential intermediary shall report the refusal to the court and shall refrain from further and subsequent inquiry without judicial approval.

(6)(a) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(b) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(c) If the confidential intermediary is unable to contact the person being sought within one year, the court may order that the search be continued for a specified time or be terminated.

Passed the Senate March 4, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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**CHAPTER 244**

[Substitute Senate Bill 6699]

**TRANSPORTATION OF PERSONS WITH SPECIAL TRANSPORTATION NEEDS**

AN ACT Relating to transportation of persons with special transportation needs; amending RCW 81.66.010, 46.74.010, 46.74.030, 82.08.0287, 82.36.285, 82.38.080, and 82.44.015; and repealing RCW 81.66.070.

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

Sec. 1. RCW 81.66.010 and 1979 c 111 s 4 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Corporation" means a corporation, company, association, or joint stock association.

(2) "Person" means an individual, firm, or a copartnership.

(3) "Private, nonprofit transportation provider" means any private, nonprofit corporation providing transportation services for compensation solely to ~~((elderly or handicapped persons and their attendants))~~ persons with special transportation needs.

~~(4) ("Elderly" means any person sixty years of age or older.~~

~~—(5) "Handicapped" means all persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable without special facilities or special planning or design to use mass transportation facilities and services as efficiently as persons who are not so affected. Handicapped people include (a) ambulatory persons whose capacities are hindered by sensory disabilities such as blindness or deafness, mental disabilities such as mental retardation or emotional illness, physical disability which still permits the person to walk comfortably, or a combination of these disabilities; (b) semiambulatory persons who require special aids to travel such as canes, crutches, walkers, respirators, or human assistance; and (c) nonambulatory persons who must use wheelchairs or wheelchair-like equipment to travel))~~ "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

Sec. 2. RCW 46.74.010 and 1979 c 111 s 1 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby a fixed group not exceeding fifteen persons including ~~((passengers and))~~ the driver, and (a) not fewer than five persons including the driver, or (b) not fewer than four persons including the driver where at least two of those persons are confined to wheelchairs when riding, is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, in a single daily round trip where the driver is also on the way to or from his or her place of employment or educational or other institution.

(2) "Ride sharing for ~~((the elderly and the handicapped))~~ persons with special transportation needs" means ~~((a car pool or van pool))~~ an arrangement whereby a group of ((elderly and/or handicapped)) persons with special

transportation needs, and their attendants, ~~((not exceeding fifteen persons including passengers and driver,))~~ is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long: PROVIDED, That the driver need not be ~~((neither elderly nor handicapped))~~ a person with special transportation needs.

(3) ~~("Ride-sharing vehicle" means a passenger motor vehicle with a seating capacity not exceeding fifteen persons including the driver, while being used for commuter ride sharing or for ride sharing for the elderly and the handicapped.~~

~~—(4))~~ "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing or ride sharing for ~~((the elderly and the handicapped))~~ persons with special transportation needs.

~~((5) "Elderly" means any person sixty years of age or older.~~

~~—(6) "Handicapped" means all persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable without special facilities or special planning or design to use mass transportation facilities and services as efficiently as persons who are not so affected. Handicapped people include (a) ambulatory persons whose capacities are hindered by sensory disabilities such as blindness or deafness, mental disabilities such as mental retardation or emotional illness, physical disability which still permits the person to walk comfortably, or a combination of these disabilities; (b) semiambulatory persons who require special aids to travel such as canes, crutches, walkers, respirators, or human assistance; and (c) nonambulatory persons who must use wheelchairs or wheelchair-like equipment to travel))~~

(4) "Persons with special transportation needs" means those persons defined in RCW 81.66.010(4).

Sec. 3. RCW 46.74.030 and 1979 c 111 s 3 are each amended to read as follows:

~~((A ride-sharing))~~ The operator and the driver of a commuter ride-sharing vehicle shall be held to a reasonable and ordinary standard of care, and are not subject to ordinances or regulations which relate exclusively to the regulation of drivers or owners of motor vehicles operated for hire, or other common carriers or public transit carriers.

Sec. 4. RCW 82.08.0287 and 1995 c 274 s 2 are each amended to read as follows:

The tax imposed by this chapter shall not apply to sales of passenger motor vehicles which are to be used ~~((as))~~ for commuter ride((-)sharing ((vehicles)) or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010~~((3), by not less than five persons, including the driver, with a gross vehicle weight not to exceed 10,000 pounds where the primary usage is for~~

~~commuter ride sharing, as defined in RCW 46.74.010(1), or by not less than four persons including the driver when at least two of those persons are confined to wheelchairs when riding, or passenger motor vehicles where the primary usage is for ride sharing for the elderly and the handicapped, as defined in RCW 46.74.010(2)),~~ if the ride-sharing vehicles are exempt under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption under this section. If used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner of one of these vehicles shall notify the department of revenue upon termination of primary use of the vehicle as a ride-sharing vehicle and is liable for the tax imposed by this chapter.

To qualify for the tax exemption, those passenger motor vehicles with five or six passengers, including the driver, used for commuter ride-sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW or in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan. Additionally at least one of the following conditions must apply: (1) The vehicle must be operated by a public transportation agency for the general public; or (2) the vehicle must be used by a major employer, as defined in RCW 70.94.524 as an element of its commute trip reduction program for their employees; or (3) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

Sec. 5. RCW 82.36.285 and 1983 c 108 s 3 are each amended to read as follows:

A private, nonprofit transportation provider (~~certified~~) regulated under chapter 81.66 RCW shall receive a refund of the amount of the motor vehicle fuel tax paid on each gallon of motor vehicle fuel used to provide (~~transit~~) transportation services for (only elderly or handicapped persons, or both) persons with special transportation needs, whether the vehicle fuel tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of the tax to the price of the fuel.

Sec. 6. RCW 82.38.080 and 1993 c 141 s 2 are each amended to read as follows:

There is exempted from the tax imposed by this chapter, the use of fuel for: (1) Street and highway construction and maintenance purposes in motor vehicles owned and operated by the state of Washington, or any county or municipality;

(2) publicly owned fire fighting equipment; (3) special mobile equipment as defined in RCW 46.04.552; (4) power pumping units or other power take-off equipment of any motor vehicle which is accurately measured by metering devices that have been specifically approved by the department or which is established by either of the following formulae: (a) Pumping propane, or fuel or heating oils or milk picked up from a farm or dairy farm storage tank by a power take-off unit on a delivery truck, at the rate of three-fourths of one gallon for each one thousand gallons of fuel delivered or milk picked up: PROVIDED, That claimant when presenting his claim to the department in accordance with the provisions of this chapter, shall provide to said claim, invoices of propane, or fuel or heating oil delivered, or such other appropriate information as may be required by the department to substantiate his claim; or (b) operating a power take-off unit on a cement mixer truck or a load compactor on a garbage truck at the rate of twenty-five percent of the total gallons of fuel used in such a truck; and (c) the department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter; (5) motor vehicles owned and operated by the United States government; (6) heating purposes; (7) moving a motor vehicle on a public highway between two pieces of private property when said moving is incidental to the primary use of the motor vehicle; (8) ~~((transit))~~ transportation services for ~~((only elderly or handicapped persons, or both,))~~ persons with special transportation needs by a private, nonprofit transportation provider ~~((certified))~~ regulated under chapter 81.66 RCW; and (9) notwithstanding any provision of law to the contrary, every urban passenger transportation system and carriers as defined by chapters 81.68 and 81.70 RCW shall be exempt from the provisions of this chapter requiring the payment of special fuel taxes. For the purposes of this section "urban passenger transportation system" means every transportation system, publicly or privately owned, having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles and/or trackless trolleys, each having a seating capacity for over fifteen persons over prescribed routes in such a manner that the routes of such motor vehicles and/or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles and/or trackless trolleys subject to routing by the same transportation system, shall not extend for a distance exceeding twenty-five road miles beyond the corporate limits of the county in which the original starting points of such motor vehicles are located: PROVIDED, That no refunds or credits shall be granted on fuel used by any urban transportation vehicle or vehicle operated pursuant to chapters 81.68 and 81.70 RCW on any trip where any portion of said trip is more than twenty-five road miles beyond the corporate limits of the county in which said trip originated.



Sec. 7. RCW 82.44.015 and 1993 c 488 s 3 are each amended to read as follows:

For the purposes of this chapter, in addition to the exclusions under RCW 82.44.010, "motor vehicle" shall not include ~~((= (1)))~~ passenger motor vehicles used primarily ~~((as ride sharing vehicles))~~ for commuter ride sharing and ride sharing for persons with special transportation needs, as defined in RCW 46.74.010 ~~((3), by not fewer than five persons, including the driver, or not fewer than four persons including the driver, when at least two of those persons are confined to wheelchairs when riding; or (2) vehicles with a seating capacity greater than fifteen persons which otherwise qualify as ride sharing vehicles under RCW 46.74.010(3) used exclusively for ride sharing for the elderly or the handicapped by not fewer than seven persons, including the driver. This exemption is restricted to passenger motor vehicles with a gross vehicle weight not to exceed 10,000 pounds where the primary usage is for commuter ride-sharing as defined in RCW 46.74.010(1))).~~ The registered owner of one of these vehicles shall notify the department of licensing upon termination of primary use of the vehicle ~~((as a))~~ in commuter ride((-)sharing ((vehicle)) or ride sharing for persons with special transportation needs and shall be liable for the tax imposed by this chapter, prorated on the remaining months for which the vehicle is licensed.

To qualify for the tax exemption, those passenger motor vehicles with five or six passengers, including the driver, used for commuter ride-sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW or in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan. Additionally at least one of the following conditions must apply: (1) The vehicle must be operated by a public transportation agency for the general public; or (2) the vehicle must be used by a major employer, as defined in RCW 70.94.524 as an element of its commute trip reduction program for their employees; or (3) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

NEW SECTION. Sec. 8. RCW 81.66.070 and 1979 c 111 s 10 are each repealed.

Passed the Senate March 4, 1996.  
 Passed the House February 27, 1996.  
 Approved by the Governor March 28, 1996.  
 Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 245

[Senate Bill 6718]

### ARCHIVES AND RECORDS MANAGEMENT—FUNDING

AN ACT Relating to archives and records management; amending RCW 40.14.025 and 40.14.027; adding a new section to chapter 36.22 RCW; creating a new section; providing an effective date; 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 36.22 RCW to read as follows:

In addition to any other charge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for each document recorded. Revenue generated through this surcharge shall be transmitted monthly to the state treasurer for deposit in the archives and records management account. These funds shall be used solely for providing records scheduling, security microfilm inspection and storage, archival preservation, cataloging, and indexing for local government records through the regional branch archives of the division. This section shall expire June 30, 2001.

**NEW SECTION.** Sec. 2. It is the intent of the legislature that the fee imposed under section 1 of this act be reviewed before the expiration date of that section. The legislature may continue or modify the fee as necessary for adequate and proper funding of the archives and records management account.

Sec. 3. RCW 40.14.025 and 1991 sp.s. c 13 s 5 are each amended to read as follows:

(1) The secretary of state and the director of financial management shall jointly establish a ~~((schedule of fees and charges governing the))~~ procedure and formula for allocating the costs of services provided by the division of archives and records management to ((other)) state agencies((, offices, departments, and other entities. The schedule shall be determined such that the fees and charges will provide the division with funds to meet its anticipated expenditures)). The total amount allotted for services to state agencies shall not exceed the appropriation to the archives and records management account during any allotment period.

There is created the archives and records management account in the state treasury which shall consist of all fees and charges collected under this section, section 1 of this act, and section 4 of this act. The account shall be appropriated exclusively for ~~((use by the secretary of state for))~~ the payment of costs and expenses incurred in the operation of the division of archives and records management as specified by law.

**Sec. 4.** RCW 40.14.027 and 1995 c 292 s 17 are each amended to read as follows:

State agencies shall collect a surcharge of twenty dollars from the judgment debtor upon the satisfaction of a warrant filed in superior court for unpaid taxes or liabilities. The surcharge is imposed on the judgment debtor in the form of a penalty in addition to the filing fee provided in RCW 36.18.012(3). The surcharge revenue shall be transmitted to the state treasurer for deposit in the archives and records management account ~~((, or procedures for the collection and transmittal of surcharge revenue to the archives and records management account shall be established cooperatively between the filing agencies and clerks of superior court)).~~

Surcharge revenue deposited in the archives and records management account shall be expended by the secretary of state exclusively for ~~((the payment of costs and expenses incurred in the provision of public archives and records management services to))~~ disaster recovery, essential records protection services, and records management training for local government agencies by the division of archives and records management. The secretary of state shall ~~((work))~~ with local government representatives ~~((to))~~ establish a committee to advise the state archivist on the local government archives and records management program. ~~((Surcharge revenue shall be allocated exclusively to:~~

- ~~—(1) Appraise, process, store, preserve, and provide public research access to original records designated by the state archivist as archival which are no longer required to be kept by the agencies which originally made or filed them;~~
- ~~—(2) Protect essential records, as provided by chapters 40.10 and 40.20 RCW. Permanent facsimiles of essential records shall be produced and placed in security storage with the state archivist;~~
- ~~—(3) Coordinate records retention and disposition management and provide support for the following functions under RCW 40.14.070:~~
  - ~~—(a) Advise and assist individual agencies on public records management requirements and practices; and~~
  - ~~—(b) Compile, maintain, and regularly update general records retention schedules and destruction authorizations; and~~
- ~~—(4) Develop and maintain standards for the application of recording media and records storage technologies.)~~

NEW SECTION. **Sec. 5.** This act takes effect on July 1, 1996.

Passed the Senate March 4, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

## CHAPTER 246

[Senate Bill 6757]

## CONTRACT RESTRICTIONS FOR FIRST CLASS SCHOOL DISTRICTS—REVISIONS

AN ACT Relating to contract restrictions for first class school districts; and reenacting and amending RCW 42.23.030.

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

Sec. 1. RCW 42.23.030 and 1994 c 81 s 77 and 1994 c 20 s 1 are each reenacted and amended to read as follows:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing in excess of fifty thousand aeres(~~(, or a first-class school district)~~): PROVIDED, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed seven hundred fifty dollars in any calendar month: PROVIDED FURTHER, That in the case of a particular officer of a second class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total volume of such contract or contracts authorized in this subsection may exceed seven hundred fifty dollars in any calendar month but shall not exceed nine thousand dollars in any calendar year: PROVIDED FURTHER, That there shall be

public disclosure by having an available list of such purchases or contracts, and if the supplier or contractor is an official of the municipality, he or she shall not vote on the authorization: PROVIDED FURTHER, that in the case of a first class school district, there shall be notice of the proposed contract by publication given in one or more newspapers of general circulation within the district;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that all terms and conditions of such lease are fair to the port district and are in the public interest;

(8) The letting of any employment contract for the driving of a school bus in a second class school district: **PROVIDED**, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any employment contract to the spouse of an officer of a second class school district in which less than two hundred full time equivalent students are enrolled at the start of the school year as defined in RCW 28A.150.040, when such contract is solely for employment as a certificated or classified employee of the school district, or the letting of any contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district: **PROVIDED**, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office: **PROVIDED**, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district.

Passed the Senate March 4, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 28, 1996.

Filed in Office of Secretary of State March 28, 1996.

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## CHAPTER 247

[House Bill 2484]

### MANUFACTURING MACHINERY AND EQUIPMENT—SALES AND USE TAX EXEMPTIONS

AN ACT Relating to sales and use tax exemptions for manufacturing machinery and equipment; amending RCW 82.08.02565 and 82.12.02565; adding a new section to chapter 82.08

RCW; adding a new section to chapter 82.12 RCW; creating a new section; and providing effective dates.

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

**NEW SECTION.** Sec. 1. The legislature finds that the health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued encouragement, development, and expansion of opportunities for family wage employment in the state's manufacturing industries.

The legislature also finds that sales and use tax exemptions for manufacturing machinery and equipment enacted by the 1995 legislature have improved Washington's ability to compete with other states for manufacturing investment, but that additional incentives for manufacturers need to be adopted to solidify and enhance the state's competitive position.

The legislature intends to accomplish this by extending the current manufacturing machinery and equipment exemptions to include machinery and equipment used for research and development with potential manufacturing applications.

Sec. 2. RCW 82.08.02565 and 1995 1st sp.s. c 3 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation or research and development operation, or to sales of or charges made for labor and services rendered in respect to installing the machinery and equipment, but only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department by rule, and the purchaser provides the department with a duplicate of the certificate or a summary of exempt sales as the department may require. The seller shall retain a copy of the certificate for the seller's files.

(2) For purposes of this section and RCW 82.12.02565:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities. "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation or research and development operation.

(b) "Machinery and equipment" does not include:

- (i) Hand tools;
- (ii) Property with a useful life of less than one year;
- (iii) Repair parts required to restore machinery and equipment to normal working order;
- (iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment; ((~~or~~))

(v) Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building; and

(vi) Building fixtures that are not integral to the manufacturing operation or research and development operation that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical.

(c) Machinery and equipment is "used directly" in a manufacturing operation or research and development operation if the machinery and equipment:

- (i) Acts upon or interacts with an item of tangible personal property;
- (ii) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site;
- (iii) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property;
- (iv) Provides physical support for or access to tangible personal property;
- (v) Produces power for, or lubricates machinery and equipment;
- (vi) Produces another item of tangible personal property for use in the manufacturing operation or research and development operation; ~~((¶))~~
- (vii) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported; or

(viii) Is integral to research and development as defined in RCW 82.63.010.

(d) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. The manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the finished product leaves the manufacturing site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include ~~((research and development,))~~ the production of electricity by a light and power business as defined in RCW 82.16.010~~((;))~~ or the preparation of food products on the premises of a person selling food products at retail.

(e) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel.

(f) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010 by a manufacturer or processor for hire.

**Sec. 3.** RCW 82.12.02565 and 1995 1st sp.s. c 3 s 3 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use by a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation or research and development operation, but only when the user provides the department with:

- (1) An exemption certificate in a form and manner prescribed by the department within sixty days of the first use of the machinery and equipment in this state; or

(2) An annual summary listing the machinery and equipment by January 31 of the year following the calendar year in which the machinery and equipment is first used in this state.

**NEW SECTION.** Sec. 4. 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 materials used in designing and developing aircraft parts, auxiliary equipment, and aircraft modification whether from enterprise funds or on a contract or fee basis for a taxpayer with gross sales of less than twenty million dollars per year. This exemption may not exceed one hundred thousand dollars for a taxpayer in a year.

**NEW SECTION.** Sec. 5. 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 materials used in designing and developing aircraft parts, auxiliary equipment, and aircraft modification whether from enterprise funds or on a contract or fee basis for a taxpayer with gross sales of less than twenty million dollars per year. This exemption may not exceed one hundred thousand dollars for a taxpayer in a year.

***\*NEW SECTION. Sec. 6. (1) Sections 4 and 5 of this act take effect July 1, 1996.***

***(2) Sections 1 through 3 of this act take effect July 1, 1997.***

\*Sec. 6 was vetoed. See message at end of chapter.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 29, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 6, House Bill No. 2484 entitled:

"AN ACT Relating to sales and use tax exemptions for manufacturing machinery and equipment;"

House Bill No. 2484 provides an exemption from the sales and use taxes for manufacturing machinery and equipment used for research and development. It also provides a sales and use tax exemption for sales of materials used in designing and developing aircraft parts and prototypes for small firms.

I agree with the finding of the legislature that this measure would improve the ability of Washington State to compete with other states in our region for manufacturing investment. This type of legislation helps bring more family wage jobs to the state as well as enhance and solidify the state's competitive position. I further agree with the legislature's finding that the health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued development and expansion of the state's manufacturing industries. In that light, I am vetoing section 6 of House Bill No. 2484. This section establishes an effective date of July 1, 1997, for sections of the bill pertaining to the sales and use tax exemption for manufacturing machinery and equipment used in research and development.



The necessity and importance of this type of legislation dictates that it be put into effect as soon as possible so that the economic benefits of increased employment and family wage jobs for the people of the state of Washington can begin immediately rather than more than a year into the future. In addition, allowing the bill to become law within the usual 90 days after adjournment of the legislature will provide an additional \$12.4 million in sales and use tax relief to manufacturers in the state.

For this reason, I have vetoed section 6 of House Bill No. 2484.

With the exception of section 6, House Bill No. 2484 is approved."

## CHAPTER 248

[Engrossed House Bill 2472]

### DOMESTIC VIOLENCE—REVISIONS

AN ACT Relating to domestic violence; amending RCW 9.94A.370, 9.94A.390, 10.99.020, 10.99.030, 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.030, 26.50.060, 26.50.070, 26.50.100, 26.50.110, and 26.50.115; reenacting and amending RCW 10.31.100; adding a new section to chapter 9A.36 RCW; and prescribing penalties.

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

**Sec. 1.** RCW 9.94A.370 and 1989 c 124 s 2 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 or for those offenses enumerated in RCW 9.94A.310(4) that were committed in a state correctional facility or county jail 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), (d), (f), and ~~((e))~~ (g).

**Sec. 2.** RCW 9.94A.390 and 1995 c 316 s 2 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 or her conduct or to conform his or her 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.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(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; or

(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;
- (ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;
- (iii) The current offense involved the manufacture of controlled substances for use by other parties;
- (iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;
- (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).

(e) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127.

(f) 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.

(g) The current offense involved domestic violence, as defined in RCW 10.99.020 and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(h) 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.

~~((H))~~ (i) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history 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.

**NEW SECTION.** Sec. 3. A new section is added to chapter 9A.36 RCW to read as follows:

(1) A person commits the crime of interfering with the reporting of domestic violence if the person:

(a) Commits a crime of domestic violence, as defined in RCW 10.99.020; and

(b) Prevents or attempts to prevent the victim of or a witness to that domestic violence crime from calling a 911 emergency communication system, obtaining medical assistance, or making a report to any law enforcement official.

(2) Commission of a crime of domestic violence under subsection (1) of this section is a necessary element of the crime of interfering with the reporting of domestic violence.

(3) Interference with the reporting of domestic violence is a gross misdemeanor.

**Sec. 4.** RCW 10.31.100 and 1995 c 246 s 20, 1995 c 184 s 1, and 1995 e 93 s 1 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 (10) 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, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, 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, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.44.063, 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))~~ restraining the person from ~~((a))~~ going onto the grounds of or entering a residence, workplace, school, or day care or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 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))~~ family or household members 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 88.12.025 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) 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.

(8) 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 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police officer acts in good faith and without malice.

Sec. 5. RCW 10.99.020 and 1995 c 246 s 21 are each amended to read as follows:

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

(1) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a ~~((respondent))~~ person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(2) "Dating relationship" has the same meaning as in RCW 26.50.010.

(3) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

- (a) Assault in the first degree (RCW 9A.36.011);
- (b) Assault in the second degree (RCW 9A.36.021);
- (c) Assault in the third degree (RCW 9A.36.031);
- (d) Assault in the fourth degree (RCW 9A.36.041);
- (e) Reckless endangerment in the first degree (RCW 9A.36.045);
- (f) Reckless endangerment in the second degree (RCW 9A.36.050);
- (g) Coercion (RCW 9A.36.070);
- (h) Burglary in the first degree (RCW 9A.52.020);
- (i) Burglary in the second degree (RCW 9A.52.030);
- (j) Criminal trespass in the first degree (RCW 9A.52.070);

- (k) Criminal trespass in the second degree (RCW 9A.52.080);
- (l) Malicious mischief in the first degree (RCW 9A.48.070);
- (m) Malicious mischief in the second degree (RCW 9A.48.080);
- (n) Malicious mischief in the third degree (RCW 9A.48.090);
- (o) Kidnapping in the first degree (RCW 9A.40.020);
- (p) Kidnapping in the second degree (RCW 9A.40.030);
- (q) Unlawful imprisonment (RCW 9A.40.040);
- (r) Violation of the provisions of a restraining order restraining the person or ~~((excluding))~~ restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care (RCW 26.09.300, 26.10.220, or 26.26.138);
- (s) Violation of the provisions of a protection order or no-contact order restraining the person or ~~((excluding))~~ restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care (RCW 26.50.060, 26.50.070, 26.50.130, ~~((or))~~ 10.99.040, or 10.99.050);
- (t) Rape in the first degree (RCW 9A.44.040);
- (u) Rape in the second degree (RCW 9A.44.050);
- (v) Residential burglary (RCW 9A.52.025); ~~((and))~~
- (w) Stalking (RCW 9A.46.110); and
- (x) Interference with the reporting of domestic violence (section 3 of this act).

(4) "Victim" means a family or household member who has been subjected to domestic violence.

Sec. 6. RCW 10.99.030 and 1995 c 246 s 22 are each amended to read as follows:

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The criminal justice training commission shall implement by January 1, 1997, a course of instruction for the training of law enforcement officers in Washington in the handling of domestic violence complaints. The basic law enforcement curriculum of the criminal justice training commission shall include at least twenty hours of basic training instruction on the law enforcement response to domestic violence. The course of instruction, the learning and performance objectives, and the standards for the training shall be developed by the commission and focus on enforcing the criminal laws, safety of the victim, and holding the perpetrator accountable for the violence. The curriculum shall include training on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding to incidents that minimize the likelihood of officer injury and that promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance to and services for victims and children, verification and

enforcement of court orders, liability, and any additional provisions that are necessary to carry out the intention of this subsection.

(3) The criminal justice training commission shall develop and update annually an in-service training program to familiarize law enforcement officers with the domestic violence laws. The program shall include techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of all parties. The commission shall make the training program available to all law enforcement agencies in the state.

(4) Development of the training in subsections (2) and (3) of this section shall be conducted in conjunction with agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, and representatives to the state-wide organization providing training and education to these organizations and to the general public.

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

**"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.**



Information about shelters and alternatives to domestic violence is available from a state-wide twenty-four-hour toll-free hotline at (include appropriate phone number). The battered women's shelter and other resources in your area are . . . . (include local information)"

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(11) Records kept pursuant to subsections (6) and (10) of this section shall be made identifiable by means of a departmental code for domestic violence.

(12) Commencing January 1, 1994, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of state-wide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and manslaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; ~~(and)~~ (viii) arson; and (ix) violations of the provisions of a protection order or no contact order restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, provided that specific appropriations are subsequently made for the collection and compilation of data regarding violations of protection orders or no contact orders;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the

Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) To require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how the agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs.

Sec. 7. RCW 10.99.040 and 1995 c 246 s 23 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. In issuing the order, the court shall consider the provisions of RCW 9.41.800. The no-contact order shall also be issued in writing as soon as possible.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is a gross misdemeanor except as provided in (b) and (c) of this subsection (4). Upon conviction and in addition to other penalties provided by law, the court may require that the defendant submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The court also may include a requirement that the defendant pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(b) Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable under chapter 9A.20 RCW, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony punishable under chapter 9A.20 RCW.

(c) A willful violation of a court order issued under this section is a class C felony if the offender has at least two previous convictions for violating the provisions of a no-contact order issued under this chapter, a domestic violence protection order issued under chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order that is comparable to a no-contact order or protection order issued under Washington law. The previous convictions may involve the same victim or other victims specifically protected by the no-contact orders or protection orders the offender violated.

(d) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order." A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law

enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

Sec. 8. RCW 10.99.050 and 1991 c 301 s 5 are each amended to read as follows:

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2) Willful violation of a court order issued under this section is a gross misdemeanor. Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. A willful violation of a court order issued under this section is also a class C felony if the offender has at least two previous convictions for violating the provisions of a no-contact order issued under this chapter, or a domestic violence protection order issued under chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order that is comparable to a no-contact order or protection order that is issued under Washington law. The previous convictions may involve the same victim or other victims specifically protected by the no-contact orders or protection orders the offender violated.

The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.

(3) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

Sec. 9. RCW 26.09.300 and 1995 c 246 s 27 are each amended to read as follows:

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision

~~((excluding))~~ restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;  
 (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or ~~((excluding))~~ restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

**Sec. 10.** RCW 26.10.220 and 1995 c 246 s 30 are each amended to read as follows:

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision ~~((excluding))~~ restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;  
 (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original

order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or (~~excluding~~) restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

Sec. 11. RCW 26.26.138 and 1995 c 246 s 33 are each amended to read as follows:

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision (~~excluding~~) restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

- (a) A restraining order has been issued under this chapter;
- (b) The respondent or person to be restrained knows of the order; and
- (c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or ~~((excluding))~~ restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

**Sec. 12.** RCW 26.50.030 and 1995 c 246 s 3 are each amended to read as follows:

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. Petitioner and respondent shall disclose the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.090 and the existence of any other restraining, protection, or no contact orders between the parties.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.060(4).

(3) Within ninety days of receipt of the master copy from the administrator for the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 26.50.035 and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

**Sec. 13.** RCW 26.50.060 and 1995 c 246 s 7 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

- (a) Restrain the respondent from committing acts of domestic violence;
- (b) Exclude the respondent from the dwelling which the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;
- (c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;
- (d) Order the respondent to participate in batterers' treatment;
- (e) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;
- (f) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;
- (g) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;
- (h) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;
- (i) Consider the provisions of RCW 9A.18.000;
- (j) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included; and
- (k) Order use of a vehicle.

(2) If a restraining order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.



(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(f) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service (~~(or)~~), service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

Sec. 14. RCW 26.50.070 and 1995 c 246 s 8 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic violence;
- (b) ~~((Excluding))~~ Restraining any party from going onto the grounds of or entering the dwelling ((shared or from the residence of the other)) that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;
- (c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;
- (d) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and
- (e) Considering the provisions of RCW 9.41.800.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, 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.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a state-wide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order of protection shall be filed with the court.

**Sec. 15.** RCW 26.50.100 and 1995 c 246 s 13 are each amended to read as follows:

(1) A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in the computer for the period stated in the order. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served (~~(or)~~), served by publication, or served by mail.

**Sec. 16.** RCW 26.50.110 and 1995 c 246 s 14 are each amended to read as follows:

(1) Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence, workplace, school, or day care is a gross misdemeanor except as provided in subsections (4) and (5) of this section. Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, workplace, school, or day care, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this chapter that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter is a class C felony if the offender has at least two previous convictions for violating the provisions of a no-contact order issued under chapter 10.99 RCW, a domestic violence protection order issued under chapter 26.09, 26.10, or 26.26 RCW or this

chapter, or any federal or out-of-state order that is comparable to a no-contact or protection order issued under Washington law. The previous convictions may involve the same victim or other victims specifically protected by the no-contact orders or protection orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Sec. 17. RCW 26.50.115 and 1995 c 246 s 15 are each amended to read as follows:

(1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection (~~ordered issued~~) pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the law enforcement officer determines that the respondent did not or probably did not know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent if the respondent is present. If the respondent is not present, the officer shall make reasonable efforts to serve a copy of the order on the respondent. If the officer serves the respondent with the petitioner's copy of the order, the officer shall give petitioner a receipt indicating that petitioner's copy has been served on the respondent. After the officer has served the order on the respondent, the officer shall enforce prospective compliance with the order.

(3) Presentation of an unexpired, certified copy of a protection order with proof of service is sufficient for a law enforcement officer to enforce (~~the terms of~~) the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

**CHAPTER 249**

[Engrossed Substitute Senate Bill 6257]

**GUARDIANS AND GUARDIANS AD LITEM FOR MINORS  
AND INCAPACITATED PERSONS—REVISIONS**

AN ACT Relating to guardians and guardians ad litem for minors and incapacitated persons; amending RCW 2.56.030, 4.08.060, 8.25.270, 11.16.083, 11.88.030, 11.88.045, 11.88.090, 11.92.190, 13.34.100, 13.34.120, 26.12.175, and 26.44.053; adding a new section to chapter 2.56 RCW; adding a new section to chapter 2.08 RCW; adding a new section to chapter 13.34 RCW; adding a new section to chapter 26.12 RCW; and creating new sections.

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

**NEW SECTION.** **Sec. 1.** It is the intent of this act to make improvements to the guardian and guardian ad litem systems currently in place for the protection of minors and incapacitated persons.

**Sec. 2.** RCW 2.56.030 and 1994 c 240 s 1 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the 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;

(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;

(13) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(14) Attend to such other matters as may be assigned by the supreme court of this state;

(15) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers (~~by July 1, 1988. The curriculum shall~~) and be updated yearly to reflect changes in statutes, court rules, or case law;

(16) Develop, in consultation with the entities set forth in section 3(3) of this act, a comprehensive state-wide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 1997, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(17) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be (~~completed and~~) made available to all superior court and court of appeals judges and to all justices of the supreme court (~~by July 1, 1989~~);

~~((17))~~ (18) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural

diversity and its implications for working with youth of color and their families. The curriculum shall be ~~((completed and made))~~ available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel ~~((by October 1, 1993))~~. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts state-wide;

~~((18))~~ (19) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required.

NEW SECTION. Sec. 3. A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrator for the courts shall review the advisability and feasibility of the state-wide mandatory use of court-appointed special advocates as described in RCW 26.12.175 to act as guardians ad litem in appropriate cases under Titles 13 and 26 RCW. The review must explore the feasibility of obtaining various sources of private and public funding to implement state-wide mandatory use of court-appointed special advocates, such as grants and donations, instead of or in combination with raising court fees or assessments.

(2) The administrator shall also conduct a study on the feasibility and desirability of requiring all persons who act as guardians ad litem under Titles 11, 13, and 26 RCW to be certified as qualified guardians ad litem prior to their eligibility for appointment.

(3) In conducting the review and study the administrator shall consult with: (a) The presidents or directors of all public benefit nonprofit corporations that are eligible to receive state funds under RCW 43.330.135; (b) the attorney general, or a designee; (c) the secretary of the department of social and health services, or a designee; (d) the superior court judges association; (e) the Washington state bar association; (f) public defenders who represent children under Title 13 or 26 RCW; (g) private attorneys who represent parents under Title 13 or 26 RCW; (h) professionals who evaluate families for the purposes of determining the custody or placement decisions of children; (i) the office of financial management; (j) persons who act as volunteer or compensated guardians ad litem; and (k) parents who have dealt with guardians ad litem in court cases. For the purposes of studying the feasibility of a certification requirement for guardians ad litem acting under Title 11 RCW the administrator shall consult with the advisory group formed under RCW 11.88.090.

(4) The office of the administrator for the courts shall also conduct a review of problems and concerns about the role of guardians ad litem in actions under Titles 11, 13, and 26 RCW and recommend alternatives to strengthen judicial oversight of guardians ad litem and ensure fairness and impartiality of the process. The office of the administrator for the courts must accept and obtain comments from parties designated in subsection (3) of this section.

**NEW SECTION.** Sec. 4. The review and study required under section 3 of this act shall be presented to the governor and to the legislature no later than December 1, 1996.

Sec. 5. RCW 4.08.060 and 1899 c 91 s 1 are each amended to read as follows:

When an ~~((insane))~~ incapacitated person is a party to an action in the superior courts he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed as follows:

(1) When the ~~((insane))~~ incapacitated person is plaintiff, upon the application of a relative or friend of the ~~((insane))~~ incapacitated person.

(2) When the ~~((insane))~~ incapacitated person is defendant, upon the application of a relative or friend of such ~~((insane))~~ incapacitated person, such application shall be made within thirty days after the service of summons if served in the state of Washington, and if served out of the state or service is made by publication, then such application shall be made within sixty days after the first publication of summons or within sixty days after the service out of the state. If no such application be made within the time above limited, application may be made by any party to the action.

Sec. 6. RCW 8.25.270 and 1977 ex.s. c 80 s 12 are each amended to read as follows:

When it ~~((shall))~~ appears in any petition or otherwise at any time during the proceedings for condemnation brought pursuant to chapters 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW~~((, each as now or hereafter amended,))~~ that any ~~((infant))~~ minor, or ~~((allegedly incompetent or disabled))~~ alleged incapacitated person is interested in any property that is to be taken or damaged, the court shall appoint a guardian ad litem for ~~((such infant))~~ the minor or ~~((allegedly incompetent or disabled))~~ alleged incapacitated person to appear and assist in ~~((his, her or their))~~ the person's defense, unless a guardian or limited guardian has previously been appointed, in which case the duty to appear and assist shall be delegated to the properly qualified guardian or limited guardian. The court shall make such orders or decrees as it shall deem necessary to protect and secure the interest of the ~~((infant))~~ minor or ~~((allegedly incompetent or disabled))~~ alleged incapacitated person ~~((in the property sought to be condemned or the compensation which shall be awarded therefore)).~~

Sec. 7. RCW 11.16.083 and 1977 ex.s. c 234 s 1 are each amended to read as follows:

Notwithstanding any other provision of this title, no notice of any hearing in probate or probate proceeding need be given to any legally competent person who is interested in any hearing in any probate as an heir, legatee, or devisee of the decedent who has in person or by attorney waived in writing notice of such hearing or proceeding. Such waiver of notice may apply to either a



specific hearing or proceeding, or to any and all hearings and proceedings to be held during the administration of the estate in which event such waiver of notice shall be of continuing effect unless subsequently revoked by the filing of a written notice of revocation of the waiver and the mailing of a copy thereof to the personal representative and his or her attorney. Unless notice of a hearing is required to be given by publication, if all persons entitled to notice thereof shall have waived such notice, the court may hear the matter forthwith. A guardian of the estate or a guardian ad litem may make such waivers on behalf of ~~((his incompetent))~~ an incapacitated person, as defined in RCW 11.88.010, and a trustee may make such waivers on behalf of any competent or ~~((incompetent))~~ incapacitated beneficiary of his or her trust. A consul or other representative of a foreign government, whose appearance has been entered as provided by law on behalf of any person residing in a foreign country, may make such waiver of notice on behalf of such person. Any person who submits to the jurisdiction of the court in any hearing shall be deemed to have waived notice thereof.

**Sec. 8.** RCW 11.88.030 and 1995 c 297 s 1 are each amended to read as follows:

(1) Any person or entity may petition for the appointment of a qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 ~~((as now or hereafter amended))~~ as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the

appointment is sought as guardian or limited guardian of the person, the estate, or both(~~(, and why no alternative to guardianship is appropriate)~~);

(i) A description of any alternate arrangements previously made by the alleged incapacitated person, such as trusts or powers of attorney, including identifying any guardianship nominations contained in a power of attorney, and why a guardianship is nevertheless necessary;

(j) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

~~((j))~~ (k) The requested term of the limited guardianship to be included in the court's order of appointment;

~~((k))~~ (l) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

(3) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

(4)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five court days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

**IMPORTANT NOTICE**

**PLEASE READ CAREFULLY**

**A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE . . . . . COUNTY SUPERIOR COURT BY . . . . . IF A**

GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- (1) TO MARRY OR DIVORCE;
- (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- (6) TO POSSESS A LICENSE TO DRIVE;
- (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE THAT PERSON.

(5) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party or the guardian ad litem within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

Sec. 9. RCW 11.88.045 and 1995 c 297 s 3 are each amended to read as follows:

(1)(a) Alleged incapacitated individuals shall have the right to be represented by willing counsel of their choosing at any stage in guardianship proceedings. The court shall provide counsel to represent any alleged incapacitated person at public expense when either: (i) The individual is unable to afford counsel, or (ii) the expense of counsel would result in substantial hardship to the individual, or (iii) the individual does not have practical access to funds with which to pay counsel. If the individual can afford counsel but lacks practical access to funds, the court shall provide counsel and may impose a reimbursement requirement as part of a final order. When, in the opinion of the court, the rights and interests of an alleged or adjudicated incapacitated person cannot otherwise be adequately protected and represented, the court on

its own motion shall appoint an attorney at any time to represent such person. Counsel shall be provided as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks shall be presumed by a reviewing court to be inadequate time for consultation and preparation.

(b) Counsel for an alleged incapacitated individual shall act as an advocate for the client and shall not substitute counsel's own judgment for that of the client on the subject of what may be in the client's best interests. Counsel's role shall be distinct from that of the guardian ad litem, who is expected to promote the best interest of the alleged incapacitated individual, rather than the alleged incapacitated individual's expressed preferences.

(c) If an alleged incapacitated person is represented by counsel and does not communicate with counsel, counsel may ask the court for leave to withdraw for that reason. If satisfied, after affording the alleged incapacitated person an opportunity for a hearing, that the request is justified, the court may grant the request and allow the case to proceed with the alleged incapacitated person unrepresented.

(2) During the pendency of any guardianship, any attorney purporting to represent a person alleged or adjudicated to be incapacitated shall petition to be appointed to represent the incapacitated or alleged incapacitated person. Fees for representation described in this section shall be subject to approval by the court pursuant to the provisions of RCW 11.92.180.

(3) The alleged incapacitated person is further entitled to testify and present evidence and, upon request, entitled to a jury trial on the issues of his or her alleged incapacity. The standard of proof to be applied in a contested case, whether before a jury or the court, shall be that of clear, cogent, and convincing evidence.

(4) In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a written report from a physician licensed to practice under chapter 18.71 or 18.57 RCW or licensed or certified psychologist selected by the guardian ad litem. If the alleged incapacitated person opposes the health care professional selected by the guardian ad litem to prepare the medical report, then the guardian ad litem shall use the health care professional selected by the alleged incapacitated person. The guardian ad litem may also obtain a supplemental examination. The physician or psychologist shall have personally examined and interviewed the alleged incapacitated person within thirty days of preparation of the report to the court and shall have expertise in the type of disorder or incapacity the alleged incapacitated person is believed to have. The report shall contain the following information and shall be set forth in substantially the following format:

(a) The name and address of the examining physician or psychologist;

(b) The education and experience of the physician or psychologist pertinent to the case;

- (c) The dates of examinations of the alleged incapacitated person;
- (d) A summary of the relevant medical, functional, neurological, psychological, or psychiatric history of the alleged incapacitated person as known to the examining physician or psychologist;
- (e) The findings of the examining physician or psychologist as to the condition of the alleged incapacitated person;
- (f) Current medications;
- (g) The effect of current medications on the alleged incapacitated person's ability to understand or participate in guardianship proceedings;
- (h) Opinions on the specific assistance the alleged incapacitated person needs;
- (i) Identification of persons with whom the physician or psychologist has met or spoken regarding the alleged incapacitated person.

The court shall not enter an order appointing a guardian or limited guardian until a medical or psychological report meeting the above requirements is filed.

The requirement of filing a medical report is waived if the basis of the guardianship is minority.

(5) During the pendency of an action to establish a guardianship, a petitioner or any person may move for temporary relief under chapter 7.40 RCW, to protect the alleged incapacitated person from abuse, neglect, abandonment, or exploitation, as those terms are defined in RCW 74.34.020, or to address any other emergency needs of the alleged incapacitated person. Any alternative arrangement executed before filing the petition for guardianship shall remain effective unless the court grants the relief requested under chapter 7.40 RCW, or unless, following notice and a hearing at which all parties directly affected by the arrangement are present, the court finds that the alternative arrangement should not remain effective.

**Sec. 10.** RCW 11.88.090 and 1995 c 297 s 4 are each amended to read as follows:

(1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180(~~as now or hereafter amended,~~) shall affect or impair the power of any court to appoint a guardian ad litem to defend the interests of any incapacitated person interested in any suit or matter pending therein, or to commence and prosecute any suit in his or her behalf.

(2) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incapacitated person, who shall be a person found or known by the court to:

(a) Be free of influence from anyone interested in the result of the proceeding; and

(b) Have the requisite knowledge, training, or expertise to perform the duties required by this section.

The guardian ad litem shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, each party with a statement including: His or her training relating to the duties as a guardian ad litem; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the guardian ad litem's statement, any party may set a hearing and file and serve a motion for an order to show cause why the guardian ad litem should not be removed for one of the following three reasons: (i) Lack of expertise necessary for the proceeding; (ii) an hourly rate higher than what is reasonable for the particular proceeding; or (iii) a conflict of interest. Notice of the hearing shall be provided to the guardian ad litem and all parties. If, after a hearing, the court enters an order replacing the guardian ad litem, findings shall be included, expressly stating the reasons for the removal. If the guardian ad litem is not removed the court has the authority to assess to the moving party, attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

No guardian ad litem need be appointed when a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child and the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection ~~((5))~~ (4) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged incapacitated person and shall not overcome the presumption of competency or full legal and civil rights of the alleged incapacitated person.

(3)(a) ~~The superior court of each county shall develop ((by September 1, 1991,)) and maintain~~ a registry of persons who are willing and qualified to serve as guardians ad litem in guardianship matters. The court shall choose as guardian~~((s))~~ ad litem ~~((only))~~ a person~~((s))~~ whose name~~((s))~~ appears on the registry in a system of consistent rotation, except in extraordinary circumstances such as the need for particular expertise. The court shall develop procedures for periodic review of the persons on the registry and for probation, suspension, or removal of persons on the registry for failure to perform properly their duties as guardian ad litem. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

(b) To be eligible for the registry a person shall:

(i) Present a written statement ~~((of))~~ outlining his or her background and qualifications ((describing)). The background statement shall include, but is not limited to, the following information:

(A) Level of formal education;

(B) Training related to the guardian ad litem's duties;

(C) Number of years' experience as a guardian ad litem;

(D) Number of appointments as a guardian ad litem and the county or counties of appointment;

(E) Criminal history, as defined in RCW 9.94A.030; and

(F) Evidence of the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of incapacitated persons, legal procedure, and the requirements of chapters 11.88 and 11.92 RCW.

The written statement of qualifications shall include a statement of the number of times the guardian ad litem has been removed for failure to perform his or her duties as guardian ad litem; and

~~(ii) Complete ((a training program adopted by the court, or, in the absence of a locally adopted program, a candidate for inclusion upon the registry shall have completed a)) the model training program as described in (d) of this subsection.~~

~~(c) ((The superior court of each county shall approve training programs designed to:~~

~~— (i) Train otherwise qualified human service professionals in those aspects of legal procedure and the requirements of chapters 11.88 and 11.92 RCW with which a guardian ad litem should be familiar;~~

~~— (ii) Train otherwise qualified legal professionals in those aspects of medicine, social welfare, and social service delivery systems with which a guardian ad litem should be familiar.)) The background and qualification information shall be updated annually.~~

~~(d) ((The superior court of each county may approve a guardian ad litem training program on or before June 1, 1991.)) The department of social and health services((, aging and adult services administration,)) shall convene an advisory group to develop a model guardian ad litem training program and shall update the program biennially. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, aging, legal, court administration, the Washington state bar association, and other interested parties.~~

~~(e) ((Any)) The superior court ((that has not adopted a guardian ad litem training program by September 1, 1991,)) shall require utilization of ((a)) the model program developed by the advisory group as described in (d) of this subsection, to assure that candidates applying for registration as a qualified guardian ad litem shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem.~~

~~(4) ((The guardian ad litem's written statement of qualifications required by RCW 11.88.090(3)(b)(i) shall be made part of the record in each matter in which the person is appointed guardian ad litem.~~

—(5)) The guardian ad litem appointed pursuant to this section shall have the following duties:

(a) To meet and consult with the alleged incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged incapacity, the right to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the guardian ad litem to complete the report required by this section;

(c) To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

(i) The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

(ii) The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

(d) To consult as necessary to complete the investigation and report required by this section with those known relatives, friends, or other persons the guardian ad litem determines have had a significant, continuing interest in the welfare of the alleged incapacitated person;

(e) To investigate alternate arrangements made, or which might be created, by or on behalf of the alleged incapacitated person, such as revocable or irrevocable trusts, or durable powers of attorney; whether good cause exists for any such arrangements to be discontinued; and why such arrangements should not be continued or created in lieu of a guardianship;

(f) To provide the court with a written report which shall include the following:

(i) A description of the nature, cause, and degree of incapacity, and the basis upon which this judgment was made;

(ii) A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person and the basis upon which these findings were made;

(iii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

(iv) A description of any alternative arrangements previously made by the alleged incapacitated person or which could be made, and whether and to what extent such alternatives should be used in lieu of a guardianship, and if the guardian ad litem is recommending discontinuation of any such arrangements,



specific findings as to why such arrangements are contrary to the best interest of the alleged incapacitated person;

(v) A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the guardian ad litem shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the incapacitated person;

~~((v+))~~ (vi) An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

~~((v+))~~ (vii) Any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship;

~~((v+))~~ (viii) Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and

~~((v+))~~ (ix) Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel and to be present at the hearing on the petition.

Within forty-five days after notice of commencement of the guardianship proceeding has been served upon the guardian ad litem, and at least ~~((ten))~~ fifteen days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the guardian ad litem shall file its report and send a copy to the alleged incapacitated person and his or her counsel, spouse, all children not residing with a notified person, those persons described in ~~((e)(vii))~~ (f)(viii) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150. If the guardian ad litem needs additional time to finalize his or her report, then the guardian ad litem shall petition the court for a postponement of the hearing or, with the consent of all other parties, an extension or reduction of time for filing the report. If the hearing does not occur within sixty days of filing the petition, then upon the two-month anniversary of filing the petition and on or before the same day of each following month until the hearing, the guardian ad litem shall file interim reports summarizing his or her activities on the proceeding during that time period as well as fees and costs incurred;

~~((f))~~ (g) To advise the court of the need for appointment of counsel for the alleged incapacitated person within five court days after the meeting described in (a) of this subsection unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject,

and the guardian ad litem is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel.

~~((6))~~ (5) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to ~~(RCW 11.88.090(5)(e) as now or hereafter amended)~~ subsection (4)(f) of this section.

(6) The parties to the proceeding may file responses to the guardian ad litem report with the court and deliver such responses to the other parties and the guardian ad litem at any time up to the second day prior to the hearing. If a guardian ad litem fails to file his or her report in a timely manner, the hearing shall be continued to give the court and the parties at least fifteen days before the hearing to review the report. At any time during the proceeding upon motion of any party or on the court's own motion, the court may remove the guardian ad litem for failure to perform his or her duties as specified in this chapter, provided that the guardian ad litem shall have five days notice of any motion to remove before the court enters such order. In addition, the court in its discretion may reduce a guardian ad litem's fee for failure to carry out his or her duties.

(7) The court appointed guardian ad litem shall have the authority, in the event that the alleged incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incapacity pending the hearing on the petition to give consent for such emergency life-saving medical services on behalf of the alleged incapacitated person.

(8) The court appointed guardian ad litem shall have the authority, to move for temporary relief under chapter 7.40 RCW to protect the alleged incapacitated person from abuse, neglect, abandonment, or exploitation, as those terms are defined in RCW 74.34.020, or to address any other emergency needs of the alleged incapacitated person. Any alternative arrangement executed before filing the petition for guardianship shall remain effective unless the court grants the relief requested under chapter 7.40 RCW, or unless, following notice and a hearing at which all parties directly affected by the arrangement are present, the court finds that the alternative arrangement should not remain effective.

(9) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incapacitated person unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That if no guardian or limited guardian is appointed the court may charge such fee to the petitioner or the alleged incapacitated person, or divide the fee, as it deems just; and if the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court

shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

~~((9))~~ (10) Upon the presentation of the guardian ad litem report and the entry of an order either dismissing the petition for appointment of guardian or limited guardian or appointing a guardian or limited guardian, the guardian ad litem shall be dismissed and shall have no further duties or obligations unless otherwise ordered by the court. If the court orders the guardian ad litem to perform further duties or obligations, they shall not be performed at county expense.

(11) The guardian ad litem shall appear in person at all hearings on the petition unless all parties provide a written waiver of the requirement to appear.

(12) At any hearing the court may consider whether any person who makes decisions regarding the alleged incapacitated person or estate has breached a statutory or fiduciary duty.

Sec. 11. RCW 11.92.190 and 1977 ex.s. c 309 s 14 are each amended to read as follows:

No residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an ~~((incompetent or disabled))~~ incapacitated person shall be void and of no force or effect. This section does not apply to the detention of a minor as provided in chapter 70.96A or 71.34 RCW.

Nothing in this section shall be construed to require a court order authorizing placement of an ~~((incompetent or disabled))~~ incapacitated person in a residential treatment facility if such order is not otherwise required by law: PROVIDED, That notice of any residential placement of an ~~((incompetent or disabled))~~ incapacitated person shall be served, either before or after placement, by the guardian or limited guardian on such person, the guardian ad litem of record, and any attorney of record.

NEW SECTION. Sec. 12. A new section is added to chapter 2.08 RCW to read as follows:

An attorney may not serve as a superior court judge pro tempore or a superior court commissioner pro tempore in a judicial district while appointed to or serving on a case in that judicial district as a guardian ad litem for compensation under Title 11, 13, or 26 RCW, if that judicial district is contained within division one or two of the court of appeals and has a population of more than one hundred thousand.

Sec. 13. RCW 13.34.100 and 1994 c 110 s 2 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by independent counsel in the proceedings.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background file shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) Training related to the guardian's duties;

(c) Number of years' experience as a guardian ad litem;

(d) Number of appointments as a guardian ad litem and the county or counties of appointment; and

(e) Criminal history, as defined in RCW 9.94A.030.

The background information report shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person shall provide the background information to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a statement containing his or her training relating to the duties as a guardian ad litem and criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment. The background statement shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through counsel, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6) If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

(7) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court.

(8) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends and the appointment shall be effective immediately. The court shall appoint the person recommended by the program. If a party in a case reasonably believes the court-appointed special advocate or volunteer is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate on the grounds the advocate or volunteer is inappropriate or unqualified.

**Sec. 14.** RCW 13.34.120 and 1994 c 288 s 2 are each amended to read as follows:

(1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made by the person or agency filing the petition. The study shall include all social records and may also include facts relating to the child's cultural heritage, and shall be made available to the court. The court shall consider the social file, social study, guardian ad litem report, the court-appointed special advocate's report, if any, and any reports filed by a party at the disposition hearing in addition to evidence produced at the fact-finding hearing. At least ten working days before the disposition hearing, the department shall mail to the parent and his or her attorney a copy of the agency's social study and proposed service plan, which shall be in writing or in a form understandable to the parents or custodians. In addition, the department shall provide an opportunity for parents to review and comment on the plan at the community service office. If the parents disagree with the agency's plan or any part thereof, the parents shall submit to the court at least twenty-four hours before the hearing, in writing, or signed oral statement, an alternative plan to correct the problems which led to the finding of dependency. This section shall not interfere with the right of the parents or custodians to submit oral arguments regarding the disposition plan at the hearing.

(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to

RCW (~~(13.34.030(2))~~) 13.34.030(4) (b) or (c) shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;

(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**Sec. 15.** RCW 26.12.175 and 1993 c 289 s 4 are each amended to read as follows:

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county.

(b) Unless otherwise ordered, the guardian ad litem's role is to investigate and report to the court concerning parenting arrangements for the child, and to represent the child's best interests. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the

guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court-appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background file shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) Training related to the guardian's duties;

(c) Number of years' experience as a guardian ad litem;

(d) Number of appointments as a guardian ad litem and county or counties of appointment; and

(e) Criminal history, as defined in RCW 9.94A.030.

The background information report shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person shall provide the background information to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a statement containing his or her training relating to the duties as a guardian ad litem and criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment. The background statement shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends and the appointment shall be effective immediately. The court shall appoint the person recommended by the program. If a party in a case reasonably believes the court-appointed special advocate or volunteer is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with

the court for the removal of the court-appointed special advocatc on the grounds the advocate or volunteer is inappropriate or unqualified.

Sec. 16. RCW 26.44.053 and 1994 c 110 s 1 are each amended to read as follows:

(1) In any judicial proceeding under this chapter or chapter 13.34 RCW 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 as provided in chapter 13.34 RCW. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist, or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist, or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be abused or neglected shall be a party to any proceeding that may impair or impede such person's interest in and custody or control of the child.

NEW SECTION. Sec. 17. A new section is added to chapter 13.34 RCW to read as follows:

(1) All guardians ad litem, who have not previously served or been trained as a guardian ad litem in this state, who are appointed after January 1, 1998, must complete the curriculum developed by the office of the administrator for the courts under RCW 2.56.030(16), prior to their appointment in cases under Title 13 RCW except that volunteer guardians ad litem or court appointed special advocates accepted into a volunteer program after January 1, 1998, may complete an alternative curriculum approved by the office of the administrator for the courts that meets or exceeds the state-wide curriculum.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem shall be selected from the registry except in exceptional circumstances as determined and documented by the court.



The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 13.34.100(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(3) The rotational registry system shall not apply to court-appointed special advocate programs.

NEW SECTION. Sec. 18. A new section is added to chapter 26.12 RCW to read as follows:

(1) All guardians ad litem, who have not previously served or been trained as a guardian ad litem in this state, who are appointed after January 1, 1998, must complete the curriculum developed by the office of the administrator for the courts under RCW 2.56.030(16), prior to their appointment in cases under Title 26 RCW except that volunteer guardians ad litem or court appointed special advocates accepted into a volunteer program after January 1, 1998, may complete an alternative curriculum approved by the office of the administrator for the courts that meets or exceeds the state-wide curriculum.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than

what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(3) The rotational registry system shall not apply to court-appointed special advocate programs.

Passed the Senate March 7, 1996.

Passed the House March 7, 1996.

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## CHAPTER 250

[Engrossed Senate Bill 6423]

### WASHINGTON ELECTRONIC AUTHENTICATION ACT

AN ACT Relating to electronic signatures; adding a new chapter to Title 19 RCW; prescribing penalties; and providing an effective date.

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

#### PART I. SHORT TITLE, INTERPRETATION, AND DEFINITIONS

NEW SECTION. Sec. 101. SHORT TITLE. This chapter shall be known and may be cited as the Washington electronic authentication act.

NEW SECTION. Sec. 102. PURPOSES AND CONSTRUCTION. This chapter shall be construed consistently with what is commercially reasonable under the circumstances and to effectuate the following purposes:

- (1) To facilitate commerce by means of reliable electronic messages;
- (2) To minimize the incidence of forged digital signatures and fraud in electronic commerce;
- (3) To implement legally the general import of relevant standards, such as X.509 of the international telecommunication union, formerly known as the international telegraph and telephone consultative committee; and
- (4) To establish, in coordination with multiple states, uniform rules regarding the authentication and reliability of electronic messages.

NEW SECTION. Sec. 103. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Accept a certificate" means either:
  - (a) To manifest approval of a certificate, while knowing or having notice of its contents; or
  - (b) To apply to a licensed certification authority for a certificate, without canceling or revoking the application by delivering notice of the cancellation or revocation to the certification authority and obtaining a signed, written receipt from the certification authority, if the certification authority subsequently issues a certificate based on the application.

(2) "Asymmetric cryptosystem" means an algorithm or series of algorithms that provide a secure key pair.

(3) "Certificate" means a computer-based record that:

(a) Identifies the certification authority issuing it;

(b) Names or identifies its subscriber;

(c) Contains the subscriber's public key; and

(d) Is digitally signed by the certification authority issuing it.

(4) "Certification authority" means a person who issues a certificate.

(5) "Certification authority disclosure record" means an on-line, publicly accessible record that concerns a licensed certification authority and is kept by the secretary. A certification authority disclosure record has the contents specified by rule by the secretary under section 104 of this act.

(6) "Certification practice statement" means a declaration of the practices that a certification authority employs in issuing certificates generally, or employed in issuing a material certificate.

(7) "Certify" means to declare with reference to a certificate, with ample opportunity to reflect, and with a duty to apprise oneself of all material facts.

(8) "Confirm" means to ascertain through appropriate inquiry and investigation.

(9) "Correspond," with reference to keys, means to belong to the same key pair.

(10) "Digital signature" means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:

(a) Whether the transformation was created using the private key that corresponds to the signer's public key; and

(b) Whether the initial message has been altered since the transformation was made.

(11) "Financial institution" means a national or state-chartered commercial bank or trust company, savings bank, savings association, or credit union authorized to do business in the state of Washington and the deposits of which are federally insured.

(12) "Forge a digital signature" means either:

(a) To create a digital signature without the authorization of the rightful holder of the private key; or

(b) To create a digital signature verifiable by a certificate listing as subscriber a person who either:

(i) Does not exist; or

(ii) Does not hold the private key corresponding to the public key listed in the certificate.

(13) "Hold a private key" means to be authorized to utilize a private key.

(14) "Incorporate by reference" means to make one message a part of another message by identifying the message to be incorporated and expressing the intention that it be incorporated.

(15) "Issue a certificate" means the acts of a certification authority in creating a certificate and notifying the subscriber listed in the certificate of the contents of the certificate.

(16) "Key pair" means a private key and its corresponding public key in an asymmetric cryptosystem, keys which have the property that the public key can verify a digital signature that the private key creates.

(17) "Licensed certification authority" means a certification authority to whom a license has been issued by the secretary and whose license is in effect.

(18) "Message" means a digital representation of information.

(19) "Notify" means to communicate a fact to another person in a manner reasonably likely under the circumstances to impart knowledge of the information to the other person.

(20) "Operative personnel" means one or more natural persons acting as a certification authority or its agent, or in the employment of, or under contract with, a certification authority, and who have:

(a) Managerial or policymaking responsibilities for the certification authority; or

(b) Duties directly involving the issuance of certificates, creation of private keys, or administration of a certification authority's computing facilities.

(21) "Person" means a human being or an organization capable of signing a document, either legally or as a matter of fact.

(22) "Private key" means the key of a key pair used to create a digital signature.

(23) "Public key" means the key of a key pair used to verify a digital signature.

(24) "Publish" means to record or file in a repository.

(25) "Qualified right to payment" means an award of damages against a licensed certification authority by a court having jurisdiction over the certification authority in a civil action for violation of this chapter.

(26) "Recipient" means a person who receives or has a digital signature and is in a position to rely on it.

(27) "Recognized repository" means a repository recognized by the secretary under section 501 of this act.

(28) "Recommended reliance limit" means the monetary amount recommended for reliance on a certificate under section 309(1) of this act.

(29) "Repository" means a system for storing and retrieving certificates and other information relevant to digital signatures.

(30) "Revoke a certificate" means to make a certificate ineffective permanently from a specified time forward. Revocation is effected by notation or inclusion in a set of revoked certificates, and does not imply that a revoked certificate is destroyed or made illegible.

(31) "Rightfully hold a private key" means the authority to utilize a private key:

(a) That the holder or the holder's agents have not disclosed to a person in violation of section 305(1) of this act; and

(b) That the holder has not obtained through theft, deceit, eavesdropping, or other unlawful means.

(32) "Secretary" means the secretary of state.

(33) "Subscriber" means a person who:

(a) Is the subject listed in a certificate;

(b) Accepts the certificate; and

(c) Holds a private key that corresponds to a public key listed in that certificate.

(34) "Suitable guaranty" means either a surety bond executed by a surety authorized by the insurance commissioner to do business in this state, or an irrevocable letter of credit issued by a financial institution authorized to do business in this state, which, in either event, satisfies all of the following requirements:

(a) It is issued payable to the secretary for the benefit of persons holding qualified rights of payment against the licensed certification authority named as the principal of the bond or customer of the letter of credit;

(b) It is in an amount specified by rule by the secretary under section 104 of this act;

(c) It states that it is issued for filing under this chapter;

(d) It specifies a term of effectiveness extending at least as long as the term of the license to be issued to the certification authority; and

(e) It is in a form prescribed or approved by rule by the secretary.

A suitable guaranty may also provide that the total annual liability on the guaranty to all persons making claims based on it may not exceed the face amount of the guaranty.

(35) "Suspend a certificate" means to make a certificate ineffective temporarily for a specified time forward.

(36) "Time stamp" means either:

(a) To append or attach to a message, digital signature, or certificate a digitally signed notation indicating at least the date, time, and identity of the person appending or attaching the notation; or

(b) The notation thus appended or attached.

(37) "Transactional certificate" means a valid certificate incorporating by reference one or more digital signatures.

(38) "Trustworthy system" means computer hardware and software that:

(a) Are reasonably secure from intrusion and misuse;

(b) Provide a reasonable level of availability, reliability, and correct operation; and

(c) Are reasonably suited to performing their intended functions.

(39) "Valid certificate" means a certificate that:

(a) A licensed certification authority has issued;

(b) The subscriber listed in it has accepted;

- (c) Has not been revoked or suspended; and
- (d) Has not expired.

However, a transactional certificate is a valid certificate only in relation to the digital signature incorporated in it by reference.

(40) "Verify a digital signature" means, in relation to a given digital signature, message, and public key, to determine accurately that:

- (a) The digital signature was created by the private key corresponding to the public key; and
- (b) The message has not been altered since its digital signature was created.

**NEW SECTION. Sec. 104. ROLE OF THE SECRETARY.** (1) If six months elapse during which time no certification authority is licensed in this state, then the secretary shall be a certification authority, and may issue, suspend, and revoke certificates in the manner prescribed for licensed certification authorities. Except for licensing requirements, this chapter applies to the secretary with respect to certificates he or she issues. The secretary must discontinue acting as a certification authority if another certification authority is licensed, in a manner allowing reasonable transition to private enterprise.

(2) The secretary must maintain a publicly accessible data base containing a certification authority disclosure record for each licensed certification authority. The secretary must publish the contents of the data base in at least one recognized repository.

(3) The secretary must adopt rules consistent with this chapter and in furtherance of its purposes:

- (a) To govern licensed certification authorities, their practice, and the termination of a certification authority's practice;
- (b) To determine an amount reasonably appropriate for a suitable guaranty, in light of the burden a suitable guaranty places upon licensed certification authorities and the assurance of quality and financial responsibility it provides to persons who rely on certificates issued by licensed certification authorities;
- (c) To specify reasonable requirements for the form of certificates issued by licensed certification authorities, in accordance with generally accepted standards for digital signature certificates;
- (d) To specify reasonable requirements for recordkeeping by licensed certification authorities;
- (e) To specify reasonable requirements for the content, form, and sources of information in certification authority disclosure records, the updating and timeliness of the information, and other practices and policies relating to certification authority disclosure records;
- (f) To specify the form of certification practice statements; and
- (g) Otherwise to give effect to and implement this chapter.

**NEW SECTION. Sec. 105. FEES OF THE SECRETARY.** The secretary may adopt rules establishing reasonable fees for all services rendered under this chapter, in amounts sufficient to compensate for the costs of all services under this chapter. All fees recovered by the secretary must be deposited in the state general fund.

**PART II. LICENSING AND REGULATION OF  
CERTIFICATE AUTHORITIES**

**NEW SECTION. Sec. 201. LICENSURE AND QUALIFICATIONS OF CERTIFICATION AUTHORITIES.** (1) To obtain or retain a license, a certification authority must:

(a) Be the subscriber of a certificate published in a recognized repository;  
(b) Employ as operative personnel only persons who have not been convicted within the past fifteen years of a felony or a crime involving fraud, false statement, or deception;

(c) Employ as operative personnel only persons who have demonstrated knowledge and proficiency in following the requirements of this chapter;

(d) File with the secretary a suitable guaranty, unless the certification authority is a department, office, or official of a state, city, or county governmental entity, provided that:

(i) Each of the public entities in (d) of this subsection act through designated officials authorized by rule or ordinance to perform certification authority functions; or

(ii) This state or one of the public entities in (d) of this subsection is the subscriber of all certificates issued by the certification authority;

(e) Have the right to use a trustworthy system, including a secure means for limiting access to its private key;

(f) Present proof to the secretary of having working capital reasonably sufficient, according to rules adopted by the secretary, to enable the applicant to conduct business as a certification authority;

(g) Maintain an office in this state or have established a registered agent for service of process in this state; and

(h) Comply with all further licensing requirements established by rule by the secretary.

(2) The secretary must issue a license to a certification authority that:

(a) Is qualified under subsection (1) of this section;

(b) Applies in writing to the secretary for a license; and

(c) Pays a filing fee adopted by rule by the secretary.

(3) The secretary may by rule classify licenses according to specified limitations, such as a maximum number of outstanding certificates, cumulative maximum of recommended reliance limits in certificates issued by the certification authority, or issuance only within a single firm or organization, and the secretary may issue licenses restricted according to the limits of each classification. A certification authority acts as an unlicensed certification authority in issuing a certificate exceeding the restrictions of the certification authority's license.

(4) The secretary may revoke or suspend a certification authority's license, in accordance with the administrative procedure act, chapter 34.05 RCW, for failure to comply with this chapter or for failure to remain qualified under subsection (1) of this section.

(5) The secretary may recognize by rule the licensing or authorization of certification authorities by other governmental entities, provided that those licensing or authorization requirements are substantially similar to those of this state. If licensing by another government is so recognized:

(a) Sections 401 through 406 of this act apply to certificates issued by the certification authorities licensed or authorized by that government in the same manner as it applies to licensed certification authorities of this state; and

(b) The liability limits of section 309 of this act apply to the certification authorities licensed or authorized by that government in the same manner as they apply to licensed certification authorities of this state.

(6) Unless the parties provide otherwise by contract between themselves, the licensing requirements in this section do not affect the effectiveness, enforceability, or validity of any digital signature, except that sections 401 through 406 of this act do not apply in relation to a digital signature that cannot be verified by a certificate issued by an unlicensed certification authority.

(7) A certification authority that has not obtained a license is not subject to the provisions of this chapter.

**NEW SECTION. Sec. 202. PERFORMANCE AUDITS.** (1) A certified public accountant having expertise in computer security or an accredited computer security professional must audit the operations of each licensed certification authority at least once each year to evaluate compliance with this chapter. The secretary may by rule specify the qualifications of auditors.

(2) Based on information gathered in the audit, the auditor must categorize the licensed certification authority's compliance as one of the following:

(a) Full compliance. The certification authority appears to conform to all applicable statutory and regulatory requirements.

(b) Substantial compliance. The certification authority appears generally to conform to applicable statutory and regulatory requirements. However, one or more instances of noncompliance or of inability to demonstrate compliance were found in an audited sample, but were likely to be inconsequential.

(c) Partial compliance. The certification authority appears to comply with some statutory and regulatory requirements, but was found not to have complied or not to be able to demonstrate compliance with one or more important safeguards.

(d) Noncompliance. The certification authority complies with few or none of the statutory and regulatory requirements, fails to keep adequate records to demonstrate compliance with more than a few requirements, or refused to submit to an audit.

The secretary must publish in the certification authority disclosure record it maintains for the certification authority the date of the audit and the resulting categorization of the certification authority.

(3) The secretary may exempt a licensed certification authority from the requirements of subsection (1) of this section, if:

(a) The certification authority to be exempted requests exemption in writing;



(b) The most recent performance audit, if any, of the certification authority resulted in a finding of full or substantial compliance; and

(c) The certification authority declares under oath, affirmation, or penalty of perjury that one or more of the following is true with respect to the certification authority:

(i) The certification authority has issued fewer than six certificates during the past year and the recommended reliance limits of all of the certificates do not exceed ten thousand dollars;

(ii) The aggregate lifetime of all certificates issued by the certification authority during the past year is less than thirty days and the recommended reliance limits of all of the certificates do not exceed ten thousand dollars; or

(iii) The recommended reliance limits of all certificates outstanding and issued by the certification authority total less than one thousand dollars.

(4) If the certification authority's declaration under subsection (3) of this section falsely states a material fact, the certification authority has failed to comply with the performance audit requirements of this section.

(5) If a licensed certification authority is exempt under subsection (3) of this section, the secretary must publish in the certification authority disclosure record it maintains for the certification authority that the certification authority is exempt from the performance audit requirement.

**NEW SECTION. Sec. 203. ENFORCEMENT OF REQUIREMENTS FOR LICENSED CERTIFICATION AUTHORITIES.** (1) The secretary may investigate the activities of a licensed certification authority material to its compliance with this chapter and issue orders to a certification authority to further its investigation and secure compliance with this chapter.

(2) The secretary may suspend or revoke the license of a certification authority for its failure to comply with an order of the secretary.

(3) The secretary may by order impose and collect a civil monetary penalty for a violation of this chapter in an amount not to exceed five thousand dollars per incident, or ninety percent of the recommended reliance limit of a material certificate, whichever is less. In case of a violation continuing for more than one day, each day is considered a separate incident.

(4) The secretary may order a certification authority, which it has found to be in violation of this chapter, to pay the costs incurred by the secretary in prosecuting and adjudicating proceedings relative to the order, and enforcing it.

(5) The secretary must exercise authority under this section in accordance with the administrative procedure act, chapter 34.05 RCW, and a licensed certification authority may obtain judicial review of the secretary's actions as prescribed by chapter 34.05 RCW. The secretary may also seek injunctive relief to compel compliance with an order.

**NEW SECTION. Sec. 204. DANGEROUS ACTIVITIES BY A CERTIFICATION AUTHORITY PROHIBITED.** (1) No certification authority, whether licensed or not, may conduct its business in a manner that creates an

unreasonable risk of loss to subscribers of the certification authority, to persons relying on certificates issued by the certification authority, or to a repository.

(2) The secretary may publish in the repository it provides, or elsewhere, brief statements advising subscribers, persons relying on digital signatures, or other repositories about activities of a certification authority, whether licensed or not, that create a risk prohibited by subsection (1) of this section. The certification authority named in a statement as creating or causing such a risk may protest the publication of the statement by filing a written defense of ten thousand bytes or less. Upon receipt of such a protest, the secretary must publish the protest along with the secretary's statement, and must promptly give the protesting certification authority notice and an opportunity to be heard. Following the hearing, the secretary must rescind the advisory statement if its publication was unwarranted under this section, cancel it if its publication is no longer warranted, continue or amend it if it remains warranted, or take further legal action to eliminate or reduce a risk prohibited by subsection (1) of this section. The secretary must publish its decision in the repository it provides.

(3) In the manner provided by the administrative procedure act, chapter 34.05 RCW, the secretary may issue orders and obtain injunctions or other civil relief to prevent or restrain a certification authority from violating this section, regardless of whether the certification authority is licensed. This section does not create a right of action in a person other than the secretary.

### **PART III. DUTIES OF CERTIFICATION AUTHORITIES AND SUBSCRIBERS**

**NEW SECTION. Sec. 301. GENERAL REQUIREMENTS FOR CERTIFICATION AUTHORITIES.** (1) A licensed certification authority or subscriber may use only a trustworthy system:

- (a) To issue, suspend, or revoke a certificate;
- (b) To publish or give notice of the issuance, suspension, or revocation of a certificate; or
- (c) To create a private key.

(2) A licensed certification authority must disclose any material certification practice statement, and any fact material to either the reliability of a certificate that it has issued or its ability to perform its services. A certification authority may require a signed, written, and reasonably specific inquiry from an identified person, and payment of reasonable compensation, as conditions precedent to effecting a disclosure required in this subsection.

**NEW SECTION. Sec. 302. ISSUANCE OF A CERTIFICATE.** (1) A licensed certification authority may issue a certificate to a subscriber only after all of the following conditions are satisfied:

- (a) The certification authority has received a request for issuance signed by the prospective subscriber; and
- (b) The certification authority has confirmed that:

(i) The prospective subscriber is the person to be listed in the certificate to be issued;

(ii) If the prospective subscriber is acting through one or more agents, the subscriber duly authorized the agent or agents to have custody of the subscriber's private key and to request issuance of a certificate listing the corresponding public key;

(iii) The information in the certificate to be issued is accurate;

(iv) The prospective subscriber rightfully holds the private key corresponding to the public key to be listed in the certificate;

(v) The prospective subscriber holds a private key capable of creating a digital signature; and

(vi) The public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the prospective subscriber.

The requirements of this subsection may not be waived or disclaimed by either the licensed certification authority, the subscriber, or both.

(2) If the subscriber accepts the issued certificate, the certification authority must publish a signed copy of the certificate in a recognized repository, as the certification authority and the subscriber named in the certificate may agree, unless a contract between the certification authority and the subscriber provides otherwise. If the subscriber does not accept the certificate, a licensed certification authority must not publish it, or must cancel its publication if the certificate has already been published.

(3) Nothing in this section precludes a licensed certification authority from conforming to standards, certification practice statements, security plans, or contractual requirements more rigorous than, but nevertheless consistent with, this chapter.

(4) After issuing a certificate, a licensed certification authority must revoke it immediately upon confirming that it was not issued as required by this section. A licensed certification authority may also suspend a certificate that it has issued for a reasonable period not exceeding forty-eight hours as needed for an investigation to confirm grounds for revocation under this subsection. The certification authority must give notice to the subscriber as soon as practicable after a decision to revoke or suspend under this subsection.

(5) The secretary may order the licensed certification authority to suspend or revoke a certificate that the certification authority issued, if, after giving any required notice and opportunity for the certification authority and subscriber to be heard in accordance with the administrative procedure act, chapter 34.05 RCW, the secretary determines that:

(a) The certificate was issued without substantial compliance with this section; and

(b) The noncompliance poses a significant risk to persons reasonably relying on the certificate.

Upon determining that an emergency requires an immediate remedy, and in accordance with the administrative procedure act, chapter 34.05 RCW, the

secretary may issue an order suspending a certificate for a period not to exceed forty-eight hours.

**NEW SECTION. Sec. 303. WARRANTIES AND OBLIGATIONS OF CERTIFICATION AUTHORITY UPON ISSUANCE OF A CERTIFICATE.**

(1) By issuing a certificate, a licensed certification authority warrants to the subscriber named in the certificate that:

(a) The certificate contains no information known to the certification authority to be false;

(b) The certificate satisfies all material requirements of this chapter; and

(c) The certification authority has not exceeded any limits of its license in issuing the certificate.

The certification authority may not disclaim or limit the warranties of this subsection.

(2) Unless the subscriber and certification authority otherwise agree, a certification authority, by issuing a certificate, promises to the subscriber:

(a) To act promptly to suspend or revoke a certificate in accordance with section 306 or 307 of this act; and

(b) To notify the subscriber within a reasonable time of any facts known to the certification authority that significantly affect the validity or reliability of the certificate once it is issued.

(3) By issuing a certificate, a licensed certification authority certifies to all who reasonably rely on the information contained in the certificate that:

(a) The information in the certificate and listed as confirmed by the certification authority is accurate;

(b) All information foreseeably material to the reliability of the certificate is stated or incorporated by reference within the certificate;

(c) The subscriber has accepted the certificate; and

(d) The licensed certification authority has complied with all applicable laws of this state governing issuance of the certificate.

(4) By publishing a certificate, a licensed certification authority certifies to the repository in which the certificate is published and to all who reasonably rely on the information contained in the certificate that the certification authority has issued the certificate to the subscriber.

**NEW SECTION. Sec. 304. REPRESENTATIONS AND DUTIES UPON ACCEPTANCE OF A CERTIFICATE.** (1) By accepting a certificate issued by a licensed certification authority, the subscriber listed in the certificate certifies to all who reasonably rely on the information contained in the certificate that:

(a) The subscriber rightfully holds the private key corresponding to the public key listed in the certificate;

(b) All representations made by the subscriber to the certification authority and material to the information listed in the certificate are true; and

(c) All material representations made by the subscriber to a certification authority or made in the certificate and not confirmed by the certification authority in issuing the certificate are true.

(2) By requesting on behalf of a principal the issuance of a certificate naming the principal as subscriber, the requesting person certifies in that person's own right to all who reasonably rely on the information contained in the certificate that the requesting person:

(a) Holds all authority legally required to apply for issuance of a certificate naming the principal as subscriber; and

(b) Has authority to sign digitally on behalf of the principal, and, if that authority is limited in any way, adequate safeguards exist to prevent a digital signature exceeding the bounds of the person's authority.

(3) No person may disclaim or contractually limit the application of this section, nor obtain indemnity for its effects, if the disclaimer, limitation, or indemnity restricts liability for misrepresentation as against persons reasonably relying on the certificate.

(4) By accepting a certificate, a subscriber undertakes to indemnify the issuing certification authority for loss or damage caused by issuance or publication of a certificate in reliance on:

(a) A false and material representation of fact by the subscriber; or

(b) The failure by the subscriber to disclose a material fact;

if the representation or failure to disclose was made either with intent to deceive the certification authority or a person relying on the certificate, or with negligence. If the certification authority issued the certificate at the request of one or more agents of the subscriber, the agent or agents personally undertake to indemnify the certification authority under this subsection, as if they were accepting subscribers in their own right. The indemnity provided in this section may not be disclaimed or contractually limited in scope. However, a contract may provide consistent, additional terms regarding the indemnification.

(5) In obtaining information of the subscriber material to issuance of a certificate, the certification authority may require the subscriber to certify the accuracy of relevant information under oath or affirmation of truthfulness and under penalty of perjury.

**NEW SECTION. Sec. 305. CONTROL OF THE PRIVATE KEY.** (1) By accepting a certificate issued by a licensed certification authority, the subscriber identified in the certificate assumes a duty to exercise reasonable care to retain control of the private key and prevent its disclosure to a person not authorized to create the subscriber's digital signature.

(2) A private key is the personal property of the subscriber who rightfully holds it.

(3) If a certification authority holds the private key corresponding to a public key listed in a certificate that it has issued, the certification authority holds the private key as a fiduciary of the subscriber named in the certificate, and may use that private key only with the subscriber's prior, written approval,

unless the subscriber expressly grants the private key to the certification authority and expressly permits the certification authority to hold the private key according to other terms.

**NEW SECTION. Sec. 306. SUSPENSION OF A CERTIFICATE.** (1) Unless the certification authority and the subscriber agree otherwise, the licensed certification authority that issued a certificate that is not a transactional certificate must suspend the certificate for a period not to exceed forty-eight hours:

(a) Upon request by a person identifying himself or herself as the subscriber named in the certificate, or as a person in a position likely to know of a compromise of the security of a subscriber's private key, such as an agent, business associate, employee, or member of the immediate family of the subscriber; or

(b) By order of the secretary under section 302(5) of this act.

The certification authority need not confirm the identity or agency of the person requesting suspension.

(2) Unless the certificate provides otherwise or the certificate is a transactional certificate, the secretary or a county clerk may suspend a certificate issued by a licensed certification authority for a period of forty-eight hours, if:

(a) A person identifying himself or herself as the subscriber named in the certificate or as an agent, business associate, employee, or member of the immediate family of the subscriber requests suspension; and

(b) The requester represents that the certification authority that issued the certificate is unavailable.

The secretary or county clerk may require the person requesting suspension to provide evidence, including a statement under oath or affirmation, regarding his or her identity, authorization, or the unavailability of the issuing certification authority, and may decline to suspend the certificate in its discretion. The secretary or law enforcement agencies may investigate suspensions by the secretary or county clerk for possible wrongdoing by persons requesting suspension.

(3) Immediately upon suspension of a certificate by a licensed certification authority, the licensed certification authority must give notice of the suspension according to the specification in the certificate. If one or more repositories are specified, then the licensed certification authority must publish a signed notice of the suspension in all the repositories. If a repository no longer exists or refuses to accept publication, or if no repository is recognized under section 501 of this act, the licensed certification authority must also publish the notice in a recognized repository. If a certificate is suspended by the secretary or county clerk, the secretary or clerk must give notice as required in this subsection for a licensed certification authority, provided that the person requesting suspension pays in advance any fee required by a repository for publication of the notice of suspension.

(4) A certification authority must terminate a suspension initiated by request only:

(a) If the subscriber named in the suspended certificate requests termination of the suspension, the certification authority has confirmed that the person requesting suspension is the subscriber or an agent of the subscriber authorized to terminate the suspension; or

(b) When the certification authority discovers and confirms that the request for the suspension was made without authorization by the subscriber. However, this subsection (4)(b) does not require the certification authority to confirm a request for suspension.

(5) The contract between a subscriber and a licensed certification authority may limit or preclude requested suspension by the certification authority, or may provide otherwise for termination of a requested suspension. However, if the contract limits or precludes suspension by the secretary or county clerk when the issuing certification authority is unavailable, the limitation or preclusion is effective only if notice of it is published in the certificate.

(6) No person may knowingly or intentionally misrepresent to a certification authority his or her identity or authorization in requesting suspension of a certificate. Violation of this subsection is a misdemeanor.

(7) The subscriber is released from the duty to keep the private key secure under section 305(1) of this act while the certificate is suspended.

**NEW SECTION. Sec. 307. REVOCATION OF A CERTIFICATE.** (1) A licensed certification authority must revoke a certificate that it issued but which is not a transactional certificate, after:

(a) Receiving a request for revocation by the subscriber named in the certificate; and

(b) Confirming that the person requesting revocation is the subscriber, or is an agent of the subscriber with authority to request the revocation.

(2) A licensed certification authority must confirm a request for revocation and revoke a certificate within one business day after receiving both a subscriber's written request and evidence reasonably sufficient to confirm the identity and any agency of the person requesting the suspension.

(3) A licensed certification authority must revoke a certificate that it issued:

(a) Upon receiving a certified copy of the subscriber's death certificate, or upon confirming by other evidence that the subscriber is dead; or

(b) Upon presentation of documents effecting a dissolution of the subscriber, or upon confirming by other evidence that the subscriber has been dissolved or has ceased to exist.

(4) A licensed certification authority may revoke one or more certificates that it issued if the certificates are or become unreliable, regardless of whether the subscriber consents to the revocation and notwithstanding a provision to the contrary in a contract between the subscriber and certification authority.

(5) Immediately upon revocation of a certificate by a licensed certification authority, the licensed certification authority must give notice of the revocation

according to the specification in the certificate. If one or more repositories are specified, then the licensed certification authority must publish a signed notice of the revocation in all repositories. If a repository no longer exists or refuses to accept publication, or if no repository is recognized under section 50I of this act, then the licensed certification authority must also publish the notice in a recognized repository.

(6) A subscriber ceases to certify, as provided in section 304 of this act, and has no further duty to keep the private key secure, as required by section 305 of this act, in relation to the certificate whose revocation the subscriber has requested, beginning at the earlier of either:

(a) When notice of the revocation is published as required in subsection (5) of this section; or

(b) One business day after the subscriber requests revocation in writing, supplies to the issuing certification authority information reasonably sufficient to confirm the request, and pays any contractually required fee.

(7) Upon notification as required by subsection (5) of this section, a licensed certification authority is discharged of its warranties based on issuance of the revoked certificate and ceases to certify as provided in section 303(2) and (3) of this act in relation to the revoked certificate.

**NEW SECTION. Sec. 308. EXPIRATION OF A CERTIFICATE.** (1) A certificate must indicate the date on which it expires.

(2) When a certificate expires, the subscriber and certification authority cease to certify as provided in this chapter and the certification authority is discharged of its duties based on issuance, in relation to the expired certificate.

**NEW SECTION. Sec. 309. RECOMMENDED RELIANCE LIMITS AND LIABILITY.** (1) By specifying a recommended reliance limit in a certificate, the issuing certification authority and accepting subscriber recommend that persons rely on the certificate only to the extent that the total amount at risk does not exceed the recommended reliance limit.

(2) Unless a licensed certification authority waives application of this subsection, a licensed certification authority is:

(a) Not liable for a loss caused by reliance on a false or forged digital signature of a subscriber, if, with respect to the false or forged digital signature, the certification authority complied with all material requirements of this chapter;

(b) Not liable in excess of the amount specified in the certificate as its recommended reliance limit for either:

(i) A loss caused by reliance on a misrepresentation in the certificate of a fact that the licensed certification authority is required to confirm; or

(ii) Failure to comply with section 302 of this act in issuing the certificate;

(c) Liable only for direct compensatory damages in an action to recover a loss due to reliance on the certificate. Direct compensatory damages do not include:



(i) Punitive or exemplary damages. Nothing in this chapter may be interpreted to permit punitive or exemplary damages that would not otherwise be permitted by the law of this state;

(ii) Damages for lost profits or opportunity; or

(iii) Damages for pain or suffering.

**NEW SECTION. Sec. 310. COLLECTION BASED ON SUITABLE GUARANTY.** (1)(a) If the suitable guaranty is a surety bond, a person may recover from the surety the full amount of a qualified right to payment against the principal named in the bond, or, if there is more than one such qualified right to payment during the term of the bond, a ratable share, up to a maximum total liability of the surety equal to the amount of the bond.

(b) If the suitable guaranty is a letter of credit, a person may recover from the issuing financial institution only in accordance with the terms of the letter of credit.

Claimants may recover successively on the same suitable guaranty, provided that the total liability on the suitable guaranty to all persons making qualified rights of payment during its term must not exceed the amount of the suitable guaranty.

(2) In addition to recovering the amount of a qualified right to payment, a claimant may recover from the proceeds of the guaranty, until depleted, the attorneys' fees, reasonable in amount, and court costs incurred by the claimant in collecting the claim, provided that the total liability on the suitable guaranty to all persons making qualified rights of payment or recovering attorneys' fees during its term must not exceed the amount of the suitable guaranty.

(3) To recover a qualified right to payment against a surety or issuer of a suitable guaranty, the claimant must:

(a) File written notice of the claim with the secretary stating the name and address of the claimant, the amount claimed, and the grounds for the qualified right to payment, and any other information required by rule by the secretary; and

(b) Append to the notice a certified copy of the judgment on which the qualified right to payment is based.

Recovery of a qualified right to payment from the proceeds of the suitable guaranty is barred unless the claimant substantially complies with this subsection (3).

(4) Recovery of a qualified right to payment from the proceeds of a suitable guaranty are forever barred unless notice of the claim is filed as required in subsection (3)(a) of this section within three years after the occurrence of the violation of this chapter that is the basis for the claim. Notice under this subsection need not include the requirement imposed by subsection (3)(b) of this section.

**PART IV. EFFECT OF A DIGITAL SIGNATURE**

**NEW SECTION. Sec. 401. SATISFACTION OF SIGNATURE REQUIREMENTS.** Where a rule of law requires a signature, or provides for certain consequences in the absence of a signature, that rule is satisfied by a digital signature, if:

(1) No party affected by a digital signature objects to the use of digital signatures in lieu of a signature, and the objection may be evidenced by refusal to provide or accept a digital signature;

(2) That digital signature is verified by reference to the public key listed in a valid certificate issued by a licensed certification authority;

(3) That digital signature was affixed by the signer with the intention of signing the message, and after the signer has had an opportunity to review items being signed; and

(4) The recipient has no knowledge or notice that the signer either:

(a) Breached a duty as a subscriber; or

(b) Does not rightfully hold the private key used to affix the digital signature.

However, nothing in this chapter precludes a mark from being valid as a signature under other applicable law.

**NEW SECTION. Sec. 402. UNRELIABLE DIGITAL SIGNATURES.** Unless otherwise provided by law or contract, the recipient of a digital signature assumes the risk that a digital signature is forged, if reliance on the digital signature is not reasonable under the circumstances. If the recipient determines not to rely on a digital signature under this section, the recipient must promptly notify the signer of any determination not to rely on a digital signature and the grounds for that determination. Nothing in this chapter shall be construed to obligate a person to accept a digital signature or to respond to an electronic message containing a digital signature.

**NEW SECTION. Sec. 403. DIGITALLY SIGNED DOCUMENT IS WRITTEN.** A message is as valid, enforceable, and effective as if it had been written on paper, if it:

(1) Bears in its entirety a digital signature; and

(2) That digital signature is verified by the public key listed in a certificate that:

(a) Was issued by a licensed certification authority; and

(b) Was valid at the time the digital signature was created.

Nothing in this chapter shall be construed to eliminate, modify, or condition any other requirements for a contract to be valid, enforceable, and effective. No digital message shall be deemed to be an instrument under the provisions of Title 62A RCW unless all parties to the transaction agree.

**NEW SECTION. Sec. 404. DIGITALLY SIGNED ORIGINALS.** A copy of a digitally signed message is as effective, valid, and enforceable as the original of the message, unless it is evident that the signer designated an instance

of the digitally signed message to be a unique original, in which case only that instance constitutes the valid, effective, and enforceable message.

**NEW SECTION. Sec. 405. CERTIFICATE AS AN ACKNOWLEDGMENT.** Unless otherwise provided by law or contract, a certificate issued by a licensed certification authority is an acknowledgment of a digital signature verified by reference to the public key listed in the certificate, regardless of whether words of an express acknowledgment appear with the digital signature and regardless of whether the signer physically appeared before the certification authority when the digital signature was created, if that digital signature is:

- (1) Verifiable by that certificate; and
- (2) Affixed when that certificate was valid.

**NEW SECTION. Sec. 406. PRESUMPTIONS IN ADJUDICATING DISPUTES.** In adjudicating a dispute involving a digital signature, a court of this state presumes that:

(1) A certificate digitally signed by a licensed certification authority and either published in a recognized repository, or made available by the issuing certification authority or by the subscriber listed in the certificate is issued by the certification authority that digitally signed it and is accepted by the subscriber listed in it.

(2) The information listed in a valid certificate and confirmed by a licensed certification authority issuing the certificate is accurate.

(3) If a digital signature is verified by the public key listed in a valid certificate issued by a licensed certification authority:

(a) That digital signature is the digital signature of the subscriber listed in that certificate;

(b) That digital signature was affixed by that subscriber with the intention of signing the message; and

(c) The recipient of that digital signature has no knowledge or notice that the signer:

(i) Breached a duty as a subscriber; or

(ii) Does not rightfully hold the private key used to affix the digital signature.

(4) A digital signature was created before it was time stamped by a disinterested person utilizing a trustworthy system.

## PART V. REPOSITORIES

**NEW SECTION. Sec. 501. RECOGNITION OF REPOSITORIES.** (1) The secretary must recognize one or more repositories, after finding that a repository to be recognized:

(a) Is operated under the direction of a licensed certification authority;

(b) Includes a data base containing:

(i) Certificates published in the repository;

(ii) Notices of suspended or revoked certificates published by licensed certification authorities or other persons suspending or revoking certificates;

(iii) Certification authority disclosure records for licensed certification authorities;

(iv) All orders or advisory statements published by the secretary in regulating certification authorities; and

(v) Other information adopted by rule by the secretary;

(c) Operates by means of a trustworthy system;

(d) Contains no significant amount of information that is known or likely to be untrue, inaccurate, or not reasonably reliable;

(e) Contains certificates published by certification authorities that conform to legally binding requirements that the secretary finds to be substantially similar to, or more stringent toward the certification authorities, than those of this state;

(f) Keeps an archive of certificates that have been suspended or revoked, or that have expired, within at least the past three years; and

(g) Complies with other reasonable requirements adopted by rule by the secretary.

(2) A repository may apply to the secretary for recognition by filing a written request and providing evidence to the secretary sufficient for the secretary to find that the conditions for recognition are satisfied.

(3) A repository may discontinue its recognition by filing thirty days' written notice with the secretary. In addition the secretary may discontinue recognition of a repository in accordance with the administrative procedure act, chapter 34.05 RCW, if it concludes that the repository no longer satisfies the conditions for recognition listed in this section or in rules adopted by the secretary.

**NEW SECTION. Sec. 502. LIABILITY OF REPOSITORIES.** (1) Notwithstanding a disclaimer by the repository or a contract to the contrary between the repository, a certification authority, or a subscriber, a repository is liable for a loss incurred by a person reasonably relying on a digital signature verified by the public key listed in a suspended or revoked certificate, if loss was incurred more than one business day after receipt by the repository of a request to publish notice of the suspension or revocation, and the repository had failed to publish the notice when the person relied on the digital signature.

(2) Unless waived, a recognized repository or the owner or operator of a recognized repository is:

(a) Not liable for failure to record publication of a suspension or revocation, unless the repository has received notice of publication and one business day has elapsed since the notice was received;

(b) Not liable under subsection (1) of this section in excess of the amount specified in the certificate as the recommended reliance limit;

(c) Liable under subsection (1) of this section only for direct compensatory damages, which do not include:

(i) Punitive or exemplary damages;

(ii) Damages for lost profits or opportunity; or

(iii) Damages for pain or suffering;

(d) Not liable for misrepresentation in a certificate published by a licensed certification authority;

(e) Not liable for accurately recording or reporting information that a licensed certification authority, or court clerk, or the secretary has published as required or permitted in this chapter, including information about suspension or revocation of a certificate;

(f) Not liable for reporting information about a certification authority, a certificate, or a subscriber, if the information is published as required or permitted in this chapter or a rule adopted by the secretary, or is published by order of the secretary in the performance of the licensing and regulatory duties of that office under this chapter.

## PART VI. MISCELLANEOUS

NEW SECTION. Sec. 601. LEGISLATIVE DIRECTIVE. Sections 101 through 502, 603, and 604 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 602. EFFECTIVE DATE. This act shall take effect January 1, 1998.

NEW SECTION. Sec. 603. RULE MAKING. The secretary of state may adopt rules to implement this chapter beginning July 1, 1996.

NEW SECTION. Sec. 604. 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. 605. PART HEADINGS AND SECTION CAPTIONS. Part headings and section captions as used in this act do not constitute any part of the law.

Passed the Senate March 2, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 251

[Senate Bill 5500]

### EXECUTION METHODS

AN ACT Relating to the method of execution; amending RCW 10.95.180; and prescribing penalties.

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

Sec. 1. RCW 10.95.180 and 1986 c 194 s 1 are each amended to read as follows:

(1) The punishment of death shall be supervised by the superintendent of the penitentiary and shall be inflicted ~~((either by hanging by the neck or, at the~~

~~election of the defendant,))~~ by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the defendant is dead, or, at the election of the defendant, by hanging by the neck until the defendant is dead. In any case, death shall be pronounced by a licensed physician.

(2) All executions, for both men and women, shall be carried out within the walls of the state penitentiary.

**NEW SECTION. Sec. 2.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 2, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

**CHAPTER 252**

[Engrossed House Bill 2672]

**GREYHOUND RACING—PROHIBITION**

AN ACT Relating to prohibiting greyhound racing in the state of Washington; amending RCW 9.46.0269; adding a new section to chapter 9.46 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 9.46 RCW to read as follows:

(1) A person may not hold, conduct, or operate live greyhound racing for public exhibition, parimutuel betting, or special exhibition events, if such activities are conducted for gambling purposes. A person may not transmit or receive intrastate or interstate simulcasting of greyhound racing for commercial, parimutuel, or exhibition purposes, if such activities are conducted for gambling purposes.

(2) A person who violates this section is guilty of a class B felony, under RCW 9.46.220, professional gambling in the first degree, and is subject to the penalty under RCW 9A.20.021.

**Sec. 2.** RCW 9.46.0269 and 1987 c 4 s 18 are each amended to read as follows:

(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; (~~(e)~~)
- (d) The person conducts a lottery; or
- (e) The person violates section 1 of this act.

(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.

Passed the House March 6, 1996.

Passed the Senate March 6, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 253

[House Bill 2291]

### INTERNATIONAL EDUCATIONAL, CULTURAL, AND BUSINESS EXCHANGES—PROMOTION

AN ACT Relating to international educational, cultural, and business exchanges; amending RCW 42.17.310; reenacting and amending RCW 43.79A.040; adding new sections to chapter 43.07 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 28B RCW; creating new sections; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that:

(a) Educational, cultural, and business exchange programs are important in developing mutually beneficial relationships between Washington state and other countries;

(b) Enhanced international trade, cultural, and educational opportunities are developed when cities, counties, ports, and others establish sister relationships with their counterparts in other countries;

(c) It is important to the economic future of the state to promote international awareness and understanding; and

(d) The state's economy and economic well-being depend heavily on foreign trade and international exchanges.

(2) The legislature declares that the purpose of this act is to:

(a) Enhance Washington state's ability to develop relationships and contacts throughout the world enabling us to expand international education and trade opportunities for all citizens of the state;

(b) Develop and maintain an international data base of contacts in international trade markets;

(c) Encourage outstanding international students who reside in countries with existing trade relationships to attend Washington state's institutions of higher education; and

(d) Encourage Washington students to attend institutions of higher education located in countries with existing trading relationships with Washington state.

#### **PART I - CULTURAL EXCHANGE COUNCIL**

***\*NEW SECTION. Sec. 101. The international education and exchange council is created in the secretary of state's office. The council is established as a public-private partnership. The purpose of the council is to assist the governor, the legislature, elected state officials, state and local agencies, educational institutions, businesses, and organizations that foster international educational, business, and cultural exchanges as these organizations and agencies attempt to implement and further develop Washington's efforts to work with targeted trading partners and with educational and trade organizations from outside the United States.***

\*Sec. 101 was vetoed. See message at end of chapter.

***\*NEW SECTION. Sec. 102. (1) The initial members of the council may include, but need not be limited to:***

***(a) Representatives from the department of community, trade, and economic development; the department of agriculture; the office of the secretary of state; and the governor's office of protocol;***

***(b) Two members of the house of representatives, one from each caucus, selected by the speaker of the house of representatives;***

***(c) Two members of the senate, one from each caucus, selected by the president of the senate;***

***(d) Representatives of the common schools and public and private institutions of higher education;***

***(e) Representatives of the business community who are working in state-international trade efforts;***



*(f) Representatives of organizations dedicated to international trade and cultural exchanges; and*

*(g) Interested members of the public selected by the secretary of state.*

*(2) The initial nonlegislative members shall be selected by the governor and the secretary of state.*

*(3) When the initial board members leave the council, any replacements shall be selected by members of the council.*

\*Sec. 102 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 103. The duties of the council may include, but need not be limited to:*

*(1) Advising the governor, elected state officials, the legislature, and others as appropriate on the needs of Washington state for international education and cultural exchange opportunities;*

*(2) Assisting efforts by state and local governments, business, education, and others to work with businesses, governmental units, educational institutions, and organizations outside the United States, with an emphasis on organizations, businesses, agencies, and educational institutions in the countries that comprise Washington's targeted trading partners;*

*(3) Promoting efforts to enhance cultural, business, and educational exchange opportunities;*

*(4) Assisting the department of community, trade, and economic development and the office of international relations and protocol to provide information and assist local governments in maintaining their established sister relationships in other countries;*

*(5) Assisting in maintaining the data base on cultural exchange opportunities and state residents who have participated in international exchanges;*

*(6) Monitoring the implementation of the recommendations of the Washington task force on international education and cultural exchanges; and*

*(7) Undertaking other duties as assigned.*

\*Sec. 103 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 104. The council may establish a private, nonprofit corporation created specifically to foster international educational, business, and cultural exchanges. Any such private, nonprofit corporation must qualify as a tax-exempt, nonprofit corporation under section 501(c) of the federal internal revenue code.*

\*Sec. 104 was vetoed. See message at end of chapter.

**NEW SECTION.** *Sec. 105. The secretary of state and the council may accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds.*

**PART II - INTERNATIONAL TRADING PARTNERS PROGRAM**

**NEW SECTION. Sec. 201.** The legislature believes that Washington state has hundreds of residents with expertise that they are willing to share with developing international trade partners on a volunteer basis. The legislature believes that by sharing their knowledge and skills, these volunteers could enrich the lives of all Washingtonians by promoting friendship and understanding between cultures, providing trained manpower improving the lives of their friends overseas, and creating a positive international image of Washington state.

**NEW SECTION. Sec. 202.** The secretary of state may develop a pilot project to furnish developing international trading partners with technical assistance, training, and expertise through services provided by volunteers. The secretary of state shall establish appropriate procedures to carry out the project. The secretary of state may appoint a director of the project who serves at the pleasure of the secretary of state, and appropriate staff as funding allows, however, the secretary of state is responsible for the continuous supervision and general direction of the project.

**NEW SECTION. Sec. 203.** (1) The secretary of state may enroll residents of Washington state in the project. These residents, referred to in this chapter as volunteers, shall be selected based on their skills, expertise, and language proficiency, the technical, educational, or training needs of the participating country, and other considerations deemed relevant by the secretary of state to furthering the goals and purposes of the project. The secretary of state shall consider for participation in the program retired persons, students, and persons whose skills and backgrounds will contribute to the success of the program. In carrying out this subsection, there shall be no discrimination against any person based on race, gender, creed, or color.

(2) Volunteers shall not be deemed officers or employees of the state of Washington or otherwise in the service or employment of, or holding office under, the state of Washington.

(3) The terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other conditions of service of volunteers shall be exclusively those set forth by the terms of the project. Service as a volunteer may be terminated at any time at the pleasure of the secretary of state.

**NEW SECTION. Sec. 204.** (1) If funding is available, volunteers may be provided with living, travel, and leave allowances, and such housing, transportation, supplies, and equipment as the secretary of state may deem necessary for their maintenance and to ensure their health and their capacity to serve effectively. Transportation may be provided to volunteers for travel to and from the country of service.

(2) The secretary of state may establish policies regarding arrangements for spouses and children of volunteers to accompany the volunteers abroad.

(3) The secretary of state shall indemnify the state for claims relating to the project.

**NEW SECTION. Sec. 205.** Funding for the volunteer activities shall come from legislative appropriations, federal funds, private support funds, grant money available to implement technical assistance programs overseas, and such other funds as the secretary of state may receive.

### **PART III - INTERNATIONAL CONTACT DATA BASE**

**NEW SECTION. Sec. 301.** (1) The legislature finds that knowledge of international exchange students who have studied in Washington state institutions of higher education, especially those from key trading partner countries, and knowledge of Washington state students, interns, and citizens working and studying abroad, is critical to the ability of Washington businesses and citizens to establish contacts and networks in the competitive world market.

(2) The legislature also finds that knowledge of worldwide business contacts, government contacts, cultural contacts, and international friends is critical to building a solid network of opportunities for developing trade relations for our state.

(3) The secretary of state may develop and maintain a data base, to be known as the international contact data base, listing, in addition to any other information: (a) Washington students, interns, and citizens working and studying overseas; (b) international students who have studied at Washington educational institutions; (c) exchange opportunities for Washington residents wishing to participate in education, internships, or technical assistance programs in the areas of agriculture, hydroelectric power, aerospace, computers and technology, academics, medicine, and communications; (d) international business contacts of those people interested in doing business with Washington business; and (e) international government contacts, particularly with our key trading partners.

The data base may be designed to be used as a resource for Washington citizens, businesses, and other entities seeking contacts in international trade markets overseas.

(4) The department of community, trade, and economic development, the department of agriculture, and the governor's office of protocol may assist the secretary of state in designing and developing the data base and in obtaining data for inclusion in the data base. Four-year educational institutions and their alumni associations are encouraged to maintain data concerning students studying or working abroad, international students attending their institutions, and exchange opportunities available to their students and other citizens, and to make such data freely available to the secretary of state for inclusion in the data base.

(5) The information contained in the data base may be made available on request for inspection or copying for free or at cost. The secretary of state shall not distinguish among persons requesting information from the data base, though the secretary of state may request information from requesters for purposes of

monitoring trade contacts and evaluating the uses and effectiveness of the data base.

(6) Any person listed in the data base may request in writing that his or her name, address, telephone number, or other identifying information be omitted from the data base. Nothing in this section prohibits the secretary of state from refusing to disclose information exempt from disclosure under RCW 42.17.310.

**Sec. 302.** RCW 42.17.310 and 1995 c 267 s 6 are each 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, or welfare recipients.

(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 are witnesses to or victims of crime or 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. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, 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 43.163 RCW and 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 RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) 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.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying if the provider has provided the department with an accurate alternative or business address and telephone number.

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ce) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under section 301 of this 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. 303. The department of community, trade, and economic development, in consultation with the office of protocol, the office of the secretary of state, the department of agriculture, and the employment security department shall identify up to fifteen countries that are of strategic importance to the development of Washington's international trade relations.

**PART IV - INTERNATIONAL STUDENT EXCHANGES  
AND INTERNSHIPS**

**NEW SECTION. Sec. 401.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the higher education coordinating board.

(2) "Eligible participant" means an international student whose country of residence has a trade relationship with the state of Washington.

(3) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the board.

(4) "Service obligation" means volunteering for a minimum number of hours as established by the board based on the amount of scholarship award, to speak to or teach groups of Washington citizens, including but not limited to elementary, middle, and high schools, service clubs, and universities.

(5) "Washington international exchange scholarship program" means a scholarship award for a period not to exceed one academic year to attend a Washington institution of higher education made to an international student whose country has an established trade relationship with Washington.

**NEW SECTION. Sec. 402.** The Washington international exchange scholarship program is created subject to funding under section 406 of this act. The program shall be administered by the board. In administering the program, the board may:

(1) Convene an advisory committee that may include but need not be limited to representatives of the office of the superintendent of public instruction, the department of community, trade, and economic development, the secretary of state, private business, and institutions of higher education;

(2) Select students to receive the scholarship with the assistance of a screening committee composed of leaders in business, international trade, and education;

(3) Adopt necessary rules and guidelines including rules for disbursing scholarship funds to participants;

(4) Publicize the program;

(5) Solicit and accept grants and donations from public and private sources for the program;

(6) Establish and notify participants of service obligations; and

(7) Establish a formula for selecting the countries from which participants may be selected in consultation with the department of community, trade, and economic development.

**NEW SECTION. Sec. 403.** The board may negotiate and enter into a reciprocal agreement with foreign countries that have international students attending institutions in Washington. The goal of the reciprocal agreements shall be to allow Washington students enrolled in an institution of higher education to attend an international institution under similar terms and conditions.



**NEW SECTION.** Sec. 404. If funds are available, the board shall select students yearly to receive a Washington international exchange student scholarship from moneys earned from the Washington international exchange scholarship endowment fund created in section 406 of this act, from funds appropriated to the board for this purpose, or from any private donations, or from any other funds given to the board for this program.

**NEW SECTION.** Sec. 405. The Washington international exchange trust fund is established in the custody of the state treasurer. Any funds appropriated by the legislature for the trust fund shall be deposited into the fund. At the request of the board, and when conditions set forth in section 407 of this act are met, the treasurer shall deposit state matching moneys from the Washington international exchange trust fund into the Washington international exchange scholarship endowment fund. No appropriation is required for expenditures from the trust fund.

**NEW SECTION.** Sec. 406. The Washington international exchange scholarship endowment fund is established in the custody of the state treasurer. Moneys received from the private donations and funds received from any other source may be deposited into the endowment fund. At the request of the board, the treasurer shall release earnings from the endowment fund to the board for scholarships. No appropriation is required for expenditures from the endowment fund. The principal of the endowment fund shall not be invaded. The earnings on the fund shall be used solely for the purposes in this chapter.

**NEW SECTION.** Sec. 407. The board may request that the treasurer deposit state matching funds into the Washington international exchange scholarship endowment fund when the board can match the state funds with an equal amount of private cash donations, including conditional gifts.

**NEW SECTION.** Sec. 408. Each Washington international exchange scholarship recipient shall agree to complete the service obligation as defined by the board.

**Sec. 409.** RCW 43.79A.040 and 1995 c 394 s 2 and 1995 c 365 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for

payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The agricultural local fund, the American Indian scholarship endowment fund, the Washington international exchange scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

***\*NEW SECTION. Sec. 410. (1) The higher education coordinating board shall establish an advisory committee to assist in program design and to develop criteria for an international students internship program.***

***(2) The advisory committee may include, but need not be limited to the governor, a representative of the department of community, trade, and economic development, the secretary of state, and representatives of institutions of higher education, cultural exchange organizations, international trade organizations, and business.***

***(3) By December 31, 1997, the board shall make recommendations for legislation establishing a program for successful completion of internships within countries of targeted trading partners identified by the department of community, trade, and economic development that provides for credit opportunities toward degree programs for Washington state students.***

***(4) The advisory committee established in subsection (1) of this section shall expire December 1, 1997.***

\*Sec. 410 was vetoed. See message at end of chapter.

**PART V - TECHNICAL PROVISIONS**

**NEW SECTION. Sec. 501.** Sections 101 through 105 and 301 of this act are each added to chapter 43.07 RCW.

**NEW SECTION. Sec. 502.** Sections 201 through 205 and 301 of this act shall expire December 31, 2000.

**NEW SECTION. Sec. 503.** (1) Sections 201 through 205 of this act shall constitute a new chapter in Title 43 RCW.

(2) Sections 401 through 408 and 410 of this act shall constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 504.** 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. 505.** Part headings as used in this act constitute no part of the law.

Passed the House March 2, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 101, 102, 103, 104, and 410, House Bill No. 2291 entitled:

"AN ACT Relating to international, educational, cultural, and business exchanges;"

House Bill No. 2291 establishes a number of initiatives to develop and to support international educational and cultural exchanges with countries that trade with Washington State. These include an international trading partners program, an international contact data base, and an international exchange scholarship program.

The concept of building better international relationships through increased educational and cultural exchanges is a thoughtful one. It draws on American international experience in building relationships with Europe after World War II and with Eastern Europe at the end of the Cold War. Building better cultural and educational relationships is also a thoughtful way to build stronger trade relationships over time and well worth state time and effort to promote.

Sections 101 through 104, and section 410 of House Bill No. 2291 also establish two new legislatively-mandated councils and committees. A new cultural exchange council is established in the Secretary of State's office, and a new international student internship council is created under the Higher Education Coordinating Board. Both of these agencies possess the independent capacity to establish advisory bodies and, I trust, will work to effectuate the goals of this legislation as they see fit. In line with my commitment to reduce the number of independent boards and commissions as one way to make state government smaller, I am vetoing the establishment of these two new councils in statute.

For this reason, I have vetoed sections 101, 102, 103, 104, and 410 of House Bill No. 2291.

With the exception of sections 101, 102, 103, 104, and 410, House Bill No. 2291 is approved."

**CHAPTER 254**

[House Bill 2567]

**NOTICE OF ACTIONS RELATING TO REAL PROPERTY TO ASSESSOR'S OFFICES**

AN ACT Relating to notifying the assessor's office when actions are taken relating to real property; amending RCW 36.70B.130 and 84.41.030; adding a new section to chapter 35.22 RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 36.70B RCW; and adding a new section to chapter 90.60 RCW.

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

**Sec. 1.** RCW 36.70B.130 and 1995 c 347 s 417 are each amended to read as follows:

A local government planning under RCW 36.70A.040 shall provide a notice of decision that also includes a statement of any threshold determination made under chapter 43.21C RCW and the procedures for administrative appeal, if any. The notice of decision may be a copy of the report or decision on the project permit application. The notice shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application. The local government shall provide for notice of its decision as provided in RCW 36.70B.110(4), which shall also state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation. The local government shall provide notice of decision to the county assessor's office of the county or counties in which the property is situated.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 35.22 RCW to read as follows:

By July 31, 1997, a first class city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the first class city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

**NEW SECTION.** **Sec. 3.** A new section is added to chapter 35.63 RCW to read as follows:

By July 31, 1997, a city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

**NEW SECTION.** **Sec. 4.** A new section is added to chapter 35A.63 RCW to read as follows:

By July 31, 1997, a code city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the code city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

**NEW SECTION.** Sec. 5. A new section is added to chapter 36.70 RCW to read as follows:

By July 31, 1997, a county planning under RCW 36.70A.040 shall provide to the county assessor a copy of the county's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

**NEW SECTION.** Sec. 6. A new section is added to chapter 36.70B RCW to read as follows:

By July 31, 1997, a local government planning under RCW 36.70A.040 shall provide to the county assessor a copy of the local government's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

Sec. 7. RCW 84.41.030 and 1982 1st ex.s. c 46 s 1 are each amended to read as follows:

Each county assessor shall maintain an active and systematic program of revaluation on a continuous basis, and shall establish a revaluation schedule which will result in revaluation of all taxable real property within the county at least once each four years and physical inspection of all taxable real property within the county at least once each six years. Each county assessor may disregard any program of revaluation, if requested by a property owner, and change, as appropriate, the valuation of real property upon the receipt of a notice of decision received under RCW 36.70B.130, section 8 of this act, or chapter 35.22, 35.63, 35A.63, or 36.70 RCW pertaining to the value of the real property.

**NEW SECTION.** Sec. 8. A new section is added to chapter 90.60 RCW to read as follows:

(1) A state permit agency shall forward to the appropriate county assessor a notice of the agency's final decision with respect to a permit sought from the agency in connection with a project permit application as defined in RCW 36.70B.020.

(2) For the purposes of this section:

(a) "Permit" means a license, certificate, registration, permit, or other form of authorization required by a permit agency in connection with a project permit application as defined in RCW 36.70B.020; and

(b) "State permit agency" means the department of ecology, the department of natural resources, the department of fish and wildlife, or the department of health.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 255

[House Bill 2623]

### SINGLE NAME IDENTIFIERS FOR PERSONS OBTAINING CONTROLLED SUBSTANCES

AN ACT Relating to requiring the use of single name identifiers for persons obtaining controlled substances; and amending RCW 69.50.403.

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

**Sec. 1.** RCW 69.50.403 and 1993 c 187 s 21 are each amended to read as follows:

(a) It is unlawful for any person knowingly or intentionally:

(1) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by RCW 69.50.307;

(2) To use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address.

(4) To falsely assume the title of, or represent herself or himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(5) To make or utter any false or forged prescription or false or forged written order.

(6) To affix any false or forged label to a package or receptacle containing controlled substances.

(7) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or

(8) To possess a false or fraudulent prescription with intent to obtain a controlled substance.

(9) To attempt to illegally obtain controlled substances by providing more than one name to a practitioner when obtaining a prescription for a controlled substance. If a person's name is legally changed during the time period that he or she is receiving health care from a practitioner, the person shall inform all

providers of care so that the medical and pharmacy records for the person may be filed under a single name identifier.

(b) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of such substance, shall not be deemed a privileged communication.

(c) A person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 256

[House Bill 2661]

### PUBLIC FUNDS—REGULATION

AN ACT Relating to public funds; amending RCW 39.58.010, 39.58.020, 39.58.040, 39.58.050, 39.58.060, 39.58.065, 39.58.070, 39.58.080, 39.58.085, 39.58.090, 39.58.100, 39.58.105, 39.58.108, 39.58.130, 39.58.135, 39.58.140, and 39.58.150; adding new sections to chapter 43.09 RCW; adding a new section to chapter 39.58 RCW; recodifying RCW 39.58.160, 39.58.170, 39.58.180, and 39.58.150; and declaring an emergency.

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

**Sec. 1.** RCW 39.58.010 and 1994 c 92 s 494 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Public funds" means moneys under the control of a treasurer or custodian belonging to, or held for the benefit of, the state or any of its political subdivisions, public corporations, municipal corporations, agencies, courts, boards, commissions, or committees, including moneys held as trustee, agent, or bailee;

(2) (~~"Qualified public depository," "public depository," or "depository."~~) "Public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has been approved by the commission to hold public deposits, and which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability. Addition of the word "bank" denotes a bank, trust company, or national banking association and the word "thrift" denotes a savings (~~and loan~~) association (~~(- mutual savings bank, or stock)~~) or savings bank;

(3) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction (a) restraining a (~~qualified~~) public depository from making payments of deposit liabilities or (b) appointing a receiver for a (~~qualified~~) public depository;

(4) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(5) "Eligible collateral" means securities which are enumerated in RCW 39.58.050 (5) and (6) as eligible collateral for public deposits;

(6) The "maximum liability" of a ~~((qualified))~~ public depository on any given date means a sum equal to ten percent of (a) all public deposits held by the qualified public depository on the then most recent commission report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments paid to the commission pursuant to this chapter since the then most recent commission report date;

(7) "Public funds available for investment" means such public funds as are in excess of the anticipated cash needs throughout the duration of the contemplated investment period;

(8) "Investment deposits" means time deposits, money market deposit accounts, and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and ~~((the))~~ any other custodian of ~~((any other))~~ public funds;

(10) "Financial institution" means ~~((a branch of a bank engaged in banking in this state in accordance with RCW 30.04.300, and))~~ any national or state chartered commercial bank or trust company, ~~((national banking association, stock savings bank, mutual))~~ savings bank, or savings ~~((and loan))~~ association, or branch or branches thereof, located in this state and lawfully engaged in business;

(11) "Commission report" means a formal accounting rendered by all ~~((qualified))~~ public depositories to the commission in response to a demand for specific information made ~~((upon all depositories))~~ by the commission detailing pertinent affairs of each public depository as of the close of business on a specified date, which is the "commission report date." "Commission report due date" is the last day for the timely filing of a commission report;

(12) "Director of financial institutions" means the Washington state director of the department of financial institutions;

(13) "Net worth" of a public depository means (a) ~~((for a bank depository, the aggregate of capital, surplus, undivided profits and all capital notes and debentures which are subordinate to the interest of depositors, and (b) for a thrift depository, the aggregate of such capital stock, guaranty fund, general reserves, surplus, undivided profits, and))~~ the equity capital as reported to its primary regulatory authority on the quarterly report of condition or statement of condition and may include capital notes and debentures which are subordinate to the interests of depositors, ~~((as are eligible for inclusion in otherwise determining the net worth of a mutual savings bank, stock savings bank, or savings and loan association))~~ or (b) equity capital adjusted by rule of the commission;



(14) "Depository pledge agreement" means a tripartite agreement executed by the commission with a financial institution and its designated trustee. Such agreement shall be approved by the directors or the loan committee of the financial institution and shall continuously be a record of the financial institution. New securities may be pledged under this agreement in substitution of or in addition to securities originally pledged without executing a new agreement;

(15) "Trustee" means a third-party safekeeping agent which has completed a depository pledge agreement with a public depository and the commission. Such third-party safekeeping agent may be the federal reserve bank of San Francisco, the federal home loan bank of Seattle, the trust department of the public depository, or such other third-party safekeeping agent approved by the commission.

Sec. 2. RCW 39.58.020 and 1984 c 177 s 11 are each amended to read as follows:

All public funds deposited in ((qualified)) public depositories, including investment deposits and accrued interest thereon, shall be protected against loss, as provided in this chapter.

Sec. 3. RCW 39.58.040 and 1986 c 25 s 2 are each amended to read as follows:

The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any ((qualified)) public depository to furnish such information dealing with public deposits and the exact status of its net worth as the commission shall request. Any public depository which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a ((qualified)) public depository and shall be excluded from the right to receive or hold public deposits until such time as the commission shall acknowledge that such depository has furnished the information requested; (3) to take such action as it deems best for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of financial institutions as public depositories, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to make and enforce regulations setting forth criteria establishing minimum standards for the financial condition of bank and thrift depositories and, if the minimum standards are not met, providing for additional collateral requirements or restrictions regarding a public depository's right to receive or hold public deposits; (6) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the orders, rules and regulations of supervisory authority as they affect the failure or inability of a ((qualified)) public depository to repay public deposits in full; and (7) in case loss occurs in more than one ((qualified)) public depository, to determine the

allocation and time of payment of any sums due to public depositors under this chapter.

Sec. 4. RCW 39.58.050 and 1989 c 97 s 4 are each amended to read as follows:

(1) Every ~~((qualified))~~ public depository shall complete a depository pledge agreement with the commission and a trustee, and shall at all times maintain, segregated from its other assets, eligible collateral in the form of securities enumerated in this section having a value at least equal to its maximum liability and as otherwise prescribed in this chapter. Such collateral ~~((may))~~ shall be segregated by deposit ~~((in the trust department of the depository or in such other manner as the commission approves))~~ with the depository's trustee and shall be clearly designated as security for the benefit of public depositors under this chapter.

(2) Securities eligible as collateral shall be valued at market value, and the total market value of securities pledged in accordance with this chapter shall not be reduced by withdrawal or substitution of securities except by prior authorization, in writing, by the commission.

(3) The public depository shall have the right to make substitutions of an equal or greater amount of such collateral at any time.

(4) The income from the securities which have been segregated as collateral shall belong to the public depository without restriction.

(5) Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

~~(a)((i) Bonds, notes, or other securities constituting direct and general obligations of the United States or the bonds, notes, or other securities constituting the direct and general obligation of any instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States;~~

~~(ii) Securities of, or other interests in, an open end or closed end management type investment company or investment trust registered under the federal investment company act of 1940, as now or hereafter amended, if both of the following conditions are met:~~

~~(A) The portfolio of the investment company or investment trust is limited to the obligations of the United States as described in (a) of this subsection and to repurchase agreements fully collateralized by such obligations; and~~

~~(B) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian; and~~

~~((iii))~~ Certificates, notes or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(b) State, county, municipal, or school district bonds or warrants of taxing districts of the state of Washington or any other state of the United States,

provided that such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations;

(c) The obligations of any United States government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(d) Bonds, notes, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank;

~~((b)(i) Direct and general obligation bonds and warrants of the state of Washington or of any other state of the United States;~~

~~—(ii)) (e) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof, and any municipality or taxing district of this state;~~

~~((e)) (f) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of any state, having the power to levy general taxes, which are payable from general ad valorem taxes;~~

~~((d)) (g) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;~~

~~((e)) (h) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city;~~

(6) In addition to the securities enumerated in ~~((subsections (5)(a) through (e) of))~~ this section, every public depository may also segregate such bonds, securities, and other obligations as are designated to be authorized security for ~~((all))~~ public deposits ~~((pursuant to RCW 35.58.510, 35.81.110, 35.82.220, 39.60.030, 39.60.040 and 54.24.120, as now or hereafter amended))~~ under the laws of this state.

(7) The commission may at any time or times declare any particular security as ineligible to qualify as collateral when in the commission's judgment it is deemed desirable to do so.

Sec. 5. RCW 39.58.060 and 1983 c 66 s 9 are each amended to read as follows:

When the commission determines that a loss has occurred in a bank public depository, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures:

(1) For the purposes of determining the sums to be paid, the ~~((supervisor))~~ director of financial institutions or the receiver shall, within twenty days after issuance of a restraining order or taking possession of any ~~((qualified))~~ bank public depository, ascertain the amount of public funds on deposit therein as

disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor;

(2) Within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such bank public depository as disclosed by its records;

(3) Upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any amount received from deposit insurance, and, after determining and declaring the apparent net loss, assess the same against all then ((qualified)) bank public depositories, as follows: First, against the public depository in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other ((qualified)) bank public depositories pro rata in proportion to the maximum liability of each such depository as it existed on the date of loss;

(4) Assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any ((qualified)) public depository so to pay, the commission shall forthwith take possession of the securities segregated as collateral by such depository pursuant to this chapter and liquidate the same for the purpose of paying such assessment;

(5) Upon receipt of such assessment payments, the commission shall reimburse the public depositors of the public depository in which the loss occurred to the extent of the depository's net deposit liability to them.

**Sec. 6.** RCW 39.58.065 and 1983 c 66 s 10 are each amended to read as follows:

When the commission determines that a loss has occurred in a thrift public depository, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures:

(1) For the purposes of determining the sums to be paid, the ((supervisor)) director of financial institutions or the receiver shall, within twenty days after issuance of a restraining order or taking possession of any ((qualified)) thrift public depository, ascertain the amount of public funds on deposit therein as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor;

(2) Within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such thrift depository as disclosed by its records;

(3) Upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any amount received from deposit insurance, and, after determining and declaring the apparent net loss, assess the same against all then ((qualified)) thrift public depositories, as follows: First, against the public depository in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other ((qualified)) thrift public depositories pro rata

in proportion to the maximum liability of each such depository as it existed on the date of loss;

(4) Assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any ((qualified)) public depository so to pay, the commission shall forthwith take possession of the securities segregated as collateral by such depository pursuant to this chapter and liquidate the same for the purpose of paying such assessment;

(5) Upon receipt of such assessment payments, the commission shall reimburse the public depositors of the public depository in which the loss occurred to the extent of the depository's net deposit liability to them.

Sec. 7. RCW 39.58.070 and 1973 c 126 s 13 are each amended to read as follows:

Upon payment to any public depositor, the commission shall be subrogated to all of such depositor's right, title and interest against the public depository in which the loss occurred and shall share in any distribution of its assets ratably with other depositors. Any sums received from any distribution shall be paid to the public depositors to the extent of any unpaid net deposit liability and the balance remaining shall be paid to the ((qualified)) public depositories against which assessments were made, pro rata in proportion to the assessments actually paid by each such depository: PROVIDED, That the public depository in which the loss occurred shall not share in any such distribution of the balance remaining. If the commission incurs expense in enforcing any such claim, the amount thereof shall be paid as a liquidation expense of the public depository in which the loss occurred.

Sec. 8. RCW 39.58.080 and 1991 sp.s. c 30 s 27 are each amended to read as follows:

Except for funds deposited pursuant to a fiscal agency contract with the state fiscal agent or its correspondent bank, funds deposited pursuant to a custodial bank contract with the state's custodial bank, and funds deposited pursuant to a local government multistate joint self-insurance program as provided in RCW 48.62.081, no public funds shall be deposited in demand or investment deposits except in a ((qualified)) public depository located in this state or as otherwise expressly permitted by statute: PROVIDED, That the commission, or the chair upon delegation by the commission, upon good cause shown, may authorize, for such time and upon such terms and conditions as the commission or chair deem appropriate, a treasurer to maintain a demand deposit account with a banking institution located outside the state of Washington solely for the purpose of transmitting money received to ((financial institutions)) public depositories in the state of Washington for deposit ((for such time and upon such terms and conditions as the commission deems appropriate)).

Sec. 9. RCW 39.58.085 and 1987 c 505 s 21 are each amended to read as follows:

~~((With the written approval of))~~ The commission, or the chair upon delegation by the commission, may authorize state and local governmental entities ~~((may))~~ to establish demand accounts in out-of-state and alien banks in an aggregate amount not to exceed one million dollars. No single governmental entity shall be authorized to hold more than fifty thousand dollars in one demand account.

The governmental entities establishing such demand accounts shall be solely responsible for their proper and prudent management and shall bear total responsibility for any losses incurred by such accounts. Accounts established under the provisions of this section shall not be considered insured by the commission.

The state auditor shall annually monitor compliance with this section and the financial status of such demand accounts.

Sec. 10. RCW 39.58.090 and 1984 c 177 s 15 are each amended to read as follows:

All institutions located in this state which are permitted by the statutes of this state to hold and receive public funds shall have power to secure such deposits in accordance with this chapter. Except as provided in this chapter, no bond or other security shall be required of or given by any ~~((qualified))~~ public depository for any public funds on deposit.

Sec. 11. RCW 39.58.100 and 1984 c 177 s 16 are each amended to read as follows:

On or before each commission report due date, each public depository shall render to the commission a written report, certified under oath, indicating the total amount of public funds on deposit held by it ~~((on the commission report date))~~, the net worth of the depository, and the amount and nature of eligible collateral then segregated for the benefit of the commission.

The commission may instruct the ~~((supervisor))~~ director of financial institutions to examine and thereafter certify as to the accuracy of any statement ~~((as to the segregation of securities))~~ to the commission by any public depository.

Sec. 12. RCW 39.58.105 and 1983 c 66 s 14 are each amended to read as follows:

The commission may require the state auditor or the ~~((supervisor))~~ director of financial institutions to thoroughly investigate and report to it concerning the condition of any financial institution which makes application to become a ~~((qualified))~~ public depository, and may also as often as it deems necessary require such investigation and report concerning the condition of any financial institution which has been designated as a ~~((qualified))~~ public depository. The expense of all such investigations or reports shall be borne by the financial institution examined. In lieu of any such investigation or report, the commission may rely upon information made available to it or the ~~((supervisor))~~ director of financial institutions by the office of the comptroller of the currency, the office

of thrift supervision, the federal deposit insurance corporation, the federal reserve board, ((the federal savings and loan insurance corporation, or the federal home loan bank board)) or any state bank or thrift regulatory agency.

The ~~((supervisor))~~ director of financial institutions shall in addition advise the commission of any action ~~((the supervisor))~~ he or she has directed any ~~((qualified))~~ public depository to take which will result in a reduction of greater than ten percent of the net worth of such depository as shown on the most recent report it submitted pursuant to RCW 39.58.100.

Sec. 13. RCW 39.58.108 and 1984 c 177 s 17 are each amended to read as follows:

Any financial institution may become a ~~((qualified))~~ depository upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and upon compliance with all rules as promulgated by the commission. ~~((Until such time as depositories have submitted four consecutive reports to the commission as required by RCW 39.58.100, they))~~ For the first twelve-month period following qualification as a public depository, the depository shall at all times pledge and segregate eligible securities in an amount equal to not less than ten percent of all public funds on deposit in ~~((said))~~ the depository.

Sec. 14. RCW 39.58.130 and 1984 c 177 s 18 are each amended to read as follows:

A treasurer ~~((as defined in RCW 39.58.010))~~ is authorized to deposit ~~((in investment deposits))~~ in a ~~((qualified))~~ public depository any public funds available for investment and secured by collateral in accordance with the provisions of this chapter, and receive interest thereon. The authority provided by this section is additional to any authority now or hereafter provided by law for the investment or deposit of public funds by any such treasurer: PROVIDED, That in no case shall the ~~((deposit or))~~ aggregate of demand and investment deposits of public funds by any such treasurer in any one ~~((qualified))~~ public depository exceed at any time the net worth of that depository. If a public depository's net worth is reduced, a treasurer may allow public funds on deposit in excess of the reduced net worth to remain until maturity upon pledging by the depository of eligible securities valued at market value in an amount at least equal to the amount of the excess deposits. The collateral shall be segregated as provided in RCW 39.58.050. If the additional securities required by this section are not pledged by the depository, the depository shall permit withdrawal prior to maturity by the treasurer of deposits, including accrued interest, in accordance with applicable statutes and governmental regulations.

Sec. 15. RCW 39.58.135 and 1986 c 25 s 1 are each amended to read as follows:

Notwithstanding RCW 39.58.130, (1) aggregate deposits received by a ~~((qualified))~~ public depository from all public treasurers shall not exceed at any time one hundred fifty percent of the value of the depository's net worth ~~((as of~~

~~the close of business of the most recent calendar quarter)), nor (2) shall the aggregate deposits received by any ((qualified)) public depository exceed thirty percent of the total aggregate deposits of all public treasurers in all depositories as determined by the public deposit protection commission. However, a ((qualified)) public depository may receive deposits in excess of the limits provided in this section if eligible securities, as prescribed in RCW 39.58.050, are pledged as collateral in an amount equal to one hundred percent of the value of deposits received in excess of the limitations prescribed in this section.~~

**Sec. 16.** RCW 39.58.140 and 1969 ex.s. c 193 s 29 are each amended to read as follows:

When deposits are made in accordance with this chapter, a treasurer shall not be liable for any loss thereof resulting from the failure or default of any public depository without fault or neglect on his or her part or on the part of his or her assistants or clerks.

**Sec. 17.** RCW 39.58.150 and 1981 c 101 s 1 are each amended to read as follows:

Notwithstanding any provision of law to the contrary, the state treasurer or any county, city, or other municipal treasurer or other custodian of public funds may receive, disburse, or transfer public funds under his or her jurisdiction by means of wire or other electronic communication in accordance with accounting standards established by the state auditor under RCW 43.09.200 with regard to municipal treasurers or other custodians or by the office of financial management under RCW 43.88.160 in the case of the state treasurer and other state custodians to safeguard and insure accountability for the funds involved.

NEW SECTION. **Sec. 18.** (1) RCW 39.58.160, 39.58.170, and 39.58.180 are each recodified as sections in chapter 43.09 RCW under the subchapter heading "municipal corporations."

(2) RCW 39.58.150 is recodified as RCW 39.58.750.

**\*NEW SECTION. Sec. 19.** *This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.*

\*Sec. 19 was vetoed. See message at end of chapter.

Passed the House February 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 19, House Bill No. 2661 entitled:

"AN ACT Relating to public funds;"



House Bill No. 2661 makes several technical changes to 39.58 RCW to update public deposit protection provisions in response to changes in interstate banking and FDIC requirements.

This legislation includes an emergency clause in section 19 which was included to coordinate implementation of these changes with Substitute House Bill No. 2125, regarding the authorization of interstate banking. Since the emergency clause on Substitute House Bill No. 2125 was vetoed, the rationale for including an emergency clause in this bill has been eliminated. As with Substitute House Bill No. 2125, this legislation is not necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions. The inclusion of an emergency clause prevents this bill from being subject to a referendum under Article II, section 1 (b) of the state Constitution and unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For this reason, I have vetoed section 19 of House Bill No. 2661.

With the exception of section 19, House Bill No. 2661 is approved."

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## CHAPTER 257

[Substitute House Bill 2664]

### COMPETITIVE NEGOTIATIONS FOR ELECTRONIC DATA PROCESSING AND TELECOMMUNICATIONS SYSTEMS FOR MUNICIPALITIES

AN ACT Relating to competitive negotiations; and adding a new section to chapter 39.04 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 39.04 RCW to read as follows:

(1) The legislature finds that the unique aspects of electronic data processing and telecommunications systems and the importance of these systems for effective administration warrant separate acquisition authority for electronic data processing and telecommunication systems. It is the intent of the legislature that municipalities utilize an acquisition method for electronic data processing and telecommunication systems that is both competitive and compatible with the needs of the municipalities.

(2) A municipality may acquire electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.

(3) "Competitive negotiation," for the purposes of this section, shall include, as a minimum, the following requirements:

(a) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the municipality in its discretion, to permit reasonable competition consistent with the requirements of the procurement. Notice of the request for the proposal must be published in a newspaper of general circulation in the municipality at least thirteen days before the last date upon which proposals will be received. The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

(b) The municipality shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for awarding the contract.

(c) The award shall be made to the qualified bidder whose proposal is most advantageous to the municipality with price and other factors considered. The municipality may reject any and all proposals for good cause and request new proposals.

Passed the House February 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 258

[Substitute House Bill 2682]

### LIBRARY CAPITAL FACILITY AREAS—ELECTIONS

AN ACT Relating to library capital facility areas; and amending RCW 27.15.020 and 27.15.050.

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

Sec. 1. RCW 27.15.020 and 1995 c 368 s 3 are each amended to read as follows:

Upon receipt of a completed written request to both establish a library capital ((~~facilities~~)) facility area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed library capital ((~~facilities~~)) facility area and authorizing the library capital ((~~facilities~~)) facility area, if established, to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot propositions ((~~may only~~)) shall be submitted to voters at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW 29.13.020. Approval of the ballot proposition to create a library capital ((~~facilities~~)) facility area shall be by a simple majority vote.

A completed request submitted under this section shall include: (1) A description of the boundaries of the library capital facility area; and (2) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital ((~~facilities~~)) facility area indicating both: (a) Its approval of the creation of the proposed library capital ((~~facilities~~)) facility area; and (b)

agreement on how election costs will be paid for submitting ballot propositions to voters that authorize the library capital ((~~facilities~~)) facility area to incur general indebtedness and impose excess levies to retire the general indebtedness.

**Sec. 2.** RCW 27.15.050 and 1995 c 368 s 6 are each amended to read as follows:

(1) A library capital facility area may contract indebtedness or borrow money to finance library capital facilities and may issue general obligation bonds for such purpose not exceeding an amount, together with any existing indebtedness of the library capital facility area, equal to one and one-quarter percent of the value of the taxable property in the district and impose excess property tax levies to retire the general indebtedness as provided in RCW 39.36.050 if a ballot proposition authorizing both the indebtedness and excess levies is approved by at least three-fifths of the voters of the library capital facility area voting on the proposition, and the total number of voters voting on the proposition constitutes not less than forty percent of the total number of voters in the library capital facility area voting at the last preceding general election. The term "value of the taxable property" has the meaning set forth in RCW 39.36.015. Such a proposition ((~~may only~~)) shall be submitted to voters at a general or special election and may be submitted to voters at the same election as the election when the ballot proposition authorizing the establishing of the library capital ((~~facilities district~~)) facility area is submitted. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW 29.13.020.

(2) A library capital facility area may accept gifts or grants of money or property of any kind for the same purposes for which it is authorized to borrow money in subsection (1) of this section.

Passed the House March 4, 1996.

Passed the Senate February 27, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 259

[Substitute House Bill 2689]

### ORAL AND MAXILLOFACIAL SURGERY

AN ACT Relating to the practice of oral and maxillofacial surgery; amending RCW 18.32.020; and declaring an emergency.

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

**Sec. 1.** RCW 18.32.020 and 1957 c 98 s 1 are each amended to read as follows:

A person practices dentistry, within the meaning of this chapter, who (1) represents himself as being able to diagnose, treat, remove stains and

concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw, or (2) offers or undertakes by any means or methods to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or take impressions of the teeth or jaw, or (3) owns, maintains or operates an office for the practice of dentistry, or (4) engages in any of the practices included in the curricula of recognized and approved dental schools or colleges, or (5) professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby he represents himself to be a dentist, shall be prima facie evidence that such person is engaged in the practice of dentistry.

X-ray diagnosis as to the method of dental practice in which the diagnosis and examination is made of the normal and abnormal structures, parts or functions of the human teeth, the alveolar process, maxilla, mandible or soft tissues adjacent thereto, is hereby declared to be the practice of dentistry. Any person other than a regularly licensed physician or surgeon who makes any diagnosis or interpretation or explanation, or attempts to diagnose or to make any interpretation or explanation of the registered shadow or shadows of any part of the human teeth, alveolar process, maxilla, mandible or soft tissues adjacent thereto by the use of x-ray is declared to be engaged in the practice of dentistry, medicine or surgery.

The practice of dentistry includes the performance of any dental or oral and maxillofacial surgery. "Oral and maxillofacial surgery" means the specialty of dentistry that includes the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the hard and soft tissues of the oral and maxillofacial region.

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

\*Sec. 2 was vetoed. See message at end of chapter.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 2689 entitled:

"AN ACT Relating to the practice of oral and maxillofacial surgery;"

Substitute House Bill No. 2689 clarifies the dental scope of practice to include oral and maxillofacial surgery.

This legislation includes an emergency clause in section 2. Although clarifying the dental scope of practice is important, it is not a matter necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions. Preventing this bill from being subject to a referendum under Article II, section 1 (b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For this reason, I have vetoed section 2 of Substitute House Bill No. 2689.

With the exception of section 2, Substitute House Bill No. 2689 is approved."

## CHAPTER 260

[Engrossed Substitute House Bill 2703]

### OCCUPATIONAL SAFETY AND HEALTH—COORDINATING AGRICULTURE REGULATIONS

AN ACT Relating to occupational safety and health; adding a new section to chapter 49.17 RCW; adding a new section to chapter 17.21 RCW; creating new sections; repealing RCW 49.70.117; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that the state's highly productive and efficient agriculture sector is composed predominately of family owned and managed farms and an industrious and efficient work force. It is the intent of the legislature that the department of agriculture and the department of labor and industries coordinate adoption, implementation, and enforcement of a common set of worker protection standards related to pesticides in order to avoid inconsistency and conflict in the application of those rules. It is also the intent of the legislature that the department of agriculture and the department of labor and industries coordinate investigations with the department of health as well. Further, coordination of enforcement procedures under this act shall not reduce the effectiveness of the enforcement provisions of the Washington Industrial Safety and Health Act of 1973 or the Washington Pesticide Application Act. Finally, when the department of agriculture or the department of labor and industries anticipates regulatory changes to standards regarding pesticide application and handling, they shall involve the affected parties in the rule-making process and solicit relevant information. The department of agriculture and the department of labor and industries shall identify differences in their respective jurisdictions and penalty structures and publish those differences.

**NEW SECTION.** Sec. 2. A new section is added to chapter 49.17 RCW to read as follows:

(1) As used in this section, "federal worker protection standard" or "federal standard" means the worker protection standard for agricultural workers and handlers of agricultural pesticides adopted by the United States environmental protection agency in 40 C.F.R., part 170 as it exists on the effective date of this section.

(2)(a) No rule adopted under this chapter may impose requirements that make compliance with the federal worker protection standard impossible.

(b) The department shall adopt by rule safety and health standards that are at least as effective as the federal standard. Standards adopted by the department under this section shall be adopted in coordination with the department of agriculture.

(3) If a violation of the federal worker protection standard, or of state rules regulating activities governed by the federal standard, is investigated by the department and by the department of agriculture, the agencies shall conduct a joint investigation if feasible, and shall share relevant information. However, an investigation conducted by the department under Title 51 RCW solely with regard to industrial insurance shall not be considered to be an investigation by the department for this purpose. The agencies shall not issue duplicate citations to an individual or business for the same violation of the federal standard or state rules regulating activities governed by the federal standard. By December 1, 1996, the department and the department of agriculture shall jointly establish a formal agreement that: Identifies the roles of each of the two agencies in conducting investigations of activities governed by the federal standard; and provides for protection of workers and enforcement of standards that is at least as effective as provided to all workers under this chapter. The department's role under the agreement shall not extend beyond protection of safety and health in the workplace as provided under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 17.21 RCW to read as follows:

(1) As used in this section, "federal worker protection standard" or "federal standard" means the worker protection standard for agricultural workers and handlers of agricultural pesticides adopted by the United States environmental protection agency in 40 C.F.R., part 170 as it exists on the effective date of this section.

(2)(a) No rule adopted under this chapter may impose requirements that make compliance with the federal worker protection standard impossible.

(b) The department shall adopt by rule safety and health standards that are at least as effective as the federal standard. Standards adopted by the department under this section shall be adopted in coordination with the department of labor and industries.

(3) If a violation of the federal worker protection standard, or of state rules regulating activities governed by the federal standard, is investigated by the department and by the department of labor and industries, the agencies shall conduct a joint investigation if feasible, and shall share relevant information.

However, an investigation conducted by the department of labor and industries under Title 51 RCW solely with regard to industrial insurance shall not be considered to be an investigation by the department of labor and industries for this purpose. The agencies shall not issue duplicate citations to an individual or business for the same violation of the federal standard or state rules regulating activities governed by the federal standard. By December 1, 1996, the department and the department of labor and industries shall jointly establish a formal agreement that: Identifies the roles of each of the two agencies in conducting investigations of activities governed by the federal standard; and provides for protection of workers and enforcement of standards that is at least effective as provided for other enforcement under this chapter.

NEW SECTION. Sec. 4. By December 1, 1996, the department of agriculture and the department of labor and industries shall report to the standing committees of the legislature dealing with agriculture and labor matters on the implementation and impact of this act. The report shall include the number of multiple on-site investigations for the same incident during 1996 and the reasons why the investigations were not coordinated.

NEW SECTION. Sec. 5. RCW 49.70.117 and 1992 c 173 s 2 & 1989 c 380 s 76 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.

NEW SECTION. Sec. 7. Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 261

[Substitute House Bill 2720]

### CORRECTIONAL FACILITIES—CONSORTIUMS OF COUNTIES FOR ACQUISITION

AN ACT Relating to consortiums of counties formed for the purpose of acquiring correctional facilities; amending RCW 79.01.006; and adding a new section to chapter 43.17 RCW.

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

Sec. 1. RCW 79.01.006 and 1991 c 204 s 1 are each amended to read as follows:

(1) Every five years the department of social and health services and other state agencies that operate institutions shall conduct an inventory of all real property subject to the charitable, educational, penal, and reformatory institution

account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled. The inventory shall identify which of those real properties are not needed for state-provided residential care, custody, or treatment. By December 1, 1992, and every five years thereafter the department shall report the results of the inventory to the house of representatives committee on capital facilities and financing, the senate committee on ways and means, and the legislative budget committee.

(2) Real property identified as not needed for state-provided residential care, custody, or treatment shall be transferred to the corpus of the charitable, educational, penal, and reformatory institution account. This subsection shall not apply to leases of real property to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults or to real property subject to binding conditions that conflict with the other provisions of this subsection.

(3) The department of natural resources shall manage all property subject to the charitable, educational, penal, and reformatory institution account and, in consultation with the department of social and health services and other affected agencies, shall adopt a plan for the management of real property subject to the account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled.

(a) The plan shall be consistent with state trust land policies and shall be compatible with the needs of institutions adjacent to real property subject to the plan.

(b) The plan may be modified as necessary to ensure the quality of future management and to address the acquisition of additional real property.

NEW SECTION. Sec. 2. A new section is added to chapter 43.17 RCW to read as follows:

(1) The department of social and health services and other state agencies may lease real property and improvements thereon to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults.

(2) A lease governed by subsection (1) of this section shall not charge more than one dollar per year for the land value and facilities value, during the initial term of the lease, but the lease may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state.

The initial term of a lease governed by subsection (1) of this section shall not exceed twenty years. A lease renewed under subsection (1) of this section after the initial term shall charge the fair rental value for the land and facilities, and may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state. For the purposes of this subsection, fair rental value shall be determined by the commissioner of public lands in consultation with the department.



(3) The net proceeds generated from any lease entered or renewed under subsection (1) of this section involving land and facilities on the grounds of eastern state hospital shall be used solely for the benefit of eastern state hospital programs for the long-term care needs of patients with mental disorders. These proceeds shall not supplant or replace funding from traditional sources for the normal operations and maintenance or capital budget projects. It is the intent of this subsection to ensure that eastern state hospital receives the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 262

[Substitute House Bill 2727]

### STATE INFRASTRUCTURE BANK

AN ACT Relating to establishing a state infrastructure bank; reenacting and amending RCW 43.84.092; adding new sections to chapter 82.44 RCW; adding a new section to chapter 46.68 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 82.44 RCW to read as follows:

The legislature finds that new financing mechanisms are necessary to provide greater flexibility and additional funds for needed transportation infrastructure projects in the state. The creation of a financing mechanism, like the one contained in section 350 of the national highway system designation act of 1995, P.L. 104-59, relating to a state infrastructure bank program, will enable the state and local jurisdictions to use federal, state, local, or private funds to construct surface transportation projects for various modes of transportation. It is the intent of the legislature that accounts be created in the state treasury and dedicated funding sources be established to generate revenue to support transportation projects financed with the proceeds of bonds or other financial instruments issued against this dedicated revenue and other revenues which may be available to these accounts. P.L. 104-59 allows the deposit of certain federal highway and transit funds into these accounts to leverage other forms of investment in transportation infrastructure by expanding the eligible uses of the federal funds. Other public and private entities may also deposit funds into these accounts to leverage transportation investments. The purpose of this act is to provide, from these accounts, authorization for loans, grants, or other means of assistance, in amounts equal to all or part of the cost, to public or private entities building surface transportation facilities in this state. It is the further intent of the legislature that projects representing critical mobility or

economic development needs and involving various transportation modes and jurisdictions receive top priority in the use of these funds. Funds from the accounts created in this act may be used to support the issuance of public or private debt, to provide credit enhancement for such debt, for direct loans to public or private entities, or for other purposes necessary to facilitate investment in surface transportation facilities in this state.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.44 RCW to read as follows:

The transportation infrastructure account is hereby created in the transportation fund. Public and private entities may deposit moneys in the transportation infrastructure account from federal, state, local, or private sources. Proceeds from bonds or other financial instruments sold to finance surface transportation projects from the transportation infrastructure account shall be deposited into the account. Principal and interest payments made on loans from the transportation infrastructure account shall be deposited into the account. Moneys in the account shall be available for purposes specified in section 1 of this act. Expenditures from the transportation infrastructure account shall be subject to appropriation by the legislature. To the extent required by federal law or regulations promulgated by the United States secretary of transportation, the state treasurer is authorized to create separate subaccounts within the transportation infrastructure account.

**NEW SECTION.** Sec. 3. A new section is added to chapter 46.68 RCW to read as follows:

The highway infrastructure account is hereby created in the motor vehicle fund. Public and private entities may deposit moneys in the highway infrastructure account from federal, state, local, or private sources. Proceeds from bonds or other financial instruments sold to finance surface transportation projects from the highway infrastructure account shall be deposited into the account. Principal and interest payments made on loans from the highway infrastructure account shall be deposited into the account. Moneys in the account shall be available for purposes specified in section 1 of this act. Expenditures from the highway infrastructure account shall be subject to appropriation by the legislature. To the extent required by federal law or regulations promulgated by the United States secretary of transportation, the state treasurer is authorized to create separate subaccounts within the highway infrastructure account.

Sec. 4. RCW 43.84.092 and 1995 c 394 s 1 and 1995 c 122 s 12 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects

to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost

account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the department of licensing services account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the gasohol exemption holding account, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the small city account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation revolving loan account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

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

Passed the House February 6, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 263

[Substitute House Bill 2757]

### LITTERING IN STATE PARKS

AN ACT Relating to littering in state parks; amending RCW 70.93.060 and 70.93.070; adding a new section to chapter 43.51 RCW; and prescribing penalties.

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

**Sec. 1.** RCW 70.93.060 and 1993 c 292 s 1 are each amended to read as follows:

(1) No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

(a) When the property is designated by the state or its agencies or political subdivisions for the disposal of garbage and refuse, and the person is authorized to use such property for that purpose;

(b) Into a litter receptacle in a manner that will prevent litter from being carried away or deposited by the elements upon any part of said private or public property or waters.

(2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a class 1 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount greater than one cubic foot. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of twenty-five dollars per cubic foot of litter. The court may, in addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property.

(3) If the violation occurs in a state park, the court shall, in addition to any other penalties assessed, order the person to perform twenty-four hours of

community service in the state park where the violation occurred if the state park has stated an intent to participate as provided in section 3(2) of this act.

Sec. 2. RCW 70.93.070 and 1993 c 292 s 2 are each amended to read as follows:

The director (~~(shall)~~) may prescribe the procedures for the collection of penalties, costs, and other charges allowed by chapter 7.80 RCW for violations of this chapter. (~~Included in the procedures shall be provisions requiring that one half of the monetary amount actually collected by the state or local government entity enforcing the provisions of this chapter be distributed to that local governmental entity.~~)

NEW SECTION. Sec. 3. A new section is added to chapter 43.51 RCW to read as follows:

(1) The commission shall establish a policy and procedures for supervising and evaluating community service activities that may be imposed under RCW 70.93.060(3) including a description of what constitutes satisfactory completion of community service.

(2) The commission shall inform each state park of the policy and procedures regarding community service activities, and each state park shall then notify the commission as to whether or not the park elects to participate in the community service program. The commission shall transmit a list notifying the district courts of each state park that elects to participate.

Passed the House February 8, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 264

[Substitute House Bill 2762]

### COMMUNITY AND TECHNICAL COLLEGE FOREST RESERVE LANDS—MANAGEMENT

AN ACT Relating to management of community and technical college forest reserve lands; and adding a new section to chapter 76.12 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 76.12 RCW to read as follows:

(1) The legislature finds that the state's community and technical colleges need a dedicated source of revenue to augment other sources of capital improvement funding. The intent of this section is to ensure that the forest land purchased under section 310, chapter 16, Laws of 1990 1st ex. sess. and known as the community and technical college forest reserve land base, is managed in perpetuity and in the same manner as state forest lands for sustainable commercial forestry and multiple use of lands consistent with RCW 79.68.050. These

state lands will also be managed to provide an outdoor education and experience area for organized groups. The lands will provide a source of revenue for the long term capital improvement needs of the state community and technical college system.

(2) There has been increasing pressure to convert forest lands within areas of the state subject to population growth. Loss of forest land in urbanizing areas reduces the production of forest products and the available supply of open space, watershed protection, habitat, and recreational opportunities. The land known as the community and technical college forest reserve land base is forever reserved from sale. However, the timber and other products on the land may be sold, or the land may be leased in the same manner and for the same purposes as authorized for state granted lands if the department finds the sale or lease to be in the best interest of this forest reserve land base and approves the terms and conditions of the sale or lease.

(3) The land exchange and acquisition powers provided in RCW 76.12.050 may be used by the department to reposition land within the community and technical college forest reserve land base consistent with subsection (1) of this section.

(4) Up to twenty-five percent of the revenue from these lands, as determined by the board of natural resources, will be deposited in the forest development account to reimburse the forest development account for expenditures from the account for management of these lands.

(5) The community college forest reserve account, created under section 310, chapter 16, Laws of 1990 1st ex. sess., is renamed the community and technical college forest reserve account. The remainder of the revenue from these lands must be deposited in the community and technical college forest reserve account. Money in the account may be appropriated by the legislature for the capital improvement needs of the state community and technical college system or to acquire additional forest reserve lands.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 265

[Substitute House Bill 2772]

### DOCK CONSTRUCTION UNDER SHORELINE MANAGEMENT

#### ACT OF 1971—REVISIONS

AN ACT Relating to raising the amount that must be exceeded by the cost of construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences for the construction to be considered substantial development under the Shoreline Management Act of 1971; and reenacting and amending RCW 90.58.030.

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

**Sec. 1.** RCW 90.58.030 and 1995 c 382 s 10, 1995 c 255 s 5, and 1995 c 237 s 1 are each reenacted and amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(d) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated;

(e) "Hearing board" means the shoreline hearings board established by this chapter.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of state-wide significance" within the state;

(d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(e) "Shorelines of state-wide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;



(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta—from DeWolf Bight to Tatsolo Point,

(B) Birch Bay—from Point Whitehorn to Birch Point,

(C) Hood Canal—from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area—from Brown Point to Yokeko Point, and

(E) Padilla Bay—from March Point to William Point;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those shorelands associated with (i), (ii), (iv), and (v) of this subsection (2)(e);

(f) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology. Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom;

(g) "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;

(h) "Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(3) Procedural terms:

(a) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(b) "Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020;

(c) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(d) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds two thousand five hundred dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation

channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either: (A) In salt waters, the ((cost)) fair market value of ((which)) the dock does not exceed two thousand five hundred dollars; or (B) in fresh waters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(A) The activity does not interfere with the normal public use of the surface waters;

(B) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(C) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(D) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(E) The activity is not subject to the permit requirements of RCW 90.58.550;

(xii) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

**CHAPTER 266**

[House Bill 2791]

**ASSAULT IN THE THIRD DEGREE—CLARIFICATION TO INCLUDE  
COUNTY FIRE MARSHAL'S OFFICE**

AN ACT Relating to clarifying assault in the third degree to include county fire marshal's office; amending RCW 9A.36.031; and prescribing penalties.

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

**Sec. 1.** RCW 9A.36.031 and 1990 e 236 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle that is owned or operated by the transit company and that is occupied by one or more passengers; or

(c) Assaults a school bus driver employed by a school district or a private company under contract for transportation services with a school district while the driver is operating or is in control of a school bus that is occupied by one or more passengers; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault.

(2) Assault in the third degree is a class C felony.

Passed the House February 7, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 267

[Engrossed Substitute House Bill 2793]

### IMPLEMENTATION OF REFERENDUM BILL NO. 45

AN ACT Relating to implementation of Referendum Bill No. 45 by the fish and wildlife commission; amending RCW 75.08.011, 75.08.230, 75.10.020, 75.10.030, 75.10.040, 75.10.050, 75.10.100, 75.10.110, 75.10.120, 75.10.130, 75.10.140, 75.10.150, 75.10.170, 75.10.180, 75.10.190, 75.10.200, 75.12.020, 75.12.070, 75.12.100, 75.12.115, 75.12.420, 75.12.650, 75.24.050, 75.24.090, 75.28.040, 75.28.110, 75.28.315, 75.28.323, 75.28.690, 77.04.020, 43.300.040, and 77.04.090; reenacting and amending RCW 75.10.010; creating a new section; repealing RCW 43.300.030; and providing an effective date.

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

**NEW SECTION.** Sec. 1. It is the intent of this legislation to begin to make the statutory changes required by the fish and wildlife commission in order to successfully implement Referendum Bill No. 45.

Sec. 2. RCW 75.08.011 and 1995 1st sp.s. c 2 s 6 (Referendum Bill No. 45) are each amended to read as follows:

As used in this title or rules of the (~~director~~) department, unless the context clearly requires otherwise:

(1) "Commission" means the fish and wildlife commission.

(2) "Director" means the director of fish and wildlife.

(3) "Department" means the department of fish and wildlife.

(4) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations, including corporations and partnerships.

(5) "Fisheries patrol officer" means a person appointed and commissioned by the commission, with authority to enforce this title, rules of the (~~director~~)

department, and other statutes as prescribed by the legislature. Fisheries patrol officers are peace officers.

(6) "Ex officio fisheries patrol officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fisheries patrol officer" also includes wildlife agents, special agents of the national marine fisheries service, United States fish and wildlife special agents, state parks commissioned officers, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(7) "To fish," "to harvest," and "to take" and their derivatives mean an effort to kill, injure, harass, or catch food fish or shellfish.

(8) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(9) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(11) "Resident" means a person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state.

(12) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(13) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that have been classified and that shall not be fished for except as authorized by rule of the commission. The term "food fish" includes all stages of development and the bodily parts of food fish species.

(14) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(15) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title 77 RCW, and includes:

Scientific Name	Common Name
<i>Oncorhynchus tshawytscha</i>	Chinook salmon
<i>Oncorhynchus kisutch</i>	Coho salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon

(16) "Commercial" means related to or connected with buying, selling, or bartering. Fishing for food fish or shellfish with gear unlawful for fishing for personal use, or possessing food fish or shellfish in excess of the limits permitted for personal use are commercial activities.

(17) "To process" and its derivatives mean preparing or preserving food fish or shellfish.

(18) "Personal use" means for the private use of the individual taking the food fish or shellfish and not for sale or barter.

(19) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(20) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful fishing, taking, or possession of food fish or shellfish. "Open season" includes the first and last days of the established time.

(21) "Fishery" means the taking of one or more particular species of food fish or shellfish with particular gear in a particular geographical area.

(22) "Limited-entry license" means a license subject to a license limitation program established in chapter 75.30 RCW.

(23) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

Sec. 3. RCW 75.08.230 and 1995 c 367 s 11 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 district court for a violation of this title or rule of the (~~director~~) department 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 carcasses and salmon eggs from state general funded hatcheries by the department of general administration shall be deposited in the regional fisheries enhancement group account established in RCW 75.50.100.

(6) Moneys received by the (~~director~~) commission 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.

(7) Proceeds from the sale of herring spawn on kelp fishery licenses by the department, to the extent those 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 herring management, enhancement, and enforcement.

Sec. 4. RCW 75.10.010 and 1993 sp.s. c 2 s 25 and 1993 c 283 s 7 are each reenacted and amended to read as follows:

(1) Fisheries patrol officers and ex officio fisheries patrol officers within their respective jurisdictions, shall enforce this title, rules of the (~~director~~) department, and other statutes as prescribed by the legislature.

(2) When acting within the scope of subsection (1) of this section and when an offense occurs in the presence of the fisheries patrol officer who is not an ex officio fisheries patrol officer, the fisheries patrol officer may enforce all criminal laws of the state. The fisheries patrol officer must have successfully completed the basic law enforcement academy course sponsored by the criminal justice training commission, or a supplemental course in criminal law enforcement as approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.

(3) Any liability or claim of liability which arises out of the exercise or alleged exercise of authority by a fisheries patrol officer rests with the department unless the fisheries patrol officer acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department and another agency.

(4) Fisheries patrol officers may serve and execute warrants and processes issued by the courts.

(5) Fisheries patrol officers may enforce the provisions of RCW 79.01.805 and 79.01.810.

Sec. 5. RCW 75.10.020 and 1983 1st ex.s. c 46 s 33 are each amended to read as follows:



(1) Fisheries patrol officers may inspect and search without warrant a person, boat, fishing equipment, vehicle, conveyance, container, or property used in catching, processing, storing, or marketing food fish or shellfish which they have reason to believe contain evidence of violations of this title or rules of the ~~((director))~~ department. This authority does not extend to quarters in a boat, building, or other property used exclusively as a private domicile.

(2) Fisheries patrol officers and ex officio fisheries patrol officers may arrest without warrant a person they have reason to believe is in violation of this title or rules of the ~~((director))~~ department.

**Sec. 6.** RCW 75.10.030 and 1990 c 144 s 5 are each amended to read as follows:

(1) Fisheries patrol officers and ex officio fisheries patrol officers may seize without warrant food fish or shellfish they have reason to believe have been taken, killed, transported, or possessed in violation of this title or rule of the ~~((director))~~ department and may seize without warrant boats, vehicles, gear, appliances, or other articles they have reason to believe ~~((is-[are]))~~ are held with intent to violate or ~~((has-[have]))~~ have been used in violation of this title or rule of the ~~((director))~~ department. The articles seized shall be subject to forfeiture to the state, regardless of ownership. Articles seized may be recovered by their owner by depositing into court a cash bond equal to the value of the seized articles but not more than twenty-five thousand dollars. The cash bond is subject to forfeiture to the state in lieu of the seized article.

(2)(a) In the event of a seizure of an article under subsection (1) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. Within fifteen days following the seizure, the seizing authority shall serve notice on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(b) If no person notifies the department in writing of the person's claim of ownership or right to possession of the articles seized under subsection (1) of this section within forty-five days of the seizure, the articles shall be deemed forfeited.

(c) If any person notifies the department in writing within forty-five days of the seizure, the person shall be afforded an opportunity to be heard as to the claim or right. The hearing shall be before the director or the director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the articles seized is more than five thousand dollars. The department hearing and any subsequent appeal shall be as provided for in Title 34 RCW. The burden of producing evidence shall be upon the person claiming to be the lawful owner or person claiming lawful right of possession of the articles seized. The department shall

promptly return the seized articles to the claimant upon a determination by the director or the director's designee, an administrative law judge, or a court that the claimant is the present lawful owner or is lawfully entitled to possession of the articles seized, and that the seized articles were improperly seized.

(d)(i) No conveyance, including vessels, vehicles, or aircraft, is subject to forfeiture under this section by reason of any act or omission established by the owner of the conveyance to have been committed or omitted without the owner's knowledge or consent.

(ii) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge nor consented to the act or omission.

(e) When seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the state general fund, as provided for in RCW 75.08.230.

Sec. 7. RCW 75.10.040 and 1983 1st ex.s. c 46 s 35 are each amended to read as follows:

(1) Fisheries patrol officers and ex officio fisheries patrol officers may serve and execute warrants and processes issued by the courts to enforce this title and rules of the ~~((director))~~ department.

(2) To enforce this title or rules of the ~~((director))~~ department, fisheries patrol officers may call to their aid any equipment, boat, vehicle, or airplane, or ex officio fisheries patrol officer.

(3) It is unlawful to knowingly or willfully resist or obstruct a fisheries patrol officer in the discharge of the officer's duties.

Sec. 8. RCW 75.10.050 and 1983 1st ex.s. c 46 s 36 are each amended to read as follows:

Violations of this title or rules of the ~~((director))~~ department occurring in the offshore waters may be prosecuted in a county bordering on the Pacific Ocean, or a county in which the food fish or shellfish are landed.

Sec. 9. RCW 75.10.100 and 1983 1st ex.s. c 46 s 41 are each amended to read as follows:

If the prosecuting attorney of the county in which a violation of this title or rule of the ~~((director))~~ department occurs fails to file an information against the alleged violator, the attorney general upon request of the ~~((director))~~ commission may file an information in the superior court of the county and prosecute the case in place of the prosecuting attorney. The ~~((director))~~ commission may request prosecution by the attorney general if thirty days have passed since the ~~((director))~~ commission informed the county prosecuting attorney of the alleged violation.

**Sec. 10.** RCW 75.10.110 and 1990 c 144 s 6 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))~~ department is guilty of a gross misdemeanor, and upon a conviction thereof shall be subject to the penalties under RCW 9.92.020. 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))~~ commission may specify by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 7.84 RCW.

**Sec. 11.** RCW 75.10.120 and 1990 c 144 s 7 are each amended to read as follows:

(1) Upon conviction of a person for a violation of this title or rule of the ~~((director))~~ department, in addition to the penalty imposed by law, the court may forfeit the person's license or licenses. The license or licenses shall remain forfeited pending appeal.

(2) The director may prohibit, for one year, the issuance of all commercial fishing licenses to a person convicted of two or more gross misdemeanor or class C felony violations of this title or rule of the ~~((director))~~ department in a five-year period or prescribe the conditions under which the license or licenses may be issued. For purposes of this section, the term "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral of two hundred fifty dollars or more deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this title or rule of the ~~((director))~~ department is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**Sec. 12.** RCW 75.10.130 and 1983 1st ex.s. c 46 s 44 are each amended to read as follows:

Upon two or more convictions of a person in a five-year period for violating salmon fishing rules of the ~~((director))~~ department which restrict fishing times or areas, the director shall deny all salmon fishing privileges and suspend all salmon fishing licenses of that person for one year. A person may not avoid this penalty by transferring a commercial salmon ~~((fishing))~~ fishery license.

For the purposes of this section, the term "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this title is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**Sec. 13.** RCW 75.10.140 and 1990 c 163 s 7 are each amended to read as follows:

(1) In addition to the penalties prescribed in RCW 75.10.110 and 75.10.120, the director may revoke geoduck diver licenses held by a person if within a five-year period that person is convicted or has an unvacated bail forfeiture for two or more violations of this title or rules of the ~~((director))~~ department relating to geoduck licensing or harvesting.

(2) Except as provided in subsection (3) of this section, the director shall not issue a geoduck diver license to a person who has had a license revoked. This prohibition is effective for one year after the revocation.

(3) Appeals of revocations under this section may be taken under the judicial review provisions of chapter 34.05 RCW. If the license revocation is determined to be invalid, the director shall reissue the license to that person.

**Sec. 14.** RCW 75.10.150 and 1985 c 248 s 5 are each amended to read as follows:

Since violation of the rules of the ~~((director))~~ department relating to the accounting of the commercial harvest of food fish and shellfish result in damage to the resources of the state, liability for damage to food fish and shellfish resources is imposed on a wholesale fish dealer for violation of a provision in chapter 75.28 RCW or a rule of the ~~((director))~~ department related to the accounting of the commercial harvest of food fish and shellfish and shall be for the actual damages or for damages imposed as follows:

(1) For violation of rules requiring the timely presentation to the department of documents relating to the accounting of commercial harvest, fifty dollars for each of the first fifteen documents in a series and ten dollars for each subsequent document in the same series. If documents relating to the accounting of commercial harvest of food fish and shellfish are lost or destroyed and the wholesale dealer notifies the department in writing within seven days of the loss or destruction, the director shall waive the requirement for timely presentation of the documents.

(2) For violation of rules requiring accurate and legible information relating to species, value, harvest area, or amount of harvest, twenty-five dollars for each of the first five violations of this subsection following July 28, 1985, and fifty dollars for each violation after the first five violations.

(3) For violations of rules requiring certain signatures, fifty dollars for each of the first two violations and one hundred dollars for each subsequent violation. For the purposes of this subsection, each signature is a separate requirement.

(4) For other violations of rules relating to the accounting of the commercial harvest, fifty dollars for each separate violation.

**Sec. 15.** RCW 75.10.170 and 1990 c 63 s 5 are each amended to read as follows:

Upon conviction of a person for violation of the conditions or requirements of an experimental fishery permit or provisions of this title or rule of the ~~((director))~~ department while engaged in an emerging commercial fishery, the director may suspend or revoke the experimental fishery permit and all fishing

privileges pursuant thereto or present the conditions under which the experimental fishery permit may be reissued. That suspension or revocation shall become effective on the date the director gives the notice prescribed in RCW 34.05.422(1)(c).

For the purposes of this section, the term "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral of more than two hundred fifty dollars deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this title is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**Sec. 16.** RCW 75.10.180 and 1990 c 144 s 1 are each amended to read as follows:

Persons who fish for food fish or shellfish for personal use and violate this title or the rules of the ~~((director))~~ department shall be subject to the following penalties:

(1) The following violations are infractions and are punishable under chapter 7.84 RCW:

(a) The failure to immediately record a catch of salmon or sturgeon on a catch record card;

(b) The use of barbed hooks in a barbless hook-only fishery; and

(c) Other personal use violations specified by the ~~((director))~~ commission under RCW 75.10.110.

(2) The following violations are misdemeanors and are punishable under RCW 9.92.030:

(a) The retention of undersized food fish or shellfish;

(b) The retention of more food fish or shellfish than is legally allowed, but less than three times the legally allowed personal use limit;

(c) The intentional wasting of recreationally caught food fish or shellfish; and

(d) The setting or lifting of shrimp pots in Hood Canal from one hour after sunset until one hour before sunrise.

(3) The following violations are gross misdemeanors and are punishable under RCW 9.92.020:

(a) The snagging of food fish;

(b) Fishing in closed areas or during a closed season;

(c) Commingling a personal food fish catch with a commercial food fish catch;

(d) The retention of at least three times the legally allowed personal use limits of food fish or shellfish;

(e) The sale, barter, or trade of food fish or shellfish with a wholesale value of less than two hundred fifty dollars by a person who has caught the food fish or shellfish with fishing gear authorized under personal use rules or who has received the food fish or shellfish from someone who caught it with fishing gear authorized under personal use rules; and

(f) Other unclassified personal use violations of Title 75 RCW.

(4) The following violation is a class C felony and is punishable under RCW 9A.20.021(1)(c): The sale, barter, or trade of food fish or shellfish with a wholesale value of two hundred fifty dollars or more by a person who has caught the food fish or shellfish with fishing gear authorized under personal use rules or has received the food fish or shellfish from someone who caught it with fishing gear authorized under personal use rules.

Sec. 17. RCW 75.10.190 and 1990 c 144 s 2 are each amended to read as follows:

Persons who fish, buy, or sell food fish and shellfish commercially and violate this title or the rules of the (~~director~~) department shall be subject to the following penalties:

(1) The following violations are misdemeanors and are punishable under RCW 9.92.030:

(a) The failure to complete a fish ticket with all the required information for a commercial fish or shellfish landing; and

(b) The failure to report a commercial fish catch as required by department rules.

(2) The following violations are gross misdemeanors and are punishable under RCW 9.92.020:

(a) The retention of illegal food fish or shellfish species;

(b) The wasting of commercially caught food fish or shellfish;

(c) Commingling commercial and personal use food fish or shellfish catches;

(d) The failure to comply with department rules on commercial fishing licenses;

(e) The failure to comply with department requirements on fishing gear specifications;

(f) The failure to obtain a delivery license as required by department rules;

(g) Violations of the fisheries statutes or rules by fish buyers or wholesale dealers other than violations for fish tickets under subsection (1)(a) of this section;

(h) Fishing during a closed season;

(i) Illegal geoduck harvesting off the legal harvesting tract; and

(j) Other unclassified commercial violations of Title 75 RCW.

(3) The following violations are class C felonies and are punishable under RCW 9A.20.021(1)(c):

(a) Intentionally fishing in a closed area using fishing gear not authorized under personal use regulations;

(b) Intentionally netting salmon in the Pacific Ocean;

(c) Harvesting more than one hundred pounds of geoducks outside of the boundaries of a harvest tract designated by a harvest agreement from the department of natural resources if:

- (i) The harvester does not have a valid harvesting agreement from the department of natural resources; or
- (ii) The harvesting is done more than one-half mile from the nearest boundary of any harvesting tract designated by a department of natural resources harvesting agreement;
- (d) Unlawful participation by a non-Indian fisher with intent to profit in a treaty Indian fishery;
- (e) Intentionally fishing within the closed waters of a fish hatchery;
- (f) The sale, barter, or trade of food fish or shellfish with a wholesale value of two hundred fifty dollars or more by a person who does not have a valid commercial fishing license and has caught the food fish or shellfish using fishing gear not authorized under personal use rules, or has received the food fish or shellfish from someone who has caught it with fishing gear not authorized under personal use rules; and
- (g) Being in possession of food fish or shellfish with a wholesale value of two hundred fifty dollars or more while using fishing gear not authorized under personal use regulations without a valid commercial fishing license.

Sec. 18. RCW 75.10.200 and 1993 sp.s. c 2 s 26 are each amended to read as follows:

Persons who violate this title or the rules of the ~~((director))~~ department shall be subject to the following penalties:

(1) The following violations are gross misdemeanors and are punishable under RCW 9.92.020:

- (a) Violating RCW 75.20.100; and
- (b) Violating department statutes that require fish screens, fish ladders, and other protective devices for fish.

(2) The following violations are a class C felony and are punishable under RCW 9A.20.021(1)(c):

(a) Discharging explosives in waters that contain adult salmon or sturgeon(~~(+ PROVIDED, That)).~~ However, the lawful discharge of devices for the purpose of frightening or killing marine mammals or for the lawful removal of snags or for actions approved under RCW 75.20.100 or 75.12.070(2) are exempt from this subsection; and

(b) To knowingly purchase food fish or shellfish with a wholesale value greater than two hundred fifty dollars that were taken by methods or during times not authorized by department rules, or were taken by someone who does not have a valid commercial fishing license, a valid fish buyer's license, or a valid wholesale dealer's license, or were taken with fishing gear authorized for personal use.

Sec. 19. RCW 75.12.020 and 1983 1st ex.s. c 46 s 49 are each amended to read as follows:

It is unlawful to fish for or take food fish at a rack, dam, or other obstruction or in the waters and on the beaches within one mile below a rack,

dam, or other obstruction except as provided by rule of the ~~((director))~~ department.

**Sec. 20.** RCW 75.12.070 and 1983 1st ex.s. c 46 s 53 are each amended to read as follows:

(1) Except as provided by rule of the ~~((director))~~ department, it is unlawful to shoot, gaff, snag, snare, spear, stone, or otherwise molest food fish or shellfish in state waters.

(2) It is unlawful to use or discharge an explosive substance in state waters, except by permit of the director.

**Sec. 21.** RCW 75.12.100 and 1983 1st ex.s. c 46 s 55 are each amended to read as follows:

It is unlawful to purchase, handle, deal in, sell, or possess food fish or shellfish contrary to this title or the rules of the ~~((director))~~ department.

**Sec. 22.** RCW 75.12.115 and 1983 1st ex.s. c 46 s 56 are each amended to read as follows:

It is unlawful to fish commercially for crayfish in state waters except where crayfish have been commercially cultured or as permitted by rules of the ~~((director))~~ department.

**Sec. 23.** RCW 75.12.420 and 1983 1st ex.s. c 46 s 67 are each amended to read as follows:

It is unlawful for a ~~((fisherman))~~ fisher, dealer, or processor of food fish or shellfish to fail to make a report or return as required by this title or rule of the ~~((director))~~ department.

**Sec. 24.** RCW 75.12.650 and 1983 1st ex.s. c 46 s 69 are each amended to read as follows:

It is unlawful to fish commercially for salmon using fishing gear not authorized for commercial salmon fishing by rule of the ~~((director))~~ department. The ~~((director))~~ commission shall not authorize angling gear or other personal use gear for commercial salmon fishing.

**Sec. 25.** RCW 75.24.050 and 1983 1st ex.s. c 46 s 80 are each amended to read as follows:

It is unlawful to take shellfish from state oyster reserves or tidelands under the jurisdiction of the state contrary to this title or rules of the ~~((director))~~ department.

**Sec. 26.** RCW 75.24.090 and 1983 1st ex.s. c 46 s 84 are each amended to read as follows:

It is unlawful to destroy oysters or clams by culling them on land or shore and leaving the culled oysters or clams there to die. The culled oysters or clams must be returned to the harvest area, except as provided by rule of the ~~((director))~~ department.

**Sec. 27.** RCW 75.28.040 and 1993 c 340 s 6 are each amended to read as follows:



(1) A commercial license issued under this chapter permits the license holder to engage in the activity for which the license is issued in accordance with this title and the rules of the ~~((director))~~ department.

(2) No security interest or lien of any kind, including tax liens, may be created or enforced in a license issued under this chapter.

(3) Unless otherwise provided in this title or rules of the ~~((director))~~ department, commercial licenses and permits issued under this chapter expire at midnight on December 31st of the calendar year for which they are issued. In accordance with this title, licenses may be renewed annually upon application and payment of the prescribed license fees.

**Sec. 28.** RCW 75.28.110 and 1993 sp.s. c 17 s 35 are each amended to read as follows:

(1) The following commercial salmon fishery licenses are required for the license holder to use the specified gear to fish for salmon in state waters. Only a person who meets the qualifications of RCW 75.30.120 may hold a license listed in this subsection. The licenses and their annual fees and surcharges under RCW 75.50.100 are:

Fishery License	Resident Fee	Nonresident Fee	Surcharge
(a) Salmon Gill Net—Grays Harbor-Columbia river	\$380	\$685	plus \$100
(b) Salmon Gill Net—Puget Sound	\$380	\$685	plus \$100
(c) Salmon Gill Net—Willapa Bay-Columbia river	\$380	\$685	plus \$100
(d) Salmon purse seine	\$530	\$985	plus \$100
(e) Salmon reef net	\$380	\$685	plus \$100
(f) Salmon troll	\$380	\$685	plus \$100

(2) A license issued under this section authorizes no taking or delivery of salmon or other food fish unless a vessel is designated under RCW 75.28.045.

(3) Holders of commercial salmon fishery licenses may retain incidentally caught food fish other than salmon, subject to rules of the ~~((director))~~ department.

(4) A salmon troll license includes a salmon delivery license.

(5) A salmon gill net license authorizes the taking of salmon only in the geographical area for which the license is issued. The geographical designations in subsection (1) of this section have the following meanings:

(a) "Puget Sound" includes waters of the Strait of Juan de Fuca, Georgia Strait, Puget Sound and all bays, inlets, canals, coves, sounds, and estuaries lying easterly and southerly of the international boundary line and a line at the entrance to the Strait of Juan de Fuca projected northerly from Cape Flattery to the lighthouse on Tatoosh Island and then to Bonilla Point on Vancouver Island.

(b) "Grays Harbor-Columbia river" includes waters of Grays Harbor and tributary estuaries lying easterly of a line projected northerly from Point Chehalis Light to Point Brown and those waters of the Columbia river and tributary sloughs and estuaries easterly of a line at the entrance to the Columbia river projected southerly from the most westerly point of the North jetty to the most westerly point of the South jetty.

(c) "Willapa Bay-Columbia river" includes waters of Willapa Bay and tributary estuaries and easterly of a line projected northerly from Leadbetter Point to the Cape Shoalwater tower and those waters of the Columbia river and tributary sloughs described in (b) of this subsection.

**Sec. 29.** RCW 75.28.315 and 1985 c 248 s 4 are each amended to read as follows:

Wholesale fish dealers are responsible for documenting the commercial harvest of food fish and shellfish according to the rules of the ~~((director))~~ department. The director may allow only wholesale fish dealers or their designees to receive the forms necessary for the accounting of the commercial harvest of food fish and shellfish.

**Sec. 30.** RCW 75.28.323 and 1985 c 248 s 6 are each amended to read as follows:

(1) A wholesale fish dealer shall not take possession of food fish or shellfish until the dealer has deposited with the department an acceptable performance bond on forms prescribed and furnished by the department. This performance bond shall be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under chapter 48.28 RCW and approved by the department. The bond shall be filed and maintained in an amount equal to one thousand dollars for each buyer engaged by the wholesale dealer. In no case shall the bond be less than two thousand dollars nor more than fifty thousand dollars.

(2) A wholesale dealer shall, within seven days of engaging additional fish buyers, notify the department and increase the amount of the bonding required in subsection (1) of this section.

(3) The director may suspend and refuse to reissue a wholesale fish dealer's license of a dealer who has taken possession of food fish or shellfish without an acceptable performance bond on deposit with the department.

(4) The bond shall be conditioned upon the compliance with the requirements of this chapter and rules of the ~~((director))~~ department relating to the payment of fines for violations of rules for the accounting of the commercial harvest of food fish or shellfish. In lieu of the surety bond required by this section the wholesale fish dealer may file with the department a cash deposit, negotiable securities acceptable to the department, or an assignment of a savings account or of a savings certificate in a Washington bank on an assignment form prescribed by the department.

(5) Liability under the bond shall be maintained as long as the wholesale fish dealer engages in activities under RCW 75.28.300 unless released. Liability under the bond may be released only upon written notification from the department. Notification shall be given upon acceptance by the department of a substitute bond or forty-five days after the expiration of the wholesale fish dealer's annual license. In no event shall the liability of the surety exceed the amount of the surety bond required under this chapter.

**Sec. 31.** RCW 75.28.690 and 1993 c 340 s 22 are each amended to read as follows:

(1) A salmon roe license is required for a crew member on a boat designated on a salmon charter license to sell salmon roe as provided in subsection (2) of this section. An individual under sixteen years of age may hold a salmon roe license.

(2) A crew member on a boat designated on a salmon charter license may sell salmon roe taken from fish caught for personal use, subject to rules of the ~~((director))~~ department and the following conditions:

(a) The salmon is taken by an angler fishing on the charter boat;

(b) The roe is the property of the angler until the roe is given to the crew member. The crew member shall notify the charter boat's passengers of this fact;

(c) The crew member sells the roe to a licensed wholesale dealer; and

(d) The crew member is licensed as provided in subsection (1) of this section and has the license in possession whenever the crew member sells salmon roe.

**Sec. 32.** RCW 77.04.020 and 1993 sp.s. c 2 s 59 are each amended to read as follows:

The department consists of the state fish and wildlife commission and the director. The director is responsible for the administration and operation of the department, subject to the provisions of this title. The commission may delegate to the director ~~((additional duties and powers necessary and appropriate to carry out this title))~~ any of the powers and duties vested in the commission. The director shall perform the duties prescribed by law and shall carry out the basic goals and objectives prescribed ~~((pursuant to))~~ under RCW 77.04.055.

**Sec. 33.** RCW 43.300.040 and 1993 sp.s. c 2 s 5 are each amended to read as follows:

In addition to other powers and duties granted or transferred to the director, the ~~((director shall have the following powers and duties:~~

~~—(1) Supervise and administer the department in accordance with law;~~

~~—(2) Appoint personnel and prescribe their duties. Except as otherwise provided, personnel of the department are subject to chapter 41.06 RCW, the state civil service law;~~

~~—(3) Enter into contracts on behalf of the agency;~~

- ~~— (4) Adopt rules in accordance with chapter 34.05 RCW, the administrative procedure act;~~
- ~~— (5) Delegate powers, duties, and functions as the director deems necessary for efficient administration but the director shall be responsible for the official acts of the officers and employees of the department;~~
- ~~— (6) Appoint advisory committees and undertake studies, research, and analysis necessary to support the activities of the department;~~
- ~~— (7) Accept and expend grants, gifts, or other funds to further the purposes of the department;~~
- ~~— (8) Carry out the policies of the governor and the basic goals and objectives as prescribed by the fish and wildlife commission pursuant to RCW 77.04.055; and~~
- ~~— (9) Perform other duties as are necessary and consistent with law))~~  
commission may delegate to the director any of the powers and duties vested in the commission.

NEW SECTION. Sec. 34. RCW 43.300.030 and 1993 sp.s. c 2 s 4 are each repealed.

Sec. 35. RCW 77.04.090 and 1995 c 403 s 111 are each amended to read as follows:

The commission shall adopt permanent rules and amendments to or repeals of existing rules by approval of ~~((four))~~ a majority of the members by resolution, entered and recorded in the minutes of the commission: PROVIDED, That the commission may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. The commission shall adopt emergency rules by approval of ~~((four))~~ a majority of the members. The commission ~~((or the director))~~, when adopting emergency rules under RCW 77.12.150, shall adopt rules in conformance with chapter 34.05 RCW. Judicial notice shall be taken of the rules filed and published as provided in RCW 34.05.380 and 34.05.210.

A copy of an emergency rule, certified as a true copy by a member of the commission, the director, or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule.

NEW SECTION. Sec. 36. This act shall take effect July 1, 1996.

Passed the House March 2, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 268

[House Bill 2811]

## INVESTMENTS OF SURPLUS FUNDS BY COMMUNITY AND TECHNICAL COLLEGE DISTRICTS AND THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

AN ACT Relating to investments of surplus funds by community and technical college districts and the state board for community and technical colleges; and amending RCW 43.250.010, 43.250.020, and 43.250.040.

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

Sec. 1. RCW 43.250.010 and 1986 c 294 s 1 are each amended to read as follows:

The purpose of this chapter is to enable political subdivisions, community and technical college districts, and the state board for community and technical colleges as established in chapter 28B.50 RCW to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all political subdivisions are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby political subdivisions, community and technical colleges, and the state board for community and technical colleges may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of public funds.

Sec. 2. RCW 43.250.020 and 1990 c 106 s 1 are each amended to read as follows:

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

(1) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (~~((4))~~) (5) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "Political subdivision" means any county, city, town, municipal corporation, political subdivision, or special purpose taxing district in the state.

(3) "Local government official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision. However, the county treasurer shall be deemed the only local government official for all political subdivisions for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(4) "Financial officer" means the board-appointed treasurer of a community or technical college district or the state board for community and technical colleges.

(5) "Funds" means:

(a) Public funds under the control of or in the custody of any local government official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands;

(b) State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended.

Sec. 3. RCW 43.250.040 and 1986 c 294 s 4 are each amended to read as follows:

If authorized by statute, local ordinance, or resolution, a local government official or financial officer may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital.

Passed the House February 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 269

[Engrossed House Bill 2837]

### MEDICARE SUPPLEMENTAL INSURANCE OR MEDICARE SUPPLEMENT INSURANCE POLICY—DEFINITION REVISED

AN ACT Relating to the definition of medicare supplemental insurance or medicare supplement insurance policy; amending RCW 48.66.020; and declaring an emergency.

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

Sec. 1. RCW 48.66.020 and 1995 c 85 s 1 are each amended to read as follows:

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

(1) "Medicare supplemental insurance" or "medicare supplement insurance policy" refers to a group or individual policy of disability insurance or a

subscriber contract of a health care service contractor, a health maintenance organization, or a fraternal benefit society, which relates its benefits to medicare, or which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare. Such term does not include:

(a) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy issued pursuant to a contract under Section 1876 (~~or Section 1833~~) of the federal social security act (42 U.S.C. Sec. 1395 et seq.), or an issued policy under a demonstration (~~project authorized pursuant to amendments to the federal social security act~~) specified in 42 U.S.C. Sec. 1395ss(g)(1); or

(c) Insurance policies or health care benefit plans, including group conversion policies, provided to medicare eligible persons, that are not marketed or held to be medicare supplement policies or benefit plans.

(2) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(3) "Medicare eligible expenses" means health care expenses of the kinds covered by medicare, to the extent recognized as reasonable and medically necessary by medicare.

(4) "Applicant" means:

(a) In the case of an individual medicare supplement insurance policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement insurance policy or subscriber contract, the proposed certificate holder.

(5) "Certificate" means any certificate delivered or issued for delivery in this state under a group medicare supplement insurance policy.

(6) "Loss ratio" means the incurred claims as a percentage of the earned premium computed under rules adopted by the insurance commissioner.

(7) "Preexisting condition" means a covered person's medical condition that caused that person to have received medical advice or treatment during a specified time period immediately prior to the effective date of coverage.

(8) "Disclosure form" means the form designated by the insurance commissioner which discloses medicare benefits, the supplemental benefits offered by the insurer, and the remaining amount for which the insured will be responsible.

(9) "Issuer" includes insurance companies, health care service contractors, health maintenance organizations, fraternal benefit societies, and any other entity delivering or issuing for delivery medicare supplement policies or certificates to a resident of this state.

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

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

**CHAPTER 270**

[Engrossed House Bill 2838]

**HEALTH INJURY DISPUTES—MEDIATION**

AN ACT Relating to mediation of health care injury disputes; and amending RCW 7.70.110.

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

Sec. 1. RCW 7.70.110 and 1993 c 492 s 420 are each amended to read as follows:

The making of a written, good faith request for mediation of a dispute related to damages for injury occurring as a result of health care (~~provided~~) prior to filing a cause of action under this chapter shall toll the statute of limitations provided in RCW 4.16.350 for one year.

Passed the House February 9, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

**CHAPTER 271**

[House Bill 2849]

**NURSING HOME ADMINISTRATOR LICENSING—REVISIONS**

AN ACT Relating to nursing home administrator licensing; and amending RCW 18.52.071.

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

Sec. 1. RCW 18.52.071 and 1992 c 53 s 7 are each amended to read as follows:

The department shall issue a license to any person applying for a nursing home administrator's license (~~after July 1, 1993,~~) who meets the following requirements:

(1) Successful completion of the requirements for a baccalaureate degree from a recognized institution of higher learning(~~(~~PROVIDED, That if education requirements are adopted by the federal government, the board may adopt rules requiring educational qualifications to meet those requirements~~) and any federal requirements;~~) and any federal requirements;

(2) Successful completion of a practical experience requirement as determined by the board;



(3) Successful completion of examinations administered or approved by the board, or both, which shall be designed to test the candidate's competence to administer a nursing home;

(4) At least twenty-one years of age; and

(5) Not having engaged in unprofessional conduct as defined in RCW 18.130.180 or being unable to practice with reasonable skill and safety as defined in RCW 18.130.170. The board shall establish by rule what constitutes adequate proof of meeting the above requirements.

A limited license indicating the limited extent of authority to administer institutions (~~(certified by such)~~) conducted by and for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination (~~((teaching religious or spiritual means for healing through prayer,))~~) shall be issued to individuals demonstrating membership in such church or denomination. However, nothing in this chapter shall be construed to require an applicant (~~(certified)~~) employed by (~~((any well-established and generally recognized church or religious denomination teaching reliance on spiritual means alone))~~) such institution to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 272

[House Bill 2861]

### ACADEMIC TRANSCRIPTS—EXCISE TAX EXEMPTIONS

AN ACT Relating to excise tax exemptions for academic transcripts; adding a new section to chapter 82.04 RCW; 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 82.04 RCW to read as follows:

This chapter does not apply to amounts received from sales of academic transcripts by educational institutions.

NEW SECTION. **Sec. 2.** 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 academic transcripts by educational institutions.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter shall not apply in respect to the use of academic transcripts.

**NEW SECTION.** Sec. 4. This act shall take effect July 1, 1996.

Passed the House February 6, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

**CHAPTER 273**

[Engrossed Second Substitute House Bill 2909]

**READING LITERACY—IMPROVEMENT**

AN ACT Relating to improving reading literacy; amending RCW 28A.300.130; adding new sections to chapter 28A.300 RCW; creating new sections; providing an expiration 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 28A.300 RCW to read as follows:

(1) The center for the improvement of student learning, or its designee, shall develop and implement a process for identifying programs that have been proven to be effective based upon valid research in teaching elementary students to read. Additional programs shall be reviewed after the initial identification of effective programs.

(2) In identifying effective reading programs, the center for the improvement of student learning, or its designee, shall consult primary education teachers, state-wide reading organizations, institutions of higher education, the commission on student learning, parents, legislators, and other appropriate individuals and organizations.

(3) In identifying effective reading programs, the following criteria shall be used:

(a) Whether the program will help the student meet the state-level and classroom-based assessments for reading;

(b) Whether the program has achieved documented results for students on valid and reliable assessments;

(c) Whether the results of the program have been replicated at different locations over a period of time;

(d) Whether the requirements and specifications for implementing the program are clear so that potential users can clearly determine the requirements of the program and how to implement it;

(e) Whether, when considering the cost of implementing the program, the program is cost-effective relative to other similar types of programs;

(f) Whether the program addresses differing student populations; and

(g) Other appropriate criteria and considerations.

(4) The initial identification of effective reading programs shall be completed and a list of the identified programs prepared by December 31, 1996.

**NEW SECTION.** Sec. 2. The superintendent of public instruction shall establish a grant program to provide incentives for teachers, schools, and school districts to use the identified programs on the approved list in grades kindergarten through four. Schools, school districts, and educational service districts may apply for grants. Funds for the grants shall be used for in-service training and instructional materials. Grants shall be awarded and funds distributed not later than June 30, 1997, for programs in the 1996-97 and 1997-98 school years. Priority shall be given to grant applications involving schools and school districts with the lowest mean percentile scores on the state-wide fourth grade assessment required under RCW 28A.230.190 among grant applicants.

**NEW SECTION.** Sec. 3. (1) The center for the improvement of student learning in collaboration with the commission on student learning and in consultation with the state board of education, faculty in educator preparation programs, educators, parents, and school directors, shall establish training programs in reading instruction and assessment for educators in the primary grades. The programs shall be designed to prepare educators to use the classroom-based assessments developed by the commission on student learning to determine how children are reading, select and implement appropriate instructional strategies and effective programs consistent with section 1 of this act to improve reading instruction, and to involve parents in helping their children to learn to read. Funds shall be used to develop the training program and to provide the training to the educators both through institutes and in the classroom during the school year.

(2) This section shall expire June 30, 1998.

**NEW SECTION.** Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

(1) After effective programs have been identified in accordance with section 1 of this act, the center for the improvement of student learning, or its designee, shall provide information and take other appropriate steps to inform elementary school teachers, principals, curriculum directors, superintendents, school board members, college and university reading instruction faculty, and others of its findings.

(2) The center, in cooperation with state-wide organizations interested in improving literacy, also shall develop and implement strategies to improve reading instruction in the state, with a special emphasis on the instruction of reading in the primary grades using the effective reading programs that have been identified in accordance with section 1 of this act. The strategies may include, but should not be limited to, expanding and improving reading instruction of elementary school teachers in teacher preparation programs, expanded in-service training in reading instruction, the training of paraprofessionals and volunteers in reading instruction, improving classroom-

based assessment of reading, and increasing state-wide and regional technical assistance in reading instruction.

(3) The center shall submit a status report to appropriate committees of the legislature by December 31, 1996, regarding its efforts to implement section 1 of this act and subsections (1) and (2) of this section. The report shall include a description of safeguards enacted to ensure the integrity and objectivity of the assistance and advice provided by the center.

**Sec. 5.** RCW 28A.300.130 and 1993 c 336 s 501 are each amended to read as follows:

(1) Expanding activity in educational research, educational restructuring, and educational improvement initiatives has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, to the extent funds are appropriated, shall establish the center for the improvement of student learning. The primary purpose of the center is to provide assistance and advice to parents, school board members, educators, and the public regarding strategies for assisting students in learning the essential academic learning requirements pursuant to RCW 28A.630.885. The center shall work in conjunction with the commission on student learning, educational service districts, and institutions of higher education.

(2) The center shall:

(a) Serve as a clearinghouse for the completed work and activities of the commission on student learning;

(b) Serve as a clearinghouse for information regarding successful educational restructuring and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational restructuring initiatives in Washington schools and districts;

(c) Provide best practices research and advice that can be used to help schools develop and implement: Programs and practices to improve reading instruction; school improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; and other programs that will assist educators in helping students learn the essential academic learning requirements;

(d) Develop and distribute, in conjunction with the commission on student learning, parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements. The instructional guides also shall contain actions parents may take to assist their

children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(e) Identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(f) Take other actions to increase public awareness of the importance of parental and community involvement in education;

(g) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available under RCW 28A.305.140 and the broadened school board powers under RCW 28A.320.015;

(h) Provide training and consultation services;

(i) Address methods for improving the success rates of certain ethnic and racial student groups; and

(j) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction, after consultation with the commission on student learning, shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. The superintendent shall contract out with community-based organizations to meet the provisions of subsection (2) (d) and (e) of this section. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

(5) The superintendent shall report annually to the commission on student learning on the activities of the center.

**NEW SECTION.** Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

**NEW SECTION.** Sec. 7. If specific funding for sections 2 and 3 of this act, referencing this act by bill or chapter number and section number, is not provided by June 30, 1996, in the supplemental omnibus appropriations act, sections 2 and 3 of this act are null and void.

Passed the House March 5, 1996.  
 Passed the Senate February 29, 1996.  
 Approved by the Governor March 29, 1996.  
 Filed in Office of Secretary of State March 29, 1996.

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**CHAPTER 274**

[Substitute House Bill 2939]

**CREDIT UNIONS EXAMINATION FUND**

AN ACT Relating to the credit unions examination fund; and creating a new section.

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

**NEW SECTION.** Sec. 1. The director of financial institutions is authorized to charge fees to credit unions and other persons subject to regulation of the department of financial institutions under chapters 31.12, 31.12A, and 31.13 RCW in order to cover the costs of the operation of the department's division of credit unions and to establish a reasonable reserve for the division. The fees shall be set by the director so that the projected revenue to the department's dedicated nonappropriated credit unions examination fund in fiscal year 1997 does not exceed \$1,120,500, plus a one-time special assessment of \$184,000.

Passed the House February 9, 1996.  
 Passed the Senate February 27, 1996.  
 Approved by the Governor March 29, 1996.  
 Filed in Office of Secretary of State March 29, 1996.

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**CHAPTER 275**

[Substitute Senate Bill 6274]

**SEX OFFENDERS—SUPERVISION**

AN ACT Relating to supervision of sex offenders; amending RCW 9.94A.120, 9.94A.205, 9.94A.207, 4.24.550, 13.40.215, 13.40.217, 9.95.062, and 10.64.025; reenacting and amending RCW 9.94A.030, 9A.44.130, and 9A.44.140; creating new sections; prescribing penalties; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that improving the supervision of convicted sex offenders in the community upon release from incarceration is a substantial public policy goal, in that effective supervision accomplishes many purposes including protecting the community, supporting crime victims, assisting offenders to change, and providing important information to decision makers.

Sec. 2. RCW 9.94A.120 and 1995 c 108 s 3 are each amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310(3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment ~~((alternative[s]))~~ alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:



- (i) Devote time to a specific employment or training;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (iii) Report as directed to a community corrections officer;
- (iv) Pay all court-ordered legal financial obligations;
- (v) Perform community service work;
- (vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(7) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(8)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community ~~((supervision))~~ custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

- (I) Devote time to a specific employment or occupation;

(II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(III) Report as directed to the court and a community corrections officer;

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community ~~((supervision))~~ custody, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community ~~((supervision))~~ custody.

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

(vi) The court may revoke the suspended sentence at any time during the period of community ~~((supervision))~~ custody and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community ~~((supervision))~~ custody shall be credited to the offender if the suspended sentence is revoked.

~~((vii))~~ (vii) Except as provided in (a)~~((vii))~~(viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

~~((vii))~~ (viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his or her term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(iii) Report as directed to the court and a community corrections officer;

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his or her community supervision, the court may order the offender to serve out the balance of his or her community supervision term in confinement in the custody of the department of corrections.

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

(c) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the

department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before the effective date of this act, or a serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances;

(v) The offender shall pay supervision fees as determined by the department of corrections; and

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol; or

(v) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after the effective date of this act, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions

imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(11) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

~~((+1))~~ (12) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

~~((+2))~~ (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

~~((+3))~~ (14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the ~~((secretary of the))~~ department of corrections ~~((or such person as the secretary may designate))~~ and shall follow explicitly the instructions and conditions of the ~~((secretary including))~~ department of corrections.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For sex offenders sentenced to terms involving community custody for crimes committed on or after the effective date of this act, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during a sex offenders' community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

~~((14))~~ (15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

~~((15))~~ (16) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

~~((16))~~ (17) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

~~((17))~~ (18) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.



~~((18))~~ (19) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

~~((19))~~ (20) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

~~((20))~~ (21) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Sec. 3. RCW 9.94A.205 and 1988 c 153 s 4 are each amended to read as follows:

(1) If an inmate violates any condition or requirement of community custody, the department may transfer the inmate to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (2) of this section.

(2)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.120(8) who violates any condition of community custody, the department may impose a sanction of up to sixty days confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.

(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.120(10) who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned early release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.

(3) If an inmate is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as inmate disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and sanctions.

Sec. 4. RCW 9.94A.207 and 1988 c 153 s 5 are each amended to read as follows:

(1) The secretary may issue warrants for the arrest of any offender who violates a condition of community placement. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation. The department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440. A community corrections officer, if he or she has reasonable cause to believe an offender in community placement has violated a condition of community placement, may suspend the person's community placement status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community placement status. A violation of a condition of community placement shall be deemed a violation of the sentence for purposes of RCW 9.94A.195. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.195.

(2) Inmates, as defined in RCW (~~72.09.020~~) 72.09.015, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections, except as provided in subsection (3) of this section. The community custody inmate shall be removed from the local correctional facility, except as provided in subsection (3) of this section, not later than eight days, excluding weekends and holidays, following admittance to the local correctional facility and notification that the inmate is available for movement to a state correctional institution. (~~However, if good cause is shown,~~)

(3) The department may negotiate with local correctional authorities for an additional period of detention; however, sex offenders sanctioned for community custody violations under RCW 9.94A.205(2) to a term of confinement shall remain in the local correctional facility for the complete term of the sanction. For confinement sanctions imposed under RCW 9.94A.205(2)(a), the local correctional facility shall be financially responsible. For confinement sanctions imposed under RCW 9.94A.205(2)(b), the department of corrections shall be financially responsible for that portion of the sanction served during the time in which the sex offender is on community custody in lieu of earned early release, and the local correctional facility shall be financially responsible for that portion of the sanction served by the sex offender after the time in which the sex offender is on community custody in lieu of earned early release.

Sec. 5. RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and 1995 c 101 s 2 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "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.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). 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.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "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.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while

under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "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.

(12)(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" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (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 or serious traffic offenses, 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.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "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 legal financial obligation. 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.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as

wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) 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);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of inarihuana, 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 except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(24) "Nonviolent offense" means an offense which is not a violent offense.

(25) "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.

(26) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(27) "Persistent offender" is an offender who:

(a) Has been convicted in this state of any felony considered a most serious offense; and

(b) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted.

(28) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(29) "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.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(31) "Serious violent offense" is a subcategory of violent offense and means:

(a) 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, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(32) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(33) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

(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 sex offense under (a) of this subsection.

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "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.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "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, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(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 (a) of this subsection; 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 (a) or (b) of this subsection.

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic



improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

*\*Sec. 6. RCW 4.24.550 and 1994 c 129 s 2 are each amended to read as follows:*

*(1) Public agencies are authorized to release relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection. This authority exists whether or not the public agency received notification about the sex offender from the department of corrections or the department of social and health services or any other public agency.*

*(2) Local law enforcement agencies and officials who decide to release information pursuant to this section shall make a good faith effort to notify the public and residents at least fourteen days before the sex offender is released or if the offender receives a special sex offender disposition alternative under RCW 13.40.160 or special sex offender sentencing alternative under RCW 9.94A.120 at least thirty days after the sex offender is sentenced. If a change occurs in the release plan, this notification provision will not require an extension of the release date. The department of corrections and the department of social and health services shall provide local law enforcement officials with all relevant information on sex offenders about to be released or placed into the community in a timely manner. The juvenile court shall provide local law enforcement officials with all relevant information on sex offenders allowed to remain in the community in a timely manner.*

**(3) An elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The authorization and immunity in this section applies to information regarding: (a) A person convicted of, or juvenile found to have committed, a sex offense as defined by RCW 9.94A.030; (b) a person found not guilty of a sex offense by reason of insanity under chapter 10.77 RCW; (c) a person found incompetent to stand trial for a sex offense and subsequently committed under chapter 71.05 or 71.34 RCW; (d) a person committed as a sexual psychopath under chapter 71.06 RCW; or (e) a person committed as a sexually violent predator under chapter 71.09 RCW. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.**

**(4) Except as otherwise provided by statute, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information as provided in subsections (2) and (3) of this section.**

**(5) Nothing in this section implies that information regarding persons designated in subsections (2) and (3) of this section is confidential except as otherwise provided by statute.**

**\*Sec. 6 was vetoed. See message at end of chapter.**

**\*Sec. 7. RCW 13.40.215 and 1995 c 324 s 1 are each amended to read as follows:**

**(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:**

**(i) The chief of police of the city, if any, in which the juvenile will reside;**  
**(ii) The sheriff of the county in which the juvenile will reside; and**  
**(iii) The approved private schools and the common school district board of directors of the district in which the juvenile intends to reside or the approved private school or public school district in which the juvenile last attended school, whichever is appropriate, except when it has been determined by the department that the juvenile is twenty-one years old; is not required to return to school under chapter 28A.225 RCW; or will be in the community for less than seven consecutive days on approved leave and will not be attending school during that time.**

**(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:**

*(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;*

*(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and*

*(iii) Any person specified in writing by the prosecuting attorney.*

*Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.*

*(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.*

*(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.*

*(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.*

*(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.*

*In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).*

*(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.*

*(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.*

*(5) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than five days after sentencing a sex offender to a special sex offender disposition alternative under RCW 13.40.160(5), the juvenile court shall send written notice of the disposition to the following:*

*(a) The chief of police of the city, if any, in which the juvenile will reside;*  
*and*

*(b) The sheriff of the county in which the juvenile will reside.*

*(6) Upon discharge, parole, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public elementary, middle, or high school that is attended by a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district. Upon discharge, parole, or other authorized leave or release of a convicted juvenile sex offender, the secretary shall send written notice of the discharge, parole, or other authorized leave or release and the requirements of this subsection to the common school district board of directors of the district in which the sex offender intends to reside or the district in which the sex offender last attended school, whichever is appropriate.*

*~~((6))~~ (7) For purposes of this section the following terms have the following meanings:*

*(a) "Violent offense" means a violent offense under RCW 9.94A.030;*

*(b) "Sex offense" means a sex offense under RCW 9.94A.030;*

*(c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;*

*(d) "Next of kin" means a person's spouse, parents, siblings, and children.*

*\*Sec. 7 was vetoed. See message at end of chapter.*

*\*Sec. 8. RCW 13.40.217 and 1990 c 3 s 102 are each amended to read as follows:*

*In addition to any other information required to be released under this chapter, the department ~~((is))~~ and juvenile courts are authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning juveniles adjudicated of sex offenses.*

*\*Sec. 8 was vetoed. See message at end of chapter.*

Sec. 9. RCW 9.95.062 and 1989 c 276 s 1 are each amended to read as follows:

(1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in a criminal action shall not stay the execution of the judgment of conviction, if the court determines by a preponderance of the evidence that:

(a) The defendant is likely to flee or to pose a danger to the safety of any other person or the community if the judgment is stayed; or

(b) The delay resulting from the stay will unduly diminish the deterrent effect of the punishment; or

(c) A stay of the judgment will cause unreasonable trauma to the victims of the crime or their families; or

(d) The defendant has not undertaken to the extent of the defendant's financial ability to pay the financial obligations under the judgment or has not posted an adequate performance bond to assure payment.

(2) An appeal by a defendant convicted of one of the following offenses shall not stay execution of the judgment of conviction: Rape in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076, and 9A.44.079); child molestation in the first, second, or third degree (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a minor in the first or second degree (RCW 9A.44.093 and 9A.44.096); indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW 9A.40.090); any class A or B felony that is a sexually motivated offense as defined in RCW 9.94A.030; a felony violation of RCW 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal attempt, solicitation, or conspiracy to commit one of those offenses.

(3) In case the defendant has been convicted of a felony, and has been unable to obtain release pending the appeal by posting an appeal bond, cash, adequate security, release on personal recognizance, or any other conditions imposed by the court, the time the defendant has been imprisoned pending the appeal shall be deducted from the term for which the defendant was sentenced, if the judgment is affirmed.

Sec. 10. RCW 10.64.025 and 1989 c 276 s 2 are each amended to read as follows:

(1) A defendant who has been found guilty of a felony and is awaiting sentencing shall be detained unless the court finds by clear and convincing evidence that the defendant is not likely to flee or to pose a danger to the safety of any other person or the community if released. Any bail bond that was posted on behalf of a defendant shall, upon the defendant's conviction, be exonerated.

(2) A defendant who has been found guilty of one of the following offenses shall be detained pending sentencing: Rape in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076, and 9A.44.079); child molestation in the first,

second, or third degree (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a minor in the first or second degree (RCW 9A.44.093 and 9A.44.096); indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW 9A.40.090); any class A or B felony that is a sexually motivated offense as defined in RCW 9.94A.030; a felony violation of RCW 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal attempt, solicitation, or conspiracy to commit one of those offenses.

**Sec. 11.** RCW 9A.44.130 and 1995 c 268 s 3, 1995 c 248 s 1, and 1995 c 195 s 1 are each reenacted and amended to read as follows:

(1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense, shall register with the county sheriff for the county of the person's residence.

(2) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

(3)(a) Sex offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses:

(i) **SEX OFFENDERS IN CUSTODY.** Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the sex offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) **SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION.** Sex offenders, who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) **SEX OFFENDERS UNDER FEDERAL JURISDICTION.** Sex offenders who, on or after July 23, 1995, as a result of that offense are in the

custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

**(iv) SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.**

Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

**(v) SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990. Sex offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

**(vi) SEX OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28,

1990, but who was released prior to July 23, 1995, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify offenders who were released prior to July 23, 1995. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff (~~within ten~~) at least fourteen days (~~of~~) before moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with (~~the~~) that county sheriff (~~in the new county~~) within (~~ten days~~) twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also



prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(5) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.090 or 9A.44.096 as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(7) A person who knowingly fails to register or who moves without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony. If the crime was other than a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony, violation of this section is a gross misdemeanor.

Sec. 12. RCW 9A.44.140 and 1995 c 268 s 4 are each amended to read as follows:

(1) The duty to register under RCW 9A.44.130 shall end:

(a) For a person convicted of a class A felony: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section.

(b) For a person convicted of a class B felony: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony (~~or any~~), a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense.

(3) Any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the

registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) An offender having a duty to register under RCW 9A.44.130 for a sex offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a sex offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a sex offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional sex offenses during the twenty-four months following the adjudication for the sex offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(5) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(6) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

***\*NEW SECTION. Sec. 13. Sections 6 through 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.***

*\*Sec. 13 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 14. Sections 1 through 5 of this act apply to crimes committed on or after the effective date of this act.***

***NEW SECTION. Sec. 15. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1996, in the supplemental omnibus appropriations act, this act is null and void.***

Passed the Senate March 5, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 29, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 6, 7, 8, and 13, Substitute Senate Bill No. 6274 entitled:

"AN ACT Relating to supervision of sex offenders;"

Substitute Senate Bill No. 6274 enhances public protection against sex offenders by making a number of changes. It extends the supervision period following an offender's release from incarceration and facilitates the Department of Corrections' imposition of sanctions for violations of supervision conditions. It also tightens the registration requirements for sex offenders so that law enforcement can better track their movements from community to community. In general, this legislation fine-tunes the laws enacted as part of the Community Protection Act of 1990.

The Community Protection Act of 1990 established a comprehensive approach for dealing with sex offenders. It authorized public officials to notify communities about potentially dangerous sex offenders when they are released from incarceration after serving their sentence. It also created a new sentencing alternative that permits first-time sex offenders, who have committed a non-serious offense, to remain in the community for treatment purposes. This treatment sentencing option is used only when the court — after considering the recommendations of treatment experts, prosecutors, and the victim — determines that the adult or juvenile offender does not pose a risk to the community and is amenable to treatment. Moreover, the offender is supervised by a probation officer during the treatment period. Because successful treatment is the best protection against recidivism, this sentencing alternative serves the interests of the community as well as the individual offender.

Sections 6, 7, and 8 of Substitute Senate Bill No. 6274 extend the public notification requirement to offenders who have been sentenced under the treatment option. Section 13 provides for immediate implementation of these provisions and has no effect on the remainder of the bill.

I wholeheartedly agree that public notification is appropriate when an offender returning to the community poses a potential public safety risk. However, I do not support extending the public notification requirement to first-time, non-serious juvenile offenders who remain in the community for treatment. Public notification serves no purpose in these cases where the courts have made a risk assessment, based on expert evaluations, and have found these juveniles to pose no threat to community safety. In addition, community notification could well jeopardize the purpose of this sentencing alternative, that is, to provide effective community-based treatment in order to prevent future reoffense. Past public notifications of juvenile sex offenders upon their release from confinement have sometimes resulted in their being prevented from attending school. Other juveniles have been harassed and even assaulted. If it results in public stigmatization, community notification will significantly undermine our efforts to rehabilitate juvenile offenders under the treatment sentencing option. This risk should therefore be avoided. With respect to adult offenders who are sentenced under the community treatment option, law enforcement already issues public notifications on these offenders.

For these reasons, I have vetoed sections 6, 7, 8, and 13 of Substitute Senate Bill No. 6274.

With the exception of sections 6, 7, 8, and 13, Substitute Senate Bill No. 6274 is approved."

**CHAPTER 276**

[Senate Bill 6305]

**HYDRAULIC PROJECTS—OFF-SITE MITIGATION PROPOSALS**

AN ACT Relating to off-site mitigation proposals for hydraulic projects; amending RCW 75.20.130; and adding a new section to chapter 75.20 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 75.20 RCW to read as follows:

The legislature finds that the construction of hydraulic projects may require mitigation for the protection of fish life, and that the mitigation may be most cost effective and provide the most benefit to the fish resource if the mitigation is allowed to be applied in locations that are off-site of the hydraulic project location. The department may approve off-site mitigation plans that are submitted by hydraulic project applicants.

If a hydraulic project permit applicant proposes off-site mitigation and the department does not approve the hydraulic permit or conditions the permit approval in such a manner as to render off-site mitigation unpracticable, the hydraulic project proponent must be given the opportunity to submit the hydraulic project application to the hydraulic appeals board for approval.

Sec. 2. RCW 75.20.130 and 1993 sp.s. c 2 s 37 are each amended to read as follows:

(1) There is hereby created within the environmental hearings office under RCW 43.21B.005 the hydraulic appeals board of the state of Washington.

(2) The hydraulic appeals board shall consist of three members: The director of the department of ecology or the director's designee, the director of the department of agriculture or the director's designee, and the director or the director's designee of the department whose action is appealed under subsection (6) of this section. A decision must be agreed to by at least two members of the board to be final.

(3) The board may adopt rules necessary for the conduct of its powers and duties or for transacting other official business.

(4) The board shall make findings of fact and prepare a written decision in each case decided by it, and that finding and decision shall be effective upon being signed by two or more board members and upon being filed at the hydraulic appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The board has exclusive jurisdiction to hear appeals arising from the approval, denial, conditioning, or modification of a hydraulic approval issued by the department: (a) Under the authority granted in RCW 75.20.103 for the diversion of water for agricultural irrigation or stock watering purposes or when associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020; or (b) under the authority granted in section 1 of this act for off-site mitigation proposals.

(6)(a) Any person aggrieved by the approval, denial, conditioning, or modification of a hydraulic approval pursuant to RCW 75.20.103 may seek review from the board by filing a request for the same within thirty days of notice of the approval, denial, conditioning, or modification of such approval.

(b) The review proceedings authorized in (a) of this subsection are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

Passed the Senate February 6, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 277

[Substitute Senate Bill 6315]

### OFFENDER DEBTS—RECOUPMENT

AN ACT Relating to offender debts; and amending RCW 72.09.450.

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

**Sec. 1.** RCW 72.09.450 and 1995 1st sp.s. c 19 s 4 are each amended to read as follows:

(1) An inmate shall not be denied access to services or supplies required by state or federal law solely on the basis of his or her inability to pay for them.

(2) The department shall record all lawfully authorized assessments for services or supplies as a debt to the department ((and)). The department shall recoup the assessments when the inmate's institutional account exceeds the indigency standard, and may pursue other remedies to recoup the assessments after the period of incarceration.

(3) The department shall record as a debt any costs assessed by a court against an inmate plaintiff where the state is providing defense pursuant to chapter 4.92 RCW. The department shall recoup the debt when the inmate's institutional account exceeds the indigency standard and may pursue other remedies to recoup the debt after the period of incarceration.

(4) In order to maximize the cost-efficient collection of unpaid offender debt existing after the period of an offender's incarceration, the department is authorized to use the following nonexclusive options: (a) Use the collection services available through the department of general administration, or (b) notwithstanding any provision of chapter 41.06 RCW, contract with collection agencies for collection of the debts. The costs for general administration or collection agency services shall be paid by the debtor. Any contract with a collection agency shall only be awarded after competitive bidding. Factors the department shall consider in awarding a collection contract include but are not limited to a collection agency's history and reputation in the community; and the agency's access to a local data base that may increase the efficiency of its collections. The servicing of an unpaid obligation to the department does not

constitute assignment of a debt, and no contract with a collection agency may remove the department's control over unpaid obligations owed to the department.

Passed the Senate March 2, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 278

[Senate Bill 6672]

### ABUSE OF CHILDREN AND ADULT DEPENDENT AND DEVELOPMENTALLY DISABLED PERSONS—REPORTING

AN ACT Relating to reports of abuse of children and adult dependent and developmentally disabled persons; amending RCW 26.44.030; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature finds that including certain department of corrections personnel among the professionals who are mandated to report suspected abuse or neglect of children, dependent adults, or people with developmental disabilities is an important step toward improving the protection of these vulnerable populations. The legislature intends, however, to limit the circumstances under which department of corrections personnel are mandated reporters of suspected abuse or neglect to only those circumstances when the information is obtained during the course of their employment. This act is not to be construed to alter the circumstances under which other professionals are mandated to report suspected abuse or neglect, nor is it the legislature's intent to alter current practices and procedures utilized by other professional organizations who are mandated reporters under RCW 26.44.030(1)(a).

Sec. 2. RCW 26.44.030 and 1995 c 311 s 17 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement shall also apply to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel 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 the 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.

(c) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child or adult dependent or developmentally disabled person, who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

((e)) (d) The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided

in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the



interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall provide annual reports to the legislature on the effectiveness of the risk assessment process.

(14) Upon receipt of a report of abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

Passed the Senate February 9, 1996.

Passed the House March 6, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

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## CHAPTER 279

[Senate Bill 6684]

### TRANSPORTATION FOR STUDENTS—FUNDING FOR SAFETY

AN ACT Relating to student safety to and from school; amending RCW 28A.160.150, 28A.160.160, and 28A.160.180; and creating new sections.

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

**Sec. 1.** RCW 28A.160.150 and 1990 c 33 s 141 are each amended to read as follows:

Funds allocated for transportation costs shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local

districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160(3). In addition, funding shall be provided for transportation services for students living within one radius mile from school as determined under RCW 28A.160.180(2).

Sec. 2. RCW 28A.160.160 and 1995 c 77 s 17 are each amended to read as follows:

For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is more than one radius mile from the student's school, except if the student to be transported(~~(;-(a))~~) is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies(~~(; or (b) qualifies for an exemption due to hazardous walking conditions)~~).

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; and

(d) Transportation of students with disabilities to and from schools and agencies for special education services.

Extended day transportation shall not be considered part of transportation of students "to and from school" for the purposes of chapter 61, Laws of 1983 1st ex. sess.

~~(4) ("Hazardous walking conditions" means those instances of the existence of dangerous walkways documented by the board of directors of a school district which meet criteria specified in rules adopted by the superintendent of public instruction. A school district that receives an exemption for hazardous walking conditions should demonstrate that good faith efforts are being made to alleviate the problem and that the district, in cooperation with other state and local governing authorities, is attempting to reduce the incidence of hazardous walking conditions. The superintendent of public instruction shall appoint an advisory committee to prepare guidelines and procedures for determining the existence of hazardous walking conditions. The committee shall include but not be limited to representatives from law enforcement agencies, school districts, the department of transportation, city and county government, the insurance~~

~~industry, parents, school directors and legislators.))~~ "Transportation services" for students living within one radius mile from school means school transportation services including the use of buses, funding of crossing guards, and matching funds for local and state transportation projects intended to mitigate hazardous walking conditions. Priority for transportation services shall be given to students in grades kindergarten through five.

Sec. 3. RCW 28A.160.180 and 1995 c 77 s 18 are each amended to read as follows:

Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW 28A.160.150. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; student with disabilities load; and small fleet maintenance.

(2) For transportation services for students living within one radius mile from school, the allocation shall be based on the number of students in grades kindergarten through five living within one radius mile as specified in the biennial appropriations act.

(3) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

~~((3))~~ (4) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the allocation rates to be used the following year.

NEW SECTION. Sec. 4. This act shall be effective for school transportation programs in the 1996-97 school year and thereafter.

NEW SECTION. Sec. 5. If specific funding for purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1996, in the supplemental omnibus appropriations act, this act is null and void.

Passed the Senate March 2, 1996.  
Passed the House February 29, 1996.  
Approved by the Governor March 29, 1996.  
Filed in Office of Secretary of State March 29, 1996.

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**CHAPTER 280**

[Engrossed Substitute Senate Bill 6753]

**TACOMA NARROWS BRIDGE—IMPROVEMENTS—ADVISORY VOTE**

AN ACT Relating to agreements, advisory vote procedures, and funding for the Tacoma Narrows bridge under the public-private transportation initiatives program; amending RCW 47.46.030; and declaring an emergency.

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

**Sec. 1.** RCW 47.46.030 and 1995 2nd sp.s. c 19 s 2 are each amended to read as follows:

(1) The secretary or a designee shall solicit proposals from, and negotiate and enter into agreements with, private entities to undertake as appropriate, together with the department and other public entities, all or a portion of the study, planning, design, construction, operation, and maintenance of transportation systems and facilities, using in whole or in part private sources of financing.

The public-private initiatives program may develop up to six demonstration projects. Each proposal shall be weighed on its own merits, and each of the six agreements shall be negotiated individually, and as a stand-alone project.

(2) If project proposals selected prior to September 1, 1994, are terminated by the public or private sectors, the department shall not select any new projects, including project proposals submitted to the department prior to September 1, 1994, and designated by the transportation commission as placeholder projects, after June 16, 1995, until June 30, 1997.

The department, in consultation with the legislative transportation committee, shall conduct a program and fiscal audit of the public-private initiatives program for the biennium ending June 30, 1997. The department shall submit a progress report to the legislative transportation committee on the program and fiscal audit by June 30, 1996, with preliminary and final audit reports due December 1, 1996, and June 30, 1997, respectively.

The department shall develop and submit a proposed public involvement plan to the 1997 legislature to identify the process for selecting new potential projects and the associated costs of implementing the plan. The legislature must adopt the public involvement plan before the department may proceed with any activity related to project identification and selection. Following legislative adoption of the public involvement plan, the department is authorized to implement the plan and to identify potential new projects.

The public involvement plan for projects selected after June 30, 1997, shall, at a minimum, identify projects that: (a) Have the potential of achieving overall public support among users of the projects, residents of communities in the

vicinity of the projects, and residents of communities impacted by the projects; (b) meet a state transportation need; (c) provide a significant state benefit; and (d) provide competition among proposers and maximum cost benefits to users. Prospective projects may include projects identified by the department or submitted by the private sector.

Projects that meet the minimum criteria established under this section and the requirements of the public involvement plan developed by the department and approved by the legislature shall be submitted to the Washington state transportation commission for its review. The commission, in turn, shall submit a list of eligible projects to the legislative transportation committee for its consideration. Forty-five days after the submission to the legislative transportation committee of the list of eligible projects, the secretary is authorized to solicit proposals for the eligible project.

(3) Prior to entering into agreements with private entities under the requirements of RCW 47.46.040 for any project proposal selected before September 1, 1994, or after June 30, 1997, except as provided for in subsections ~~((4))~~ (11) and ~~((4))~~ (12) of this section, the department shall require an advisory vote as provided under subsections ~~((4))~~ (5) through ~~((9))~~ (10) of this section.

(4) The advisory vote shall apply to project proposals selected prior to September 1, 1994, or after June 30, 1997, that receive public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project collected and submitted in accordance with the dates established in subsections (12) and (13) of this section. The advisory vote shall be on the preferred alternative identified under the requirements of chapter 43.21C RCW and, if applicable, the national environmental policy act, 42 U.S.C. 4321 et seq. The execution by the department of the advisory vote process established in this section is subject to the prior appropriation of funds by the legislature for the purpose of conducting environmental impact studies, a public involvement program, local involvement committee activities, traffic and economic impact analyses, engineering and technical studies, and the advisory vote.

(5) In preparing for the advisory vote, the department shall conduct a comprehensive analysis of traffic patterns and economic impact to define the geographical boundary of the project area that is affected by the imposition of tolls or user fees authorized under this chapter. The area so defined is referred to in this section as the affected project area. In defining the affected project area, the department shall, at a minimum, undertake: (a) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees; (b) an analysis of the anticipated traffic diversion patterns; (c) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial

traffic, and commercial entities in communities in the vicinity of and impacted by the project; (d) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (e) an analysis of the relationship of the project to state transportation needs and benefits.

~~((5))~~ (6)(a) After determining the definition of the affected project area, the department shall establish a committee comprised of individuals who represent cities and counties in the affected project area; organizations formed to support or oppose the project; and users of the project. The committee shall be named the public-private local involvement committee, and be known as the local involvement committee.

(b) The members of the local involvement committee shall be: (i) An elected official from each city within the affected project area; (ii) an elected official from each county within the affected project area; (iii) two persons from each county within the affected project area who represent an organization formed in support of the project, if the organization exists; (iv) two persons from each county within the affected project area who represent an organization formed to oppose the project, if the organization exists; and (v) four public members active in a state-wide transportation organization. If the committee makeup results in an even number of committee members, there shall be an additional appointment of an elected official from the county in which all, or the greatest portion of the project is located.

(c) City and county elected officials shall be appointed by a majority of the members of the city or county legislative authorities of each city or county within the affected project area, respectively. The county legislative authority of each county within the affected project area shall identify and validate organizations officially formed in support of or in opposition to the project and shall make the appointments required under this section from a list submitted by the chair of the organizations. Public members shall be appointed by the governor. All appointments to the local involvement committee shall be made and submitted to the department of transportation no later than January 1, 1996, for projects selected prior to September 1, 1994, and no later than thirty days after the affected project area is defined for projects selected after June 30, 1997. Vacancies in the membership of the local involvement committee shall be filled by the appointing authority under (b)(i) through (v) of this subsection for each position on the committee.

(d) The local involvement committee shall serve in an advisory capacity to the department on all matters related to the execution of the advisory vote.

(e) Members of the local involvement committee serve without compensation and may not receive subsistence, lodging expenses, or travel expenses.

~~((6))~~ (7) The department shall conduct a minimum thirty-day public comment period on the definition of the geographical boundary of the project area. The department, in consultation with the local involvement committee, shall make adjustments, if required, to the definition of the geographical boundary of the affected project area, based on comments received from the

public. Within fourteen calendar days after the public comment period, the department shall set the boundaries of the affected project area in units no smaller than a precinct as defined in RCW 29.01.120.

~~((7))~~ (8) The department, in consultation with the local involvement committee, shall develop a description for selected project proposals. After developing the description of the project proposal, the department shall publish the project proposal description in newspapers of general circulation for seven calendar days in the affected project area. Within fourteen calendar days after the last day of the publication of the project proposal description, the department shall transmit a copy of the map depicting the affected project area and the description of the project proposal to the county auditor of the county in which any portion of the affected project area is located.

~~((8))~~ (9) The department shall provide the legislative transportation committee with progress reports on the status of the definition of the affected project area and the description of the project proposal.

~~((9))~~ (10) Upon receipt of the map and the description of the project proposal, the county auditor shall, within thirty days, verify the precincts that are located within the affected project area. The county auditor shall prepare the text identifying and describing the affected project area and the project proposal using the definition of the geographical boundary of the affected project area and the project description submitted by the department and shall set an election date for the submission of a ballot proposition authorizing the imposition of tolls or user fees to implement the proposed project within the affected project area, which date may be the next succeeding general election to be held in the state, or at a special election, if requested by the department. The text of the project proposal must appear in a voter's pamphlet for the affected project area. The department shall pay the costs of publication and distribution. The special election date must be the next date for a special election provided under RCW 29.13.020 that is at least sixty days but, if authorized under RCW 29.13.020, no more than ninety days after the receipt of the final map and project description by the auditor. The department shall pay the cost of an election held under this section.

~~((10))~~ (11) Notwithstanding any other provision of law, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies, a public involvement program, and engineering and technical studies funded by the legislature. For projects subject to this subsection, the department shall not enter into an agreement under RCW 47.46.040 prior to the advisory vote on the preferred alternative.

(12) Subsections ~~((4))~~ (5) through ~~((9))~~ (10) of this section shall not apply to project proposals selected prior to September 1, 1994, that have no organized public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project, collected and submitted after September 1, 1994, and by thirty calendar days after June 16, 1995.

~~((44))~~ (13) Subsections ~~((4))~~ (5) through ~~((9))~~ (10) of this section shall not apply to project proposals selected after June 30, 1997, that have no organized public opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the project, collected and submitted by ninety calendar days after project selection.

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

Passed the Senate March 4, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 281

[Engrossed Substitute Senate Bill 6120]

### HEALTH INSURANCE BENEFITS FOLLOWING THE BIRTH OF A CHILD

AN ACT Relating to health insurance benefits following the birth of a child; adding a new section to chapter 48.43 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) The legislature recognizes the role of health care providers as the appropriate authority to determine and establish the delivery of quality health care services to maternity patients and their newly born children. It is the intent of the legislature to recognize patient preference and the clinical sovereignty of providers as they make determinations regarding services provided and the length of time individual patients may need to remain in a health care facility after giving birth. It is not the intent of the legislature to diminish a carrier's ability to utilize managed care strategies but to ensure the clinical judgment of the provider is not undermined by restrictive carrier contracts or utilization review criteria that fail to recognize individual postpartum needs.

(2) Unless otherwise specifically provided, the following definitions apply throughout this section:

(a) "Attending provider" means a provider who: Has clinical hospital privileges consistent with RCW 70.43.020; is included in a provider network of the carrier that is providing coverage; and is a physician licensed under chapter 18.57 or 18.71 RCW, a certified nurse midwife licensed under chapter 18.79 RCW, a midwife licensed under chapter 18.50 RCW, a physician's assistant licensed under chapter 18.57A or 18.71A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(b) "Health carrier" or "carrier" means disability insurers regulated under chapter 48.20 or 48.21 RCW, health care services contractors regulated under



chapter 48.44 RCW, health maintenance organizations regulated under chapter 48.46 RCW, plans operating under the health care authority under chapter 41.05 RCW, the state health insurance pool operating under chapter 48.41 RCW, and insuring entities regulated under this chapter.

(3)(a) Every health carrier that provides coverage for maternity services must permit the attending provider, in consultation with the mother, to make decisions on the length of inpatient stay, rather than making such decisions through contracts or agreements between providers, hospitals, and insurers. These decisions must be based on accepted medical practice.

(b) Covered eligible services may not be denied for inpatient, postdelivery care to a mother and her newly born child after a vaginal delivery or a cesarean section delivery for such care as ordered by the attending provider in consultation with the mother.

(c) At the time of discharge, determination of the type and location of follow-up care, including in-person care, must be made by the attending provider in consultation with the mother rather than by contract or agreement between the hospital and the insurer. These decisions must be based on accepted medical practice.

(d) Covered eligible services may not be denied for follow-up care as ordered by the attending provider in consultation with the mother. Coverage for providers of follow-up services must include, but need not be limited to, attending providers as defined in this section, home health agencies licensed under chapter 70.127 RCW, and registered nurses licensed under chapter 18.79 RCW.

(e) Nothing in this section shall be construed to require attending providers to authorize care they believe to be medically unnecessary.

(f) Coverage for the newly born child must be no less than the coverage of the child's mother for no less than three weeks, even if there are separate hospital admissions.

(4) No carrier that provides coverage for maternity services may deselect, terminate the services of, require additional documentation from, require additional utilization review of, reduce payments to, or otherwise provide financial disincentives to any attending provider or health care facility solely as a result of the attending provider or health care facility ordering care consistent with the provisions of this section. Nothing in this section shall be construed to prevent any insurer from reimbursing an attending provider or health care facility on a capitated, case rate, or other financial incentive basis.

(5) Every carrier that provides coverage for maternity services must provide notice to policyholders regarding the coverage required under this section. The notice must be in writing and must be transmitted at the earliest of the next mailing to the policyholder, the yearly summary of benefits sent to the policyholder, or January 1 of the year following the effective date of this section.

(6) This section is not intended to establish a standard of medical care.

(7) This section shall apply to coverage for maternity services under a contract issued or renewed by a health carrier after the effective date of this section and shall apply to plans operating under the health care authority under chapter 41.05 RCW beginning January 1, 1998.

**NEW SECTION.** Sec. 2. Consistent with funds available for this purpose, the Washington health care policy board, created by chapter 43.73 RCW, shall conduct an analysis of the effects of this act, addressing: The financial impact on health carriers in the public and private individual and group insurance markets; the impact on utilization of health care services; and, to the extent possible, the impact on the health status of mothers and their newly born children. The board shall submit a final report to the appropriate committees of the legislature by December 15, 1998.

**NEW SECTION.** Sec. 3. This act shall be known as "the Erin Act."

Passed the Senate March 4, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.

## CHAPTER 282

[Substitute Senate Bill 6173]

### MOTOR VEHICLE DEALERS—REGULATION

AN ACT Relating to motor vehicle dealers; amending RCW 46.70.023, 46.70.051, 46.70.101, 46.70.120, 46.70.130, and 46.70.180; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 46.70.023 and 1995 c 7 s 1 are each amended to read as follows:

(1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. ~~((An established place of business shall have an improved display area of not less than three thousand square feet in or immediately adjoining the building, or a display area large enough to display six or more vehicles of the type the dealer is licensed to sell, whichever area is larger.))~~ The business of a vehicle dealer~~((, including the display of vehicles, may))~~ must be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. A vehicle dealer may display a vehicle for sale only at its established place of business, licensed subagency, or temporary subagency site, except at auction. The dealer shall keep the building open to the public so that ~~((they))~~ the public may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the

business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. ~~((In no event may))~~ A room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house may not be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected to utilities and is set up in accordance with state law. A state-wide trade association representing manufactured housing dealers shall be permitted to use a manufactured home as an office if the office complies with all other applicable building code, zoning, and other land-use regulatory ordinances. This subsection does not apply to auction companies that do not own vehicle inventory or sell vehicles from an auction yard.

(2) An auction company shall have office facilities within the state. The books, records, and files necessary to conduct the business shall be maintained at the office facilities. All storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. An auction company shall maintain a telecommunications system.

(3) Auction companies shall post their vehicle dealer license at each auction where vehicles are offered, and shall provide the department with the address of the auction at least three days before the auction.

(4) If a dealer maintains a place of business at more than one location or under more than one name in this state, he or she shall designate one location as the principal place of business of the firm, one name as the principal name of the firm, and all other locations or names as subagencies. A subagency license is required for each and every subagency: PROVIDED, That the department may grant an exception to the subagency requirement in the specific instance where a licensed dealer is unable to locate their used vehicle sales facilities adjacent to or at the established place of business. This exception shall be granted and defined under the promulgation of rules consistent with the Administrative Procedure Act.

(5) All vehicle dealers shall maintain ownership or leasehold throughout the license year of the real property from which they do business. The dealer shall provide the department with evidence of ownership or leasehold whenever the ownership changes or the lease is terminated.

(6) A subagency shall comply with all requirements of an established place of business, except that subagency records may be kept at the principal place of business designated by the dealer. Auction companies shall comply with the requirements in subsection (2) of this section.

(7) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency. Auction companies are not required to obtain a temporary subagency license.

(8) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. A wholesale dealer need not maintain a display area as required in this section. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

(9) A retail vehicle dealer shall be open during normal business hours, maintain office and display facilities in a commercially zoned location or in a location complying with all applicable building and land use ordinances, and maintain a business telephone listing in the local directory. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory shall be physically segregated and clearly identified.

(10) A listing dealer need not have a display area if the dealer does not physically maintain any vehicles for display.

(11) A subagency license is not required for a mobile home dealer to display an on-site display model, a consigned mobile home not relocated from its site, or a repossessed mobile home if sales are handled from a principal place of business or subagency. A mobile home dealer shall identify on-site display models, repossessed mobile homes, and those consigned at their sites with a sign that includes the dealer's name and telephone number.

(12) Every vehicle dealer shall advise the department of the location of each and every place of business of the firm and the name or names under which the firm is doing business at such location or locations. If any name or location is changed, the dealer shall notify the department of such change within ten days. The license issued by the department shall reflect the name and location of the firm and shall be posted in a conspicuous place at that location by the dealer.

(13) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity.

**Sec. 2.** RCW 46.70.051 and 1993 c 307 s 7 are each amended to read as follows:

(1) After the application has been filed, the fee paid, and bond posted, if required the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license

issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

(3) At the time the department issues a vehicle dealer license, the department shall provide to the dealer a current, up-to-date vehicle dealer manual setting forth the various statutes and rules applicable to vehicle dealers. In addition, at the time any such license is renewed under RCW 46.70.083, the department shall provide the dealer with any updates or current revisions to the vehicle dealer manual.

Sec. 3. RCW 46.70.101 and 1991 c 140 s 3 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer 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 order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or municipal 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;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Has knowingly, or with reason to know, provided the department with false information relating to the number of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

(v) Does not have an established place of business as required in this chapter;

(vi) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same;

(viii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(ix) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(x) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

(xi) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means;

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

(xi) Has sold any vehicle with actual knowledge that;

(A) It has (~~("REBUILT")~~) any of the following brands on the title; "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

(B) It has been declared totaled out by an insurance carrier and then rebuilt;  
or

(C) The vehicle title contains the specific comment that the vehicle is "rebuilt";

without clearly disclosing that (~~(fact)~~) brand or comment in writing.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(e) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183.

Sec. 4. RCW 46.70.120 and 1990 c 238 s 7 are each amended to read as follows:

A dealer shall complete and maintain for a period of at least five years a record of the purchase and sale of all vehicles purchased or sold by him. The records shall consist of:

(1) The license and title numbers of the state in which the last license was issued;

(2) A description of the vehicle;

(3) The name and address of the person from whom purchased;

(4) The name of the legal owner, if any;

(5) The name and address of the purchaser;

(6) If purchased from a dealer, the name, business address, dealer license number, and resale tax number of the dealer;

(7) The price paid for the vehicle and the method of payment;

(8) The vehicle odometer disclosure statement given by the seller to the dealer, and the vehicle odometer disclosure statement given by the dealer to the purchaser;

(9) The written agreement to allow a dealer to sell between the dealer and the consignor, or the listing dealer and the seller;

(10) Trust account records of receipts, deposits, and withdrawals;

(11) All sale documents, which shall show the full name of dealer employees involved in the sale; and

(12) Any additional information the department may require. However, the department may not require a dealer to collect or retain the hardback copy of a temporary license permit after the permanent license plates for a vehicle have been provided to the purchaser, if the dealer maintains some other copy of the temporary license permit together with a log of the permits issued.

Such records shall be maintained separate (~~and apart~~) from all other business records of the dealer (~~and shall at all times~~). Records older than two years may be kept at a location other than the dealer's place of business if those



records are made available in hard copy for inspection within three calendar days, exclusive of Saturday, Sunday, or a legal holiday, after a request by the director or the director's authorized agent. Records kept at the vehicle dealer's place of business must be available for inspection by the director or ((his duty)) the director's authorized agent during normal business hours.

Dealers may maintain their recordkeeping and filing systems in accordance with their own particular business needs and practices. Nothing in this chapter requires dealers to maintain their records in any particular order or manner, as long as the records identified in this section are maintained in the dealership's recordkeeping system.

Sec. 5. RCW 46.70.130 and 1973 1st ex.s. c 132 s 16 are each amended to read as follows:

(1) Before the execution of a contract or chattel mortgage or the consummation of the sale of any vehicle, the seller must furnish the buyer an itemization in writing signed by the seller separately disclosing to the buyer the finance charge, insurance costs, taxes, and other charges which are paid or to be paid by the buyer.

(2) Notwithstanding subsection (1) of this section, an itemization of the various license and title fees paid or to be paid by the buyer, which itemization must be the same as that disclosed on the registration/application for title document issued by the department, may be required only on the title application at the time the application is submitted for title transfer. A vehicle dealer may not be required to separately or individually itemize the license and title fees on any other document, including but not limited to the purchase order and lease agreement. No fee itemization may be required on the temporary permit.

*\*Sec. 6. RCW 46.70.180 and 1995 c 256 s 26 are each amended to read as follows:*

*Each of the following acts or practices is unlawful:*

*(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:*

*(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;*

*(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;*

*(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;*

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale. However, expenses or fees charged by a dealer that are necessary or required to be paid by a dealer to a third party in order to obtain a lien release or a vehicle identification number inspection or verification, or to otherwise clear title to the vehicle, or in order to license or transfer title to a vehicle, do not violate this section if such expenses or fees are disclosed or itemized on the purchase order.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his or her authorized representative's future acceptance, and the dealer fails or refuses within ~~((forty-eight hours))~~ three calendar days, exclusive of Saturday, Sunday, or a legal holiday, and prior to any further negotiations with said buyer, either: (i) To deliver to the buyer ((either)) the dealer's signed acceptance, or ((all copies of)) (ii) to void the order, offer, or contract document ((together with)) and tender the return of any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except:

(i) Failure to disclose that the vehicle's certificate of ownership has ((been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; and)) any of the following brands: "SALVAGE/REBUILT" or "JUNK" or "DESTROYED,"

or has been declared totaled out by an insurance carrier and then rebuilt, or that the vehicle title contains the specific comment that the vehicle is "rebuilt"; or

(ii) *Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or*

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means: (A) A discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) *Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.*

(5) *To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.*

(6) For any vehicle dealer or vehicle ((salesman)) salesperson to refuse to furnish, upon request of a prospective purchaser, ((the name and address of the previous registered owner of any used vehicle offered for sale)) for vehicles previously registered to a business or governmental entity, the name and address of such business or governmental entity.

(7) *To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.*

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer shall be entitled to issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) *For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of*

*the dealer, salesman, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.*

*(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales agreement signed by the seller and buyer.*

*(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.*

*(12) For a buyer's agent acting directly or through a subsidiary to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.*

*(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW.*

*(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:*

*(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;*

*(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory*

*possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.*

*(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;*

*(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;*

*(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;*

*(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.*

*Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.*

*(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.*

*\*Sec. 6 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 7. The department of licensing, in consultation with interested parties, shall develop and provide to the legislative transportation committee by December 1, 1996, recommendations on changes to comments and brands on vehicle certificates of ownership and registration. The recommendations shall address, but are not limited to, whether references to rebuilt, former taxi, former for hire, former rental, and former government vehicles should be portrayed as comments or title brands, and how the "nonstandard" brand can be replaced with a brand or brands that provide more specific information.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 29, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 6, Substitute Senate Bill No. 6173 entitled:

"AN ACT Relating to motor vehicle dealers;"

Substitute Senate Bill No. 6173 makes a number of changes affecting motor vehicle dealers.

Section 6 of Substitute Senate Bill No. 6173 allows a vehicle dealer, in certain circumstances, to charge expenses or fees to purchasers of used cars previously taken as a trade-in or of new cars in which financing is arranged by the dealer. These costs should not be passed on to the consumer separate from the agreed price of the car but rather should simply be treated as another cost of doing business that dealers must consider when determining a price.

For this reason, I have vetoed section 6 of Substitute Senate Bill No. 6173.

With the exception of section 6, Substitute Senate Bill No. 6173 is approved."

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**CHAPTER 283**

[Engrossed Substitute Senate Bill 6251]

**OPERATING BUDGET—SUPPLEMENTAL, 1995-1997**

AN ACT Relating to fiscal matters; amending RCW 43.08.250, 70.95.520, and 86.26.007; amending 1995 2nd sp.s. c 18 ss 101, 102, 103, 106, 110, 111, 112, 113, 114, 115, 117, 118, 121, 122, 119, 120, 124, 125, 126, 127, 128, 130, 134, 135, 137, 138, 139, 143, 149, 152, 201, 202, 203, 204, 205, 206, 207, 208, 209, 211, 212, 215, 216, 218, 219, 221, 222, 223, 225, 226, 303, 304, 307, 309, 310, 312, 401, 402, 501, 502, 503, 504, 506, 508, 509, 510, 511, 513, 514, 515, 516, 518, 519, 520, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 614, 615, 616, 617, 618, 619, 701, 702, 703, 704, 705, 711, 713, 714, 718, 801, 802, 803, and 805 (uncodified); adding new sections to 1995 2nd sp.s. c 18 (uncodified); making appropriations; and declaring an emergency.

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

**PART 1**

**GENERAL GOVERNMENT**

**Sec. 101.** 1995 2nd sp.s. c 18 s 101 (uncodified) is amended to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund Appropriation (FY 1996) . . . . . \$ 23,862,000

General Fund Appropriation (FY 1997) . . . . .	\$	23,685,000
<u>Water Quality Account Appropriation . . . . .</u>	<u>\$</u>	<u>15,000</u>
TOTAL APPROPRIATION . . . . .	\$	((47,547,000))
		<u>47,562,000</u>

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

(1) \$125,000 of the appropriation in this section is for the joint legislative ethics board.

(2) The legislature shall establish a medical assistance fiscal study group to analyze health care costs and utilization to seek solutions to the rapid increases in medical assistance expenditures.

(3) The legislature shall study the process and information used to determine eligibility for the general assistance-unemployable program administered by the department of social and health services economic services administration. The legislature shall: (a) Seek assistance from medical professionals with experience in assessing physical and mental disabilities; (b) explore options to provide designated training or support services for general assistance-unemployable recipients to enable them to become employable; and (c) propose program changes to meet the funding levels provided in the 1995-97 biennial budget. Findings and proposed program changes shall be reported to the fiscal committees of the legislature no later than December 20, 1995.

(4)(a) The respective fiscal committees of the house of representatives and the senate shall evaluate the fiscal notes used by the legislature to inform it of the costs and savings estimated to result from proposed legislation. The evaluation shall identify: (i) Whether the process for developing fiscal notes has adequate controls to ensure that the data and methodologies used are current and reliable, and (ii) how the accuracy, reliability and timeliness of fiscal notes can be improved.

(b) The study shall include: (i) A review of fiscal notes on legislation pertaining to a variety of state programs; (ii) a survey of fiscal note requirements, systems, and agencies in other states; (iii) an analysis of methods used in the public and private sectors that could be used to improve the reliability and accuracy and timeliness of fiscal notes; (iv) identification of statutes, policies, and rules that should be changed to improve the reliability and accuracy of fiscal notes; (v) recommendations on when fiscal notes should be required; (vi) recommendations on the appropriate assignment of responsibility for the development of fiscal notes; and (vii) recommendations on how the process for developing fiscal notes can be changed to reduce the time it takes to produce a reliable and accurate fiscal note.

(5) Within the funds provided in this section, the legislature shall review and identify state programs or services that may be competitively contracted to produce cost savings or improvements in the quality or level of services without harm to the public good. The review will include an evaluation of results obtained in other states that have competitively contracted for these and other

programs or services. The review may include specific information regarding the feasibility of privatizing the construction and operation of correctional institutions and juvenile rehabilitation facilities. A preliminary report shall be completed by January 1, 1996, and a final report by January 1, 1997.

(6) The entire water quality account appropriation is provided for a study of lake health issues as provided in Engrossed Substitute Senate Bill No. 6666. If the bill is not enacted by June 30, 1996, the appropriation shall lapse.

Sec. 102. 1995 2nd sp.s. c 18 s 102 (uncodified) is amended to read as follows:

**FOR THE SENATE**

General Fund Appropriation (FY 1996) . . . . .	\$	17,397,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((19,198,000))</del>
		<u>19,298,000</u>
<u>Water Quality Account Appropriation</u> . . . . .	\$	<u>15,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((36,595,000))</del>
		<u>36,710,000</u>

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

(1) \$125,000 of the appropriation in this section is for the joint legislative ethics board.

(2) The legislature shall establish a medical assistance fiscal study group to analyze health care costs and utilization to seek solutions to the rapid increases in medical assistance expenditures.

(3) The legislature shall study the process and information used to determine eligibility for the general assistance-unemployable program administered by the department of social and health services economic services administration. The legislature shall: (a) Seek assistance from medical professionals with experience in assessing physical and mental disabilities; (b) explore options to provide designated training or support services for general assistance-unemployable recipients to enable them to become employable; and (c) propose program changes to meet the funding levels provided in the 1995-97 biennial budget. Findings and proposed program changes shall be reported to the fiscal committees of the legislature no later than December 20, 1995.

(4)(a) The respective fiscal committees of the house of representatives and the senate shall evaluate the fiscal notes used by the legislature to inform it of the costs and savings estimated to result from proposed legislation. The evaluation shall identify: (i) Whether the process for developing fiscal notes has adequate controls to ensure that the data and methodologies used are current and reliable, and (ii) how the accuracy, reliability and timeliness of fiscal notes can be improved.

(b) The study shall include: (i) A review of fiscal notes on legislation pertaining to a variety of state programs; (ii) a survey of fiscal note requirements, systems, and agencies in other states; (iii) an analysis of methods used in the



public and private sectors that could be used to improve the reliability and accuracy and timeliness of fiscal notes; (iv) identification of statutes, policies, and rules that should be changed to improve the reliability and accuracy of fiscal notes; (v) recommendations on when fiscal notes should be required; (vi) recommendations on the appropriate assignment of responsibility for the development of fiscal notes; and (vii) recommendations on how the process for developing fiscal notes can be changed to reduce the time it takes to produce a reliable and accurate fiscal note.

(5) Within the funds provided in this section, the legislature shall review and identify state programs or services that may be competitively contracted to produce cost savings or improvements in the quality or level of services without harm to the public good. The review will include an evaluation of results obtained in other states that have competitively contracted for these and other programs or services. The review may include specific information regarding the feasibility of privatizing the construction and operation of correctional institutions and juvenile rehabilitation facilities. A preliminary report shall be completed by January 1, 1996, and a final report by January 1, 1997.

(6) The entire water quality account appropriation is provided for a study of lake health issues as provided in Engrossed Substitute Senate Bill No. 6666. If the bill is not enacted by June 30, 1996, the appropriation shall lapse.

**Sec. 103.** 1995 2nd sp.s. c 18 s 103 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE BUDGET COMMITTEE**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((1,557,000))</del>
		<u>1,567,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((1,268,000))</del>
		<u>1,361,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((2,825,000))</del>
		<u>2,928,000</u>

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

(1) \$288,000 is provided solely for the legislative budget committee to conduct a performance audit of the office of the superintendent of public instruction and report its finding to the appropriate committees of the legislature by December 31, 1995. In addition to the standard items reviewed in a performance audit, the committee is directed to provide the following: (a) A determination of methods to maximize the amount of federal funds received by the state; (b) the identification of potential cost savings from any office programs which could be eliminated or transferred to the private sector; (c) an analysis of gaps and overlaps in office programs; and (d) an evaluation of the efficiency with which the office of the superintendent of public instruction operates the programs under its jurisdiction and fulfills the duties assigned to it by law. In conducting the performance audit, the legislative budget committee is also

directed to use performance measures or standards used by other states or other large education organizations in developing its findings.

(2) The general fund appropriation contains sufficient funds for the legislative budget committee to perform the study required in Second Substitute Senate Bill No. 5574 regarding the transfer of forest board lands to the counties. The study shall include a review of transferred timber cutting rights on forest board land. A recommendation shall be included which addresses the use of funds from the forest development account to repurchase such cutting rights.

(3) The legislative budget committee shall study staffing models and staff deployment at the juvenile rehabilitation facilities operated by the department of social and health services at Maple Lane, Green Hill, and Echo Glen. The study shall include: (i) A comparison of current staffing levels between each institution by type of living unit; (ii) staffing levels contemplated for new living units slated for occupancy in the 1997-99 biennium; (iii) analysis of the staffing level drivers, including programming, facilities design, and security requirements; (iv) a methodology for estimating the costs or savings associated with changes to institutional populations, with recommendations concerning the appropriate use of average and marginal costs; and (v) the costs and benefits of decommissioning older living units as new living units come on line. The findings shall be reported to the appropriate committees of the legislature by December 20, 1996.

(4) The legislative budget committee shall study the extent and uses of supplemental salaries for K-12 certificated staff. In conducting the study, the committee shall consult with the legislative evaluation and accountability project committee and the superintendent of public instruction. Included in the information to be provided shall be analysis of the extent to which supplemental salaries are provided for training consistent with the skills needed once the state's performance assessment system is operational. The findings shall be reported to the education and fiscal committees of the legislature by December 20, 1996.

(5) The legislative budget committee shall provide a follow-up report to the study done by the legislative evaluation and accountability program (LEAP) in 1995 on vocational education funding. In preparing the report, the committee shall consult with LEAP. Among the issues analyzed shall be changes of expenditure patterns in vocational education since the 1995 study and development of a funding formula that identifies more discrete funding elements than the current apportionment formula. The findings shall be reported to the education and fiscal committees of the legislature by December 20, 1996.

(6) \$10,000 is provided for a study to determine if a category for rear engine transit-style school buses should be added to the competitive price quote process under RCW 28A.160.195. The study shall compare identically equipped front engine and rear engine transit-style school buses of the same model year and the same capacity to determine if there is a definitive advantage in either type of bus in performance for transporting students to and from school and if there are documented savings in operating costs. The study shall include information from other states and national data regarding the use of front engine and rear engine

transit-style school buses. The study shall also include information from private contractors' fleets as well as publicly owned and operated fleets. In addition, the study shall identify the cost differences, as provided by the manufacturer of the school buses, of identically equipped front engine and rear engine transit-style school buses of the same capacity. The study shall be submitted to the fiscal committees of the legislature and the superintendent of public instruction by August 1, 1996.

(7) The legislative budget committee shall conduct a survey of the use, in the state's public schools, of school nurses and other health workers and the sources of funding therefor. The survey shall be conducted during the 1996-97 school year and shall be reported to the appropriate committees of the legislature by December 1, 1997.

(8) \$48,000 of the general fund appropriation is provided solely for a performance audit by the legislative budget committee of the effectiveness of the job opportunities and basic skills (JOBS) training program. The audit will examine program costs, effectiveness, and outcomes since 1994. The committee may execute an interagency agreement with the Washington state institute for public policy for an analysis of the costs, effectiveness, and outcomes of JOBS programs in other states. Administrative data necessary for the audit shall be provided by the department of social and health services, the employment security department, the state board for community and technical colleges, local government providers, and private contractors. The department of social and health services shall require contractors to provide administrative and outcome data needed for this audit. Additional data may be collected directly from clients if not available from administrative records. The report will be submitted to the appropriate committees of the legislature by December 31, 1996.

Sec. 104. 1995 2nd sp.s. c 18 s 106 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE STATE ACTUARY**

Department of Retirement Systems Expense Account

Appropriation . . . . . \$ 1,573,000

The appropriation in this section is subject to the following conditions and limitations: Funding is provided in this section to study options for expanding state and school district retiree access to health benefits purchased through the health care authority and the fiscal impacts of each option. The state actuary shall conduct this study in conjunction with the office of financial management, the health care authority, and the fiscal committees of the legislature.

Sec. 105. 1995 2nd sp.s. c 18 s 110 (uncodified) is amended to read as follows:

**FOR THE SUPREME COURT**

General Fund Appropriation (FY 1996) . . . . . \$ 4,419,000  
General Fund Appropriation (FY 1997) . . . . . \$ ~~(4,456,000)~~  
4,536,000

TOTAL APPROPRIATION . . . . . \$ ~~((8,875,000))~~  
8,955,000

**Sec. 106.** 1995 2nd sp.s. c 18 s 111 (uncodified) is amended to read as follows:

**FOR THE LAW LIBRARY**

General Fund Appropriation (FY 1996) . . . . . \$ 1,607,000  
 General Fund Appropriation (FY 1997) . . . . . \$ ~~((1,608,000))~~  
1,597,000  
 TOTAL APPROPRIATION . . . . . \$ ~~((3,215,000))~~  
3,204,000

**Sec. 107.** 1995 2nd sp.s. c 18 s 112 (uncodified) is amended to read as follows:

**FOR THE COURT OF APPEALS**

General Fund Appropriation (FY 1996) . . . . . \$ ~~((8,834,000))~~  
9,000,000  
 General Fund Appropriation (FY 1997) . . . . . \$ ~~((8,834,000))~~  
9,550,000  
 TOTAL APPROPRIATION . . . . . \$ ~~((17,668,000))~~  
18,550,000

**Sec. 108.** 1995 2nd sp.s. c 18 s 113 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation (FY 1996) . . . . . \$ ~~((595,000))~~  
755,000  
 General Fund Appropriation (FY 1997) . . . . . \$ ~~((606,000))~~  
646,000  
 TOTAL APPROPRIATION . . . . . \$ ~~((1,201,000))~~  
1,401,000

**\*Sec. 109.** 1995 2nd sp.s. c 18 s 114 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation (FY 1996) . . . . . \$ 11,658,000  
 General Fund Appropriation (FY 1997) . . . . . \$ ~~((11,728,000))~~  
11,832,000  
 Public Safety and Education Account  
 Appropriation . . . . . \$ ~~((41,403,000))~~  
36,605,000

Violence Reduction and Drug Enforcement Account

Appropriation . . . . . \$ 35,000  
 Judicial Information Systems Account  
 Appropriation . . . . . \$ ~~((6,446,000))~~  
13,074,000  
 TOTAL APPROPRIATION . . . . . \$ ~~((71,235,000))~~

73,204,000

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

(1) Funding provided in the judicial information systems account shall be used to fund computer systems for the supreme court, the court of appeals, and the office of the administrator for the courts. Expanding services to the courts, technology improvements, and criminal justice proposals shall receive priority consideration for the use of these funds.

(2) \$63,000 of the general fund appropriation is provided solely to implement Second Substitute Senate Bill No. 5235 (judgeship for Clark county). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$6,510,000 of the public safety and education account appropriation is provided solely for the continuation of treatment alternatives to street crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

~~(4) (\$9,326,000 of the public safety and education account is provided solely for the indigent appeals program.)~~ \$69,000 of the general fund appropriation is provided solely to implement Senate Bill No. 6151 (judgeship for Thurston county). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(5) \$35,000 of the general fund appropriation is provided solely to implement Senate Bill No. 6495 (judgeships for Chelan/Douglas counties). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

~~((5))~~ (6) \$26,000 of the public safety and education account and ~~\$(110,000))~~ 1,385,000 of the judicial information systems account are to implement Engrossed Substitute Senate Bill No. 5219 (domestic violence). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

~~((6))~~ (7) \$138,000 of the public safety and education account is provided solely for Thurston county impact costs.

~~((7))~~ (8) \$223,000 of the public safety and education account is provided solely for the gender and justice commission.

~~((8))~~ (9) \$308,000 of the public safety and education account appropriation is provided solely for the minority and justice commission.

~~((9))~~ (10) No moneys appropriated in this section may be expended by the administrator for the courts for payments in excess of fifty percent of the employer contribution on behalf of superior court judges for insurance and health care plans and federal social security and medicare and medical aid benefits. Consistent with Article IV, section 13 of the state Constitution and 1996 Attorney General's Opinion No. 2, it is the intent of the legislature that the cost of these employer contributions shall be shared equally between the state and the county or counties in which the judges serve. The administrator for the courts

shall establish procedures for the collection and disbursement of these employer contributions.

(11) \$35,000 of the violence reduction and drug enforcement account appropriation is provided solely to contract with the Washington state institute for public policy to collect data and information from jurisdictions within the state of Washington and outside the state of Washington, including other nations, that have experience with developing protocols and training standards for investigating child sexual abuse. The Washington state institute for public policy shall report to the legislature on the results of this study no later than December 1, 1996.

\*Sec. 109 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 110. A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE OFFICE OF PUBLIC DEFENSE**

Public Safety and Education Account

Appropriation (FY 1997) . . . . . \$ 5,805,000

The appropriation in this section is subject to the following conditions and limitations: If Substitute Senate Bill No. 6189 is not enacted by June 30, 1996, the appropriation in this section shall be made to the administrator for the courts.

Sec. 111. 1995 2nd sp.s. c 18 s 115 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund—State Appropriation (FY 1996) . . . . .	\$	2,899,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((2,898,000))</del>
		<u>4,238,000</u>
<u>General Fund—Federal Appropriation . . . . .</u>	<u>\$</u>	<u>225,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((5,797,000))</del>
		<u>7,362,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$1,340,000 of the general fund—state appropriation and \$225,000 of the general fund—federal appropriation are provided solely for hiring the chair and staff of the Puget Sound action team and for other administrative expenses necessary to implement Engrossed Substitute House Bill No. 2875. If the bill is not enacted by June 30, 1996, the governor shall: Coordinate state agency plan implementation activities and technical assistance to local governments, businesses, and others in implementing plan elements; encourage citizen involvement in plan implementation; coordinate the Puget Sound ambient monitoring program and research on Puget Sound; and perform other activities related to the Puget Sound water quality management plan pursuant to RCW 90.70.902.

\*NEW SECTION. Sec. 112. A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**OFFICE OF THE GOVERNOR—CHILDREN AND FAMILY SERVICES.** (1) There is hereby appropriated to the office of the governor for the purposes of conducting a management improvement project for the children and family services division of the department of social and health services and establishing within the governor's office a state family and children's ombudsman the sum of one million five hundred eighteen thousand dollars, or so much thereof as may be necessary, from the general fund—state for the fiscal year ending June 30, 1997. *Of this amount, \$1,100,000 is provided solely for allocation to the public policy institute at The Evergreen State College to direct the management improvement project for the division of children and family services. The public policy institute shall execute a contract with an objective, impartial expert in the field of organizational structure and process improvement to examine the structure and processes of the children and family services division. Activities performed pursuant to the contract must include, but are not limited to, study and development of the division's mission, goals, strategic plan, and performance-based outcome measures. The process used in examining the division shall include managers, supervisors, and front-line workers employed by the division and clients of the division. The contract shall be completed by December 1, 1996, and the results reported to the appropriate standing committees of the legislature by January 1, 1997.*

(2) *An oversight group is created for the management improvement project. The members of the oversight group shall be the attorney general, the chief of the state patrol, the family and children's ombudsman established under this section, and one person appointed by the governor. The oversight group shall provide assistance and direction to the staff and contractor involved in the management improvement project and shall be responsible for reporting results and recommendations from the project to the appropriate committees of the legislature. The group shall commence activities on May 1, 1996, and shall cease to exist on July 1, 1997.*

(3) A legislative advisory committee is created to provide technical assistance and public input to the oversight group for the management improvement project. The committee shall consist of three members of the senate appointed by the president of the senate and three members of the house of representatives appointed by the speaker of the house. Not more than two members from each house shall be from the same political party.

(4) *\$418,000 of the amount appropriated in this section is provided solely for the office of the family and children's ombudsman within the governor's office. The ombudsman shall report directly to the governor and shall exercise his or her powers and duties independently of the department of social and health services. The governor shall appoint the ombudsman, subject to confirmation by the senate. The staff of the office of constituent relations in the children and family services division of the department of social and health services are transferred to the office of the ombudsman to execute the duties of the ombudsman as provided in this section. The ombudsman shall perform*

*the following duties in connection with the management improvement project and oversight group established in this section:*

*(a) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, and on the procedures for providing these services;*

*(b) Investigate, upon the ombudsman's own initiative or upon receipt of a complaint, an administrative act alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds. However, the ombudsman may decline to investigate any complaint as provided by rules adopted by the ombudsman;*

*(c) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in delivering family and children's services with a view toward appropriate preservation of families and ensuring the health and safety of children;*

*(d) Review the facilities and procedures of state institutions and state-licensed facilities or residences serving children;*

*(e) Review reports relating to the unexpected deaths of minors in the care of the department receiving family and children's services and make recommendations as appropriate; and*

*(f) Recommend changes in the procedures for addressing the needs of families and children.*

(5) The department of social and health services, child-placing agencies, and providers of children and family services shall do all of the following:

(a) Upon the ombudsman's request, grant the ombudsman or the ombudsman's designee lawful access to all relevant information, records, and documents in the possession of the department or child-placing agency that the ombudsman considers necessary in an investigation;

(b) Assist the ombudsman to obtain the necessary releases of those confidential records and documents that by law require a release to authorize access by the ombudsman;

(c) Upon deciding not to act on a finding or recommendation made by the ombudsman, provide the ombudsman with a written statement setting forth the reason or reasons for the decision; and

(d) Provide the ombudsman upon request with progress reports concerning administrative processing of a complaint.

(6) The office shall have access, on a confidential basis, to juvenile justice records under chapter 13.50 RCW.

(7) The ombudsman shall have the following rights and powers:

(a) To copy and subpoena records held by the department of social and health services, except as prohibited by law; and

(b) To request legal assistance, including appointment of special counsel through the office of the attorney general.



(8) Subsections (4), (5), (6), and (7) of this section shall be inoperative to the extent that they conflict with the provisions of Second Substitute House Bill No. 2856.

\*Sec. 112 was partially vetoed. See message at end of chapter.

See. 113. 1995 2nd sp.s. c 18 s 117 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((1,107,000))</del>
		<u>1,125,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((1,045,000))</del>
		<u>1,051,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	725
TOTAL APPROPRIATION . . . . .	\$	<del>((2,152,725))</del>
		<u>2,176,725</u>

Sec. 114. 1995 2nd sp.s. c 18 s 118 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((9,175,000))</del>
		<u>10,857,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((5,924,000))</del>
		<u>5,992,000</u>
Archives and Records Management Account		
Appropriation . . . . .	\$	<del>((4,330,000))</del>
		<u>5,215,000</u>
Department of Personnel Service Account		
Appropriation . . . . .	\$	647,000
TOTAL APPROPRIATION . . . . .	\$	<del>((20,076,000))</del>
		<u>22,711,000</u>

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

(1) ~~\$(3,859,975))~~ 5,559,975 of the general fund appropriation 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) ~~\$(5,183,762))~~ 5,233,762 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

(3) \$140,000 of the general fund appropriation is provided solely for the state's participation in the United States census block boundary suggestion program.

(4) ~~((The general fund appropriation for fiscal year 1996 shall be reduced by \$726,000 if Engrossed Senate Bill No. 5852 (presidential preference primary)~~

~~is enacted by March 15, 1996.) \$1,440,000 of the archives and records management account appropriation is provided solely for records services to local governments under Senate Bill No. 6718 and shall be paid solely out of revenue collected under that bill. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.~~

(5) \$10,000 of the archives and records management account appropriation is provided solely for the purposes of Substitute House Bill No. 1497 (preservation of electronic public records)(~~(7)~~).

Sec. 115. 1995 2nd sp.s. c 18 s 121 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER**

State Treasurer's Service Account

Appropriation . . . . .	\$	<del>((10,454,000))</del>
		<u>10,654,000</u>

Sec. 116. 1995 2nd sp.s. c 18 s 122 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((12,000))</del>
		<u>78,000</u>

General Fund Appropriation (FY 1997) . . . . .	\$	<del>((10,000))</del>
		<u>430,000</u>

~~((Municipal Revolving Account~~

<del>Appropriation . . . . .</del>	<del>\$</del>	<del>24,886,000))</del>
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Auditing Services Revolving Account

Appropriation . . . . .	\$	11,814,000
TOTAL APPROPRIATION . . . . .	\$	<del>((36,722,000))</del>
		<u>12,322,000</u>

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) The state auditor, in consultation with the legislative budget committee, shall conduct a performance audit of the state investment board. In conducting the audit, the state auditor shall: (a) Establish and publish a schedule of the performance audit and shall solicit public comments relative to the operations of the state investment board at least three months prior to conducting the scheduled performance audit; (b) under the provisions of chapter 39.29 RCW, obtain and utilize a private firm to conduct the audit. The firm selected shall utilize professional staff possessing the education, training, and practical experience in auditing private and governmental entities responsible for the investment of funds necessary to capably conduct the audit required by this subsection. The firm

selected for the audit shall determine the extent to which the state investment board is operating consistently with the performance audit measures developed by the state auditor, acting together with the board, the legislative budget committee, the office of financial management, the state treasurer, and other state agencies, as appropriate. The audit measures shall incorporate appropriate institutional investment industry criteria for measuring management practices and operations. The firm shall recommend in its report any actions deemed appropriate that the board can take to operate more consistently with such measures. The cost of the performance audit conducted shall be paid by the board from nonappropriated investment earnings.

(3) \$486,000 of the general fund appropriation is provided solely for staff and related costs to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring attention of the state safety net committee. The auditor shall consult with the superintendent of public instruction regarding training and other staffing assistance needed to provide expertise to the audit staff.

Sec. 117. 1995 2nd sp.s. c 18 s 119 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((151,000))</del>
		<u>168,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((152,000))</del>
		<u>169,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((303,000))</del>
		<u>337,000</u>

Sec. 118. 1995 2nd sp.s. c 18 s 120 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((173,000))</del>
		<u>180,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((173,000))</del>
		<u>181,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((346,000))</del>
		<u>361,000</u>

Sec. 119. 1995 2nd sp.s. c 18 s 124 (uncodified) is amended to read as follows:

**FOR THE ATTORNEY GENERAL**

General Fund—State Appropriation (FY 1996) . . . . .	\$	3,228,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((3,225,000))</del>
		<u>3,275,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,624,000
Public Safety and Education Account		
Appropriation . . . . .	\$	1,250,000

State Investment Board Expense Account		
Appropriation . . . . .	\$	4,000,000
New Motor Vehicle Arbitration Account		
Appropriation . . . . .	\$	1,782,000
Legal Services Revolving Account		
Appropriation . . . . .	\$	113,972,000
Health Services Account Appropriation . . . . .	\$	300,000
TOTAL APPROPRIATION . . . . .	\$	((129,381,000))
		<u>129,431,000</u>

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) The attorney general shall include, at a minimum, the following information with each bill sent to agencies receiving legal services: (a) The number of hours and cost of attorney services provided during the billing period; (b) cost of support staff services provided during the billing period; (c) attorney general overhead and central support costs charged to the agency for the billing period; (d) direct legal costs, such as filing and docket fees, charged to the agency for the billing period; and (e) other costs charged to the agency for the billing period. The attorney general may, with approval of the office of financial management change its billing system to meet the needs of its user agencies.

(3) \$4,000,000 from the state investment board expense account appropriation is provided solely for attorney general costs and related expenses in aggressively pursuing litigation related to real estate investments on behalf of the state investment board. To the maximum extent possible, attorney general staff shall be used in pursuing this litigation.

(4) \$50,000 of the general fund—state appropriation is provided to retain a facilitator to assist the department of natural resources, as trustee, and the state’s four-year institutions of higher education, as trust beneficiaries, to develop factual issues relating to habitat conservation plans on public lands.

Sec. 120. 1995 2nd sp.s. c 18 s 125 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS**

**Securities Regulation Account**

Appropriation . . . . .	\$	4,515,000
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The director of financial institutions is authorized to increase fees charged to credit unions and other persons subject to regulation of the department of financial institutions under chapters 31.12, 31.12A, and 31.13 RCW in order to cover the costs of the operation of the department’s division of credit unions and

to establish a reasonable reserve for the division. Pursuant to RCW 43.135.055, the director is authorized to increase fees in excess of the fiscal growth factor during the 1995-97 fiscal biennium. The fees shall be set by the director so that the projected revenue to the department's dedicated nonappropriated credit unions examination fund in fiscal year 1997 does not exceed \$1,120,500, plus a one-time special assessment of \$184,000.

\*Sec. 121. 1995 2nd sp.s. c 18 s 126 (uncodified) is amended to read as follows:

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

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((48,627,000))</del> 49,164,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((47,328,000))</del> 55,149,000
General Fund—Federal Appropriation . . . . .	\$	<del>((147,991,000))</del> 149,005,000
General Fund—Private/Local Appropriation . . . . .	\$	<del>((1,676,000))</del> 4,290,000
Public Safety and Education Account		
Appropriation . . . . .	\$	8,764,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	<del>((2,006,000))</del> 2,206,000
Washington Marketplace Program Account		
Appropriation . . . . .	\$	150,000
Public Works Assistance Account		
Appropriation . . . . .	\$	<del>((1,068,000))</del> 1,166,000
Building Code Council Account		
Appropriation . . . . .	\$	1,289,000
Administrative Contingency Account		
Appropriation . . . . .	\$	1,776,000
Low-Income Weatherization Assistance Account		
Appropriation . . . . .	\$	923,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	6,027,000
Manufactured Home Installation Training Account		
Appropriation . . . . .	\$	<del>((150,000))</del> 250,000
Washington Housing Trust Account		
Appropriation . . . . .	\$	<del>((4,686,000))</del> 7,986,000
Public Facility Construction Revolving Account		
Appropriation . . . . .	\$	238,000

Solid Waste Management Account Appropriation . . . .	\$	700,000
<u>Vehicle Tire Recycling Account Appropriation . . . . .</u>	<u>\$</u>	<u>499,000</u>
Growth Management Planning and Environmental		
Review Fund Appropriation . . . . .	\$	3,000,000
TOTAL APPROPRIATION . . . . .	\$	((276,399,000))
		<u>293,582,000</u>

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

(1) \$6,065,000 of the general fund—state appropriation is provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1993-95 biennium.

(2) \$538,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 1724 (growth management).

(3) ~~((In order))~~ \$1,000,000 of the general fund—state appropriation is provided to offset reductions in federal community services block grant funding for community action agencies~~((;))~~. The department shall set aside (((\$4,800,000)) \$3,800,000 of federal community development block grant funds for distribution to local governments to allocate to community action agencies state-wide.

(4) \$8,915,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1996 as follows:

- (a) \$3,603,250 to local units of government to continue multijurisdictional drug task forces;
- (b) \$934,000 to the Washington state patrol for coordination, technical assistance, and investigative and supervisory staff support for multijurisdictional narcotics task forces;
- (c) \$456,000 to the department to continue the state-wide drug prosecution assistance program;
- (d) \$93,000 to the department to continue a substance-abuse treatment in jails program, to test the effect of treatment on future criminal behavior;
- (e) \$744,000 to the department to continue the youth violence prevention and intervention projects;
- (f) \$240,000 to the department for grants to support tribal law enforcement needs;
- (g) \$495,000 is provided to the Washington state patrol for a state-wide integrated narcotics system;
- (h) \$538,000 to the department for grant administration and program evaluation, monitoring, and reporting, pursuant to federal requirements;
- (i) \$51,000 to the Washington state patrol for data collection;

(j) \$445,750 to the office of financial management for the criminal history records improvement program;

(k) \$42,000 to the department to support local services to victims of domestic violence;

(l) \$300,000 to the department of community, trade, and economic development for domestic violence legal advocacy;

(m) \$300,000 to the department of community, trade, and economic development for grants to provide a defender training program; and

(n) \$673,000 to the department of corrections for the expansion of correctional industries projects that place inmates in a realistic working and training environment.

(5) \$8,699,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1997 as follows:

(a) \$3,600,000 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$934,000 to the Washington state patrol for coordination, technical assistance, and investigative and supervisory support staff for multijurisdictional narcotics task forces;

(c) \$500,000 to the department to continue the state-wide drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(d) \$450,000 to drug courts in eastern and western Washington;

(e) \$744,000 to the department to continue the youth violence prevention and intervention projects;

(f) \$93,000 to the department to continue a substance-abuse treatment in jails program to test the effect of treatment on future criminal behavior;

(g) \$42,000 to the department to provide training to local law enforcement officers, prosecutors, and domestic violence experts on domestic violence laws and procedures;

(h) \$300,000 to the department to support local services to victims of domestic violence;

(i) \$240,000 to the department for grants to support tribal law enforcement needs;

(j) \$300,000 to the department for grants to provide juvenile sentencing alternative training programs to defenders;

(k) \$560,000 to the department for grant administration, evaluation, monitoring, and reporting on Byrne grant programs, and the governor's council on substance abuse;

(l) \$435,000 to the office of financial management for the criminal history records improvement program;

(m) \$51,000 to the Washington state patrol for data collection; and

(n) \$450,000 to the department of corrections for the expansion of correctional industries projects that place inmates in a realistic working and training environment.

If additional funds become available or if any funds remain unexpended for the drug control and system improvement formula grant program under this subsection, up to \$95,000 additional may be used for the operation of the governor's council on substance abuse, including implementation of the recommendations of the legislative budget committee report on drug and alcohol abuse programs.

(6) \$3,960,000 of the public safety and education account appropriation is provided solely for the office of crime victims' advocacy.

~~((6))~~ (7) \$216,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

~~((7))~~ (8) \$200,000 of the general fund—state appropriation is provided solely as a grant for the community connections program in Walla Walla county.

~~((8))~~ (9) \$30,000 of the Washington housing trust account appropriation is provided solely for the department to conduct an assessment of the per square foot cost associated with constructing or rehabilitating buildings financed by the housing trust fund for low-income housing. The department may contract with specially trained teams to conduct this assessment. The department shall report to the legislature by December 31, 1995. The report shall include:

(a) The per square foot cost of each type of housing unit financed by the housing trust fund;

(b) An assessment of the factors that affect the per square foot cost;

(c) Recommendations for reducing the per square foot cost, if possible;

(d) Guidelines for housing costs per person assisted; and

(e) Other relevant information.

~~((9))~~ (10) \$350,000 of the general fund—state appropriation is provided solely for the retired senior volunteer program.

~~((10))~~ (11) \$300,000 of the general fund—state appropriation is provided solely to implement House Bill No. 1687 (court-appointed special advocates). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

~~((11))~~ (12) \$50,000 of the general fund—state appropriation is provided solely for the purpose of a feasibility study of the infrastructure, logistical, and informational needs for the region involving Washington, Oregon, and British Columbia to host the summer Olympic Games in the year 2004 or 2008. The feasibility study shall be conducted using the services of a nonprofit corporation currently pursuing and having shown progress toward this purpose. The amount provided in this subsection may be expended only to the extent that it is matched on a dollar-for-dollar basis by funds for the same purpose from nonstate sources.

~~((12))~~ (13) \$100,000 of the general fund—state appropriation is provided solely as a grant to a nonprofit organization for costs associated with development of the Columbia Breaks Fire Interpretive Center.



(14) \$100,000 of the general fund—state appropriation is provided solely for the Pierce county long-term care ombudsman program.

(15) \$60,000 of the general fund—state appropriation is provided solely for the Pacific Northwest economic region.

(16) \$500,000 of the general fund—state appropriation is provided solely for distribution to the city of Burien for analysis of the proposed Port of Seattle third runway including preparation of a draft environmental impact statement and other technical studies. The amount provided in this subsection shall not be expended directly or indirectly for litigation, public relations, or any form of consulting services for the purposes of opposing the construction of the proposed third runway.

(17) Not more than \$458,000 of the general fund—state appropriation may be expended for the operation of the Pacific northwest export assistance project. The department will continue to implement a plan for assessing fees for services provided by the project. It is the intent of the legislature that the revenues raised to defray the expenditures of this program will be increased to fifty percent of the expenditures in fiscal year 1996 and seventy-five percent of the expenditures in fiscal year 1997. Beginning in fiscal year 1998, the legislature intends that this program will be fully self-supporting.

(18) \$4,804,000 of the public safety and education account appropriation is provided solely for contracts with qualified legal aid programs for civil indigent legal representation pursuant to RCW 43.08.260. It is the intent of the legislature to ensure that legal aid programs receiving funds appropriated in this act pursuant to RCW 43.08.260 comply with all applicable restrictions on use of these funds. To this end, during the 1995-97 fiscal biennium the department shall monitor compliance with the authorizing legislation, shall oversee the implementation of this subsection, and shall report directly to the appropriations committee of the house of representatives and the ways and means committee of the senate.

(a) It is the intent of the legislature to improve communications between legal aid programs and persons affected by the activities of legal aid programs. There is established for the 1995-97 fiscal biennium a task force on agricultural interests/legal aid relations. The task force shall promote better understanding and cooperation between agricultural interests and legal aid programs and shall provide a forum for discussion of issues of common concern. The task force shall not involve itself in pending litigation.

(i) The task force shall consist of the following sixteen members: Four representatives of agricultural organizations, to be appointed by the legislator members; two individuals who represent the corresponding interests of legal clients, to be appointed by organizations designated by the three legal services programs; two representatives of Evergreen Legal Services, to be appointed by its board of directors; one representative each from Puget Sound Legal Assistance Foundation and Spokane Legal Services Center, each to be appointed by its directors; one member from each of the majority and minority caucuses of the

house of representatives, to be appointed by the speaker of the house of representatives; one member from each of the majority and minority caucuses of the senate, to be appointed by the president of the senate; and two members of the supreme court-appointed access to justice board, to be appointed by the board. During fiscal year 1996, the task force shall be chaired by a legislative member, to be selected by the task force members. During fiscal year 1997, the committee shall be chaired by a nonlegislator member, to be selected by the task force members.

(ii) All costs associated with the meetings shall be borne by the individual task force members or by the organizations that the individuals represent. No task force member shall be eligible for reimbursement of expenses under RCW 43.03.050 or 43.03.060. Nothing in this subsection prevents the legal aid programs from using funds appropriated in this act to reimburse their representatives or the individuals representing legal clients.

(iii) The task force will meet at least four times during the first year of the biennium and as frequently as necessary thereafter at mutually agreed upon times and locations. Any member of the task force may place items on meeting agendas. Members present at the first two task force meetings shall agree upon a format for subsequent meetings.

(b) The legislature recognizes that farmworkers have the right to receive basic information and to consult with attorneys at farm labor camps without fear of intimidation or retaliation. It is the intent of the legislature and in the interest of the public to ensure the safety of all persons affected by legal aid programs' farm labor camp outreach activities. Legal aid program employees have the legal right to enter the common areas of a labor camp or to request permission of employees to enter their dwellings. Employees living in grower supplied housing have the right to refuse entry to anyone including attorneys unless they have a warrant. Individual employees living in employer supplied housing do not have the right to force legal aid program employees to leave common areas of housing (outside) as long as one person who resides in the associated dwellings wants that person to be there. Any legal aid program employee wishing to visit employees housed on grower property has the right to enter the driveway commonly used by the housing occupants. This means that if agricultural employees must use a grower's personal driveway to get to their housing, legal aid program employees also may use that driveway to access the housing without a warrant so long as at least some of the housing is occupied. When conducting outreach activities that involve entry onto labor camps, legal aid programs shall establish and abide by policies regarding conduct of outreach activities. The policies shall include a requirement that legal aid program employees identify themselves to persons whom they encounter at farm labor camps. The legal aid programs shall provide copies of their current outreach policies to known agricultural organizations and shall provide copies upon request to any owner of property on which farmworkers are housed. Legal aid program employees involved in outreach activities shall attempt to inform operators of licensed farm labor camps or their

agents, and known grower organizations of the approximate time frame for outreach activities and shall cooperate with operators of farm labor camps at which farmworkers are housed in assuring compliance with all pertinent laws and ordinances, including those related to trespass and harassment. Employers who believe that Evergreen Legal Services Outreach Guidelines have been violated shall promptly provide all available information on the alleged violation to the director of Evergreen Legal Services and to the chair of the Task Force on Agricultural Interests/Legal Aid Relations. Evergreen Legal Services will promptly investigate any alleged violations of the outreach guidelines and inform the complaining party of the result. If the resolution of the investigation is not satisfactory to the complainant, the matter shall be placed on the Task Force agenda for discussion at the next scheduled meeting. Employers who believe that Evergreen Legal Services staff members have trespassed should immediately contact local law enforcement authorities.

(c) It is the intent of the legislature to provide the greatest amount of legal services to the largest number of clients by discouraging inefficient use of state funding for indigent legal representation. To this end, it is the intent of the legislature that, prior to the commencement of litigation against any private employer relating to the terms and conditions of employment legal aid programs receiving funds appropriated in this act make good faith written demand for the requested relief, a good faith offer of settlement or an offer to submit to nonbinding arbitration prior to filing a lawsuit, unless the making of the offer is, in the opinion of the director of the legal services program or his/her designee, clearly prejudicial to: (i) The health, safety, or security of the client; or (ii) the timely availability of judicial relief. The director of the legal aid program may designate not more than two persons for purposes of making the determination of prejudice permitted by this section.

(d)(i) The legislature encourages legal aid programs to devote their state and nonstate funding to the basic, daily legal needs of indigent persons. No funds appropriated under this act may be used for legal representation and activities outside the scope of RCW 43.08.260.

(ii) No funds appropriated in this act may be used for lobbying as defined in RCW 43.08.260(3). Legal aid programs receiving funds appropriated in this act shall comply with all restrictions on lobbying contained in Federal Legal Services Corporation Act (P.L. 99-951) and regulations promulgated thereunder.

(e) No funds appropriated in this act may be used by legal aid programs for representation of undocumented aliens.

(f) The legislature recognizes the duty of legal aid programs to preserve inviolate and prevent the disclosure of, in the absence of knowing and voluntary client consent, client information protected by the United States Constitution, the Washington Constitution, the attorney-client privilege, or any applicable attorney rule of professional conduct. However, to the extent permitted by applicable law, legal aid programs receiving funds appropriated in this act shall, upon request, provide information on their activities to the department and to

legislators for purposes of monitoring compliance with authorizing legislation and this subsection.

(g) Nothing in this subsection is intended to limit the authority of existing entities, including but not limited to the Washington state bar association, the public disclosure commission, and the Federal Legal Services Corporation, to resolve complaints or disputes within their jurisdiction.

(19) \$839,000 of the general fund—state appropriation is provided solely for energy-related functions transferred by Fourth Substitute House Bill No. 2009 (state energy office). Of this amount:

(a) \$379,000 is provided solely for expenses related to vacation leave buyout and unemployment payments resulting from the closure of the state energy office;

(b) \$44,000 is provided solely for extended insurance benefits for employees separated as a result of Fourth Substitute House Bill No. 2009. An eligible employee may receive a state subsidy of \$150 per month toward his or her insurance benefits purchased under the federal consolidated omnibus budget reconciliation act (COBRA) for a period not to exceed one year from the date of separation;

(c) \$120,000 is provided solely for costs of closing out the financial reporting systems and contract obligations of the state energy office, and to connect the department's wide area network to workstations in the energy office building; and

(d) \$296,000 is provided to match oil surcharge funding for energy policy and planning staff.

(20) \$2,614,000 of the general fund—private/local appropriation is provided solely to operate the energy facility site evaluation council.

(21) \$1,000,000 of the general fund—state appropriation is provided solely to increase state matching funds for the federal headstart program.

(22) \$2,000,000 of the general fund—federal appropriation is provided solely to develop and operate housing for low-income farmworkers. The housing assistance program shall administer the funds in accordance with chapter 43.185 RCW. The department of community, trade, and economic development shall work in cooperation with the department of health, the department of labor and industries, and the department of social and health services to review proposals and make recommendations to the funding approval board that oversees the distribution of housing assistance program funds. An advisory group representing growers, farmworkers, and other interested parties shall be formed to assist the interagency workgroup.

(23) \$1,865,000 of the general fund—state appropriation is provided solely for the delivery of services to victims of sexual assault as provided for by Substitute House Bill No. 2579 (sexual abuse victims). The department shall establish an interagency agreement with the department of social and health services for the transfer of funds made available under the federal victims of crime act for the purposes of implementing Substitute House Bill No. 2579. If

the bill is not enacted by June 30, 1996, the requirements of this subsection shall be null and void and the amount provided in this subsection shall lapse.

(24) \$1,000,000 of the general fund—state appropriation is provided solely for the tourism development program.

(25) \$180,000 of the general fund—state appropriation is provided solely for the Asian-Pacific economic conference (APEC) national center in Seattle.

(26) \$3,862,000 of the general fund—state appropriation is provided solely to increase the number of children served through the early childhood education and assistance program. These funds shall be used to serve children that are on waiting lists to enroll in the federal headstart program or the state early childhood education and assistance program.

(27) \$25,000 of the general fund—state appropriation is provided solely for a grant to the city of Burien to study the feasibility of purchasing property within the city for park purposes.

(28) \$100,000 of the general fund—state appropriation is provided solely for Washington state dues for the Pacific Northwest economic region (PNWER) and to support the PNWER CATALIST program.

\*Sec. 121 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 122.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

\$1,000,000 is appropriated from the public safety and education account to the department of community, trade, and economic development. The amount in this section is provided solely for a contract with a qualified legal aid program for client-requested indigent civil representation pursuant to RCW 43.08.260(1), at existing legal aid program offices. The amount provided in this section shall not be expended until an alternative dispute resolution agreement is signed by Columbia Legal Services, the Washington Growers' League, and the Northwest Justice Project. The amount provided in this section is subject to all the conditions and limitations of section 126(18), chapter 18, Laws of 1995 2nd sp. sess., as amended. A maximum of \$50,000 of the amount provided in this section may be used for the costs of arbitration and mediation under the alternative dispute resolution agreement referenced in this section.

**Sec. 123.** 1995 2nd sp.s. c 18 s 127 (uncodified) is amended to read as follows:

**FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL**

General Fund Appropriation (FY 1996) . . . . .	\$	((410,000))
		<u>422,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	((410,000))
		<u>561,000</u>
TOTAL APPROPRIATION . . . . .	\$	((820,000))
		<u>983,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$60,000 of the general fund appropriation is provided solely to

implement Substitute House Bill No. 2758 (economic climate council). If the bill is not enacted by June 30, 1996, this amount shall lapse.

Sec. 124. 1995 2nd sp.s. c 18 s 128 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((9,482,000))</del>
		9,282,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((9,138,000))</del>
		9,588,000
General Fund—Federal Appropriation . . . . .	\$	12,432,000
General Fund—Private/Local Appropriation . . . . .	\$	720,000
Health Services Account Appropriation . . . . .	\$	330,000
Public Safety and Education Account		
Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	<del>((32,302,000))</del>
		32,552,000

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

(1) \$300,000 of the general fund—state appropriation is provided solely as the state’s share of funding for the "Americorps" youth employment program.

(2) By December 20, 1996, the office of financial management shall report to the government operations and fiscal committees of the legislature on the implementation of chapter 40.07 RCW, relating to the management and control of state publications. The report shall include recommendations concerning the use of alternative methods of distribution, including electronic publication, of agency reports and other publications and notices.

(3) \$250,000 of the general fund—state appropriation is provided solely for technical assistance to state agencies in the development of performance measurements pursuant to Engrossed Substitute Senate Bill No. 6680. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

Sec. 125. 1995 2nd sp.s. c 18 s 130 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

General Fund—State Appropriation (FY 1996) . . . . .	\$	360,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	360,000
General Fund—Federal Appropriation . . . . .	\$	700,000
Personnel Data Revolving Account Appropriation . . . . .	\$	880,000
Department of Personnel Service Account		
Appropriation . . . . .	\$	15,354,000
Higher Education Personnel Services Account		
Appropriation . . . . .	\$	1,656,000
TOTAL APPROPRIATION . . . . .	\$	19,310,000

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

(1) The department shall reduce its charge for personnel services to the lowest rate possible.

(2) \$32,000 of the department of personnel service fund appropriation is provided solely for the creation, printing, and distribution of the personal benefits statement for state employees.

(3) The general fund—state appropriation, the general fund—federal appropriation, the personnel data revolving account appropriation, and \$300,000 of the department of personnel service account appropriation shall be used solely for the establishment of a state-wide human resource information data system and network within the department of personnel and to improve personnel data integrity. Authority to expend these amounts is conditioned on compliance with section 902 of this act. The personnel data revolving account is hereby created in the state treasury to facilitate the transfer of moneys from dedicated funds and accounts. To allocate the appropriation from the personnel data revolving account among the state's dedicated funds and accounts based on each fund or account's pro rata share of the state salary base, the state treasurer is directed to transfer sufficient money from each fund or account to the personnel data revolving account in accordance with schedules provided by the office of financial management.

(4) The department of personnel shall charge all administrative services costs incurred by the committee for deferred compensation or the department of retirement systems for the deferred compensation program to the deferred compensation administrative account. Department billings to the committee or the department of retirement systems shall be for actual costs only.

(5) The department of personnel service fund appropriation contains sufficient funds to continue the employee exchange program with the Hyogo prefecture in Japan.

(6) \$500,000 of the department of personnel service account appropriation is provided solely for a career transition program to assist state employees who are separated or are at risk of lay-off due to reduction-in-force, including employee retraining and career counseling.

(7) The department of personnel has the authority to charge agencies for expenses resulting from the administration of a benefits contribution plan established by the health care authority. Fundings to cover these expenses shall be realized from agency FICA tax savings associated with the benefits contributions plan.

(8) By December 1, 1996, the department of personnel and the department of social and health services shall jointly report to the legislature on strategies for increasing, within existing funds, supported employment opportunities in state government for persons with developmental and other substantial and chronic disabilities. In developing the report, the departments shall consult with employee representatives, with organizations involved in job training and

placement for persons with severe disabilities, and with other state and local governments that have successfully offered supported employment opportunities for their citizens with disabilities.

Sec. 126. 1995 2nd sp.s. c 18 s 134 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON HISPANIC AFFAIRS**

General Fund Appropriation (FY 1996) . . . . .	\$	((195,000))
		<u>206,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	((195,000))
		<u>199,000</u>
TOTAL APPROPRIATION . . . . .	\$	((390,000))
		<u>405,000</u>

Sec. 127. 1995 2nd sp.s. c 18 s 135 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund Appropriation (FY 1996) . . . . .	\$	((148,000))
		<u>151,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	((146,000))
		<u>150,000</u>
TOTAL APPROPRIATION . . . . .	\$	((294,000))
		<u>301,000</u>

Sec. 128. 1995 2nd sp.s. c 18 s 137 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS**

Department of Retirement Systems Expense Account

Appropriation . . . . .	\$	((30,152,000))
		<u>30,866,000</u>

Dependent Care Administrative Account

Appropriation . . . . .	\$	183,000
TOTAL APPROPRIATION . . . . .	\$	((30,335,000))
		<u>31,049,000</u>

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

(1) \$857,000 of the department of retirement systems expense account appropriation is provided solely for information systems projects known by the following names or successor names: Support of member database, support of audit, and audit of member files. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) \$779,000 of the department of retirement systems expense account appropriation is provided solely for the in-house design development, and implementation of the information systems project known as the disbursement system. Authority to expend this amount is conditioned on compliance with section 902 of this act.



(3) \$1,900,000 of the department of retirement systems expense account appropriation and the entire dependent care administrative account appropriation are provided solely for the implementation of Substitute House Bill No. 1206 (restructuring retirement systems). If the bill is not enacted by June 30, 1995, the amount provided in this subsection from the department of retirement systems expense account shall lapse, and the entire dependent care administrative account appropriation shall be transferred to the committee for deferred compensation.

(4) \$650,000 of the department of retirement systems expense account appropriation is provided solely to provide information and education for members of teachers' retirement system plan II concerning the decision to transfer to plan III. Before expending any of these moneys, the department shall issue a request for proposals for services to be provided under this subsection. The department shall convene an advisory committee that includes the office of financial management and representatives of teachers. The advisory committee shall review the department's request for proposals, responses to the request, and the education and information materials and programs developed by the firm, business or consultant awarded the contract to provide the services. To ensure the impartiality of the information and education materials, no firm, business or consultant awarded a contract to provide an information and education materials or services to teachers' retirement system plan II members shall be eligible to provide self-directed investment options pursuant to RCW 41.34.060.

Sec. 129. 1995 2nd sp.s. c 18 s 138 (uncodified) is amended to read as follows:

**FOR THE STATE INVESTMENT BOARD**

State Investment Board Expense Account

Appropriation . . . . .	\$	<del>(8,068,000)</del>
		8,480,000

The appropriation in this section is subject to the following conditions and limitations: The board shall conduct a feasibility study on the upgrade or replacement of the state-wide investment accounting system and report its findings to the fiscal committees of the legislature by January 1, 1996.

Sec. 130. 1995 2nd sp.s. c 18 s 139 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund Appropriation (FY 1996) . . . . .	\$	62,528,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((63,139,000))</del>
		63,184,000
Timber Tax Distribution Account		
Appropriation . . . . .	\$	4,585,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	95,000
State Toxics Control Account		
Appropriation . . . . .	\$	67,000

Solid Waste Management Account	
Appropriation . . . . .	\$ 88,000
Oil Spill Administration Account	
Appropriation . . . . .	\$ 14,000
Pollution Liability Insurance Program Trust Account	
Appropriation . . . . .	\$ 230,000
TOTAL APPROPRIATION . . . . .	\$ ((130,746,000))
	<u>130,791,000</u>

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

(1) \$4,197,000 of the general fund appropriation is provided solely for senior citizen property tax deferral distribution. \$103,000 of this amount is provided solely to reimburse counties for the expansion of the senior citizen property tax deferral program enacted by Substitute House Bill No. 1673.

(2) \$280,000 of the general fund appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) The general fund appropriation contains sufficient funds for the department of revenue to collect use tax on advertising materials printed outside the state and mailed directly to Washington residents at the direction of an in-state business to promote sales of products or services, pursuant to RCW 82.12.010(5).

(4) \$45,000 of the fiscal year 1997 general fund—state appropriation is provided solely to implement House Bill No. 2708 (warehouse tax study). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

Sec. 131. 1995 2nd sp.s. c 18 s 143 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund—State Appropriation (FY 1996) . . . . .	\$ ((284,000))
	<u>1,117,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$ ((283,000))
	<u>1,950,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((1,304,000))
	<u>1,846,000</u>
General Fund—Private/Local Appropriation . . . . .	\$ 388,000
Motor Transport Account Appropriation . . . . .	\$ 10,814,000
Industrial Insurance Premium Refund Account	
Appropriation . . . . .	\$ ((140,000))
	<u>274,000</u>
Air Pollution Control Account	
Appropriation . . . . .	\$ 111,000

Department of General Administration Facilities and Services Revolving Account	
Appropriation .....	\$ ((21,271,000))
	<u>21,354,000</u>
Central Stores Revolving Account	
Appropriation .....	\$ 3,056,000
Risk Management Account Appropriation .....	\$ 2,033,000
<u>Energy Efficiency Services Account</u>	
Appropriation .....	\$ 90,000
TOTAL APPROPRIATION .....	\$ ((39,684,000))
	<u>43,033,000</u>

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

(1) \$1,776 of the industrial insurance premium refund account appropriation is provided solely for the Washington school directors association.

(2) The cost of purchasing and material control operations may be recovered by the department through charging agencies utilizing these services. The department must begin directly charging agencies utilizing the services on September 1, 1995. Amounts charged may not exceed the cost of purchasing and contract administration. Funds collected may not be used for purposes other than cost recovery and must be separately accounted for within the central stores revolving fund.

(3) \$542,000 of the general fund—federal appropriation and \$90,000 of the energy efficiency services account appropriation are provided solely for implementation of House Bill No. 2009 (state energy office). If the bill is not enacted by June 30, 1996, the amounts specified in this subsection shall lapse.

(4) \$833,000 of the general fund—state fiscal year 1996 appropriation and \$1,667,000 of the general fund—state fiscal year 1997 appropriation are provided solely for the purchase of foods for distribution to the state’s food bank network. The department shall provide an evaluation of the emergency food assistance program to the legislature by February 1, 1997. The evaluation shall identify: (a) The number of people served by the food distributed to the state’s food banks and soup kitchens; (b) ways in which to maximize the amount of food being distributed to low-income individuals in the state through this program; and (c) other methods by which to increase access to nutritionally balanced food by low-income individuals in the state.

(5) \$83,000 of the department of general administration facilities and services revolving account appropriation is provided solely for the staff costs associated with providing garage security.

(6) The director of the department of general administration, in consultation with the office of financial management, shall conduct a study analyzing the benefits of real property leases for state facilities in excess of five years. In conducting the study, the department shall consult with interested constituencies and develop recommendations for: (a) A procedure and criteria for evaluation

of the costs and benefits of long-term leases; (b) a process for approval of long-term leases; and (c) statutory modifications to facilitate these changes. The director of the department of general administration shall report the results of the study to the office of financial management and the legislative fiscal committees by June 30, 1996.

**\*NEW SECTION. Sec. 132.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

***Data Processing Revolving Account***

Appropriation . . . . .	\$	12,000,000
K-20 Technology Account Appropriation . . . . .	\$	27,000,000
State Building Construction Account		
Appropriation . . . . .	\$	15,300,000
TOTAL APPROPRIATION . . . . .	\$	54,300,000

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

(1) The appropriations in this section shall be expended in accordance with Senate Bill No. 6705 (higher education technology plan).

(2) \$27,000,000 is appropriated from the general fund for deposit in the K-20 technology account for the purposes of this section.

*(3) The appropriation from the data processing revolving account appropriation may be expended only after the entire K-20 technology account appropriation has been obligated.*

(4) Expenditures of the funds from the state building construction account appropriation may be made only for capital purposes. Acquisitions made from these funds shall meet the criteria of bondability guidelines published by the office of financial management in the capital budget instruction manual.

(5) If Senate Bill No. 6705 is not enacted by June 30, 1996, the appropriations in this section shall lapse.

\*Sec. 132 was partially vetoed. See message at end of chapter.

**Sec. 133.** 1995 2nd sp.s. c 18 s 149 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

Liquor Revolving Account Appropriation . . . . .	\$	<del>((113,461,000))</del>
		<u>113,604,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$143,000 of the liquor control revolving account appropriation for administrative expenses is provided solely for implementation of House Bill No. 2341 (credit card sales pilot program). If the bill is not enacted by June 30, 1996, this amount shall lapse.

**NEW SECTION. Sec. 134.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE GAMBLING COMMISSION**

General Fund Appropriation (FY 1997) . . . . . \$ 1,000,000

The appropriation in this section is subject to the following conditions and limitations: The gambling commission shall conduct a study of how much state revenue is generated where amusement game devices are used in businesses whose primary activity is to provide food for on-premises consumption as proposed in House Bill No. 2917. The commission shall report its findings to the senate committee on labor, commerce, and trade and the house of representatives committee on commerce and labor by January 1, 1997.

Sec. 135. 1995 2nd sp.s. c 18 s 152 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((7,474,000))</del>
		<u>7,594,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((7,477,000))</del>
		<u>7,597,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((28,293,000))</del>
		<u>129,215,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	237,000
Enhanced 911 Account Appropriation . . . . .	\$	<del>((18,541,000))</del>
		<u>26,781,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	34,000
<u>Flood Control Assistance Account Appropriation . . . . .</u>	<u>\$</u>	<u>23,181,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((62,056,000))</b></del>
		<u><b>194,639,000</b></u>

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

(1) \$205,238 of the total appropriation is provided solely to pay loan obligations on the energy partnership contract number 90-07-01. This obligation includes unpaid installments from September 1993 through June 1997. This amount may be reduced by any payments made in the 1993-95 Biennium on installments made in the 1993-95 Biennium on installments due between September 1993 and June 1995.

(2) \$70,000 of the general fund—state appropriation is provided solely for the north county emergency medical service.

(3) \$23,181,000 of the flood control assistance account appropriation is provided solely for state and local response and recovery cost associated with federal emergency management agency (FEMA) Disaster Number 1079 (November/December 1995 storms), FEMA Disaster 1100, (February 1996 floods), and for prior biennia disaster recovery costs. Of this amount, \$1,078,000 is for prior disasters, \$3,618,000 is for the November/December 1995 storms, and \$18,485,000 is for the February 1996 floods.

**PART II  
HUMAN SERVICES**

**Sec. 201.** 1995 2nd sp.s. c 18 s 201 (uncodified) is amended to read as follows:

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

(1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. 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. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations in sections 202 through 211 of chapter 18, Laws of 1995 2nd sp. sess. as amended, shall be expended for the programs and in the amounts listed in those sections. However, after May 1, 1996, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 1996 among programs after approval by the director of financial management. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviations.

(4) The department shall use up to \$4,987,000 by which general fund—state expenditures are below allotted levels to replace federal social service block grant funds during fiscal year 1996.

**Sec. 202.** 1995 2nd sp.s. c 18 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund—State Appropriation (FY 1996) . . . . .	\$	((144,801,000))
		146,537,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	((151,569,000))

	<u>173,376,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((263,843,000))
	<u>272,379,000</u>
General Fund—Private/Local Appropriation . . . . .	\$ 400,000
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . .	\$ 5,719,000
TOTAL APPROPRIATION . . . . .	\$ ((566,332,000))
	<u>598,411,000</u>

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

(1) \$1,660,000 of the general fund—state appropriation for fiscal year 1996 and \$10,086,000 of the general fund—federal appropriation are provided solely for the modification of the case and management information system (CAMIS). Authority to expend these funds is conditioned on compliance with section 902 of this act.

(2) \$5,524,000 of the general fund—state appropriation is provided solely to implement the division’s responsibilities under Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth). Of this amount:

(a) \$150,000 of the general fund—state appropriation is provided in fiscal year 1996 to develop a plan for children at risk. The department shall work with a variety of service providers and community representatives, including the community public health and safety networks, and shall present the plan to the legislature and the governor by December 1, 1995. The plan shall contain a strategy for the development of an intensive treatment system with outcome-based information on the level of services that are achievable under an annual appropriation of \$5,000,000, \$7,000,000, and \$9,000,000; address the issue of chronic runaways; and determine caseload impacts.

(b) \$219,000 of the general fund—state appropriation is provided in fiscal year 1996 and \$4,678,000 of the general fund—state appropriation is provided in fiscal year 1997 for crisis residential center training and administrative duties and secure crisis residential center contracts.

(c) \$266,000 of the general fund—state appropriation is provided for the multidisciplinary teams and \$211,000 of the general fund—state appropriation is provided in fiscal year 1997 for family reconciliation services.

(d) The state may enter into agreements with the counties to provide residential and treatment services to runaway youth at a rate of reimbursement to be negotiated by the state and county.

(3) \$1,997,000 of the violence reduction and drug enforcement account appropriation and \$8,421,000 of the general fund—federal appropriation are provided solely for the operation of the family policy council, the community public health and safety networks, and delivery of services authorized under the federal family preservation and support act. Of these amounts:

(a) \$1,060,000 of the violence reduction and drug enforcement account appropriation is provided solely for distribution to the community public health and safety networks for planning in fiscal year 1996.

(b) \$937,000 of the violence reduction and drug enforcement account appropriation is provided for staff in the children and family services division of the department of social and health services to support family policy council activities. The family policy council is directed to provide training, design, technical assistance, consultation, and direct service dollars to the networks. Of this amount, \$300,000 is provided for the evaluation activities outlined in RCW 70.190.050, to be conducted exclusively by the Washington state institute for public policy. To the extent that private funds can be raised for the evaluation activities, the state funding may be retained by the department to support the family policy council activities.

(c) \$8,421,000 of the general fund—federal appropriation is provided solely for the delivery of services authorized by the federal family preservation and support act.

(4) \$2,575,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5885 (family preservation services). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse. Of this amount:

(a) \$75,000 is provided in fiscal year 1996 to develop an implementation and evaluation plan for providing intensive family preservation services and family preservation services. The department shall present the plan to the legislature and the governor no later than December 1, 1995. The plan shall contain outcome based information on the level of services that are achievable under an annual appropriation of \$3,000,000, \$5,000,000, and \$7,000,000; and

(b) \$2,500,000 is provided in fiscal year 1997 for additional family preservation services based upon the report.

(5) \$4,646,000 of the general fund—state is provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(6) \$2,672,000 of the general fund—state is provided solely to increase payment rates to contracted social services child care providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(7) \$854,000 of the violence reduction and drug enforcement account appropriation and \$300,000 of the general fund—state appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents



accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(8) \$700,000 of the general fund—state appropriation and \$262,000 of the violence reduction and drug enforcement (~~and education~~) account appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or have successfully performed under the existing pediatric interim care program.

(9) \$5,613,000 of the general fund—state appropriation is provided solely for implementation of chapter 312, Laws of 1995 and Second Substitute House Bill No. 2217 (at-risk youth). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse. Of this amount:

(a) \$1,000,000 of the general fund—state appropriation is provided solely for court-ordered secure treatment of at-risk youth as provided for in section 3 of Second Substitute House Bill No. 2217 (at-risk youth);

(b) \$573,000 of the general fund—state appropriation is provided solely for increased family recconciliation services;

(c) \$500,000 of the general fund—state appropriation is provided solely for therapeutic child care;

(d) \$2,300,000 of the general fund—state appropriation is provided solely for the juvenile court administrators to process petitions for truancy, children in need of services, and at-risk youth;

(e) \$240,000 of the general fund—state appropriation is provided solely for crisis residential center assessments of at-risk youth; and

(f) \$1,000,000 of the general fund—state appropriation shall be allocated to the superintendent of public instruction for competitive grants to assist the operation of community truancy boards established by school districts pursuant to RCW 28A.225.025.

(10) \$2,000,000 of the general fund—state appropriation is provided solely for implementation of chapter 311, Laws of 1995 (Engrossed Substitute Senate Bill No. 5885, services to families). Of this amount, \$1,000,000 is provided solely to expand the category of services titled "intensive family preservation services," and \$1,000,000 is provided solely to create a new category of services titled "family preservation services."

(11) \$327,000 of the general fund—state appropriation is provided solely for transfer to the public health and safety networks. Each public health and safety network may receive up to \$2,600 general fund—state and up to \$2,500 general fund—federal per month for the purposes of infrastructure funding, including planning, network meeting support, fiscal agent payments, and liability insurance.

Funding may be provided only after the network's plan is submitted to the family policy council and only after the plan is approved.

(12) \$4,941,000 of the general fund—state appropriation and \$4,941,000 of the general fund—federal appropriation are provided solely to increase the availability of employment child care to low-income families.

Sec. 203. 1995 2nd sp.s. c 18 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
JUVENILE REHABILITATION PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((24,944,000))</del>
		<u>25,622,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((25,771,000))</del>
		<u>29,828,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((20,167,000))</del>
		<u>20,191,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	286,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	5,695,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((76,863,000))</b></del>
		<u><b>81,622,000</b></u>

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

(a) \$650,000 of the general fund—state appropriation for fiscal year 1996 and \$650,000 of the general fund—state appropriation for fiscal year 1997 are provided solely for operation of learning and life skills centers established pursuant to chapter 152, Laws of 1994.

(b) \$1,379,000 of the general fund—state appropriation and \$134,000 of the violence reduction and drug enforcement account appropriation are provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(c) \$2,350,000 of the general fund—state appropriation is provided solely for an early intervention program to be administered at the county level. Funds shall be awarded on a competitive basis to counties which have submitted a plan for implementation of an early intervention program consistent with proven methodologies currently in place in the state. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

**(2) INSTITUTIONAL SERVICES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((25,701,000))</del>
		<u>28,727,000</u>

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General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((29,120,000))</del>
		<u>32,511,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((23,011,000))</del>
		<u>24,915,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	830,000
Violence Reduction and Drug Enforcement Account Appropriation . . . . .	\$	<del>((10,634,000))</del>
		<u>10,894,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((89,296,000))</del>
		<u>97,877,000</u>

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((1,021,000))</del>
		<u>1,231,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((1,024,000))</del>
		<u>1,236,000</u>
General Fund—Federal Appropriation . . . . .	\$	881,000
Violence Reduction and Drug Enforcement Account Appropriation . . . . .	\$	421,000
TOTAL APPROPRIATION . . . . .	\$	<del>((3,347,000))</del>
		<u>3,769,000</u>

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation . . . . .	\$	107,000
Violence Reduction and Drug Enforcement Account Appropriation . . . . .	\$	1,177,000
TOTAL APPROPRIATION . . . . .	\$	1,284,000

Sec. 204. 1995 2nd sp.s. c 18 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((162,878,000))</del>
		<u>160,689,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((169,206,000))</del>
		<u>165,967,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((241,564,000))</del>
		<u>232,449,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((9,000,000))</del>
		<u>4,000,000</u>
Health Services Account Appropriation . . . . .	\$	<del>((19,647,000))</del>
		<u>19,517,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((602,295,000))</del>
		<u>582,622,000</u>

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

(a) \$8,160,000 of the general fund—state appropriation and \$279,000 of the health services account appropriation are provided solely to increase payment rates to contracted social services providers. It is the legislature’s intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(b) Regional support networks shall use portions of the general fund—state appropriation for implementation of working agreements with the vocational rehabilitation program which will maximize the use of federal funding for vocational programs.

(c) From the general fund—state appropriation in this section, the secretary of social and health services shall assure that regional support networks reimburse the aging and adult services program for the general fund—state cost of medicaid personal care services that are used by enrolled regional support network consumers by reason of their psychiatric disability. The secretary of social and health services shall convene representatives from the aging and adult services program, the mental health division, and the regional support networks to establish an equitable and efficient mechanism for accomplishing this reimbursement.

~~(d) ((The appropriations in this section assume that expenditures for voluntary psychiatric hospitalization total \$23,600,000 from the general fund—state appropriation and \$4,300,000 from the health services account appropriation in fiscal year 1996, and \$26,200,000 from the general fund—state appropriation and \$4,600,000 from the health services account appropriation in fiscal year 1997. To the extent that regional support networks succeed in reducing hospitalization costs below these levels, one half of the funds saved shall be provided as bonus payments to regional support networks for delivery of additional community mental health services, and one half shall revert to the state treasury. Actual expenditures and bonus payments shall be calculated at the end of each biennial quarter, except for the final quarter, when expenditures and bonuses shall be projected based on actual experience through the end of April 1997.~~

~~—(e))~~ \$1,000,000 of the general fund—state appropriation is provided solely to implement the division’s responsibilities under Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth).

(e) At least 30 days prior to entering contracts that would capitate payments for voluntary psychiatric hospitalizations, the mental health division shall report the proposed capitation rates, and the assumptions and calculations by which they were established, to the budget and forecasting divisions of the office of financial management, the appropriations committee of the house of representatives, and the ways and means committee of the senate.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1996) . . . . . \$ ((56,033,000))

		<u>52,673,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	(( <del>56,579,000</del> ))
		<u>56,293,000</u>
General Fund—Federal Appropriation . . . . .	\$	(( <del>112,097,000</del> ))
		<u>119,325,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	(( <del>42,512,000</del> ))
		<u>39,130,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	747,000
TOTAL APPROPRIATION . . . . .	\$	(( <del>267,968,000</del> ))
		<u>268,168,000</u>

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

(a) The mental health program at Western state hospital shall continue to utilize labor provided by the Tacoma prerelease program of the department of corrections.

(b) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations, when it is cost-effective to do so.

(3) CIVIL COMMITMENT

General Fund Appropriation (FY 1996) . . . . .	\$	(( <del>3,378,000</del> ))
		<u>3,470,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	(( <del>3,378,000</del> ))
		<u>3,533,000</u>
TOTAL APPROPRIATION . . . . .	\$	(( <del>6,756,000</del> ))
		<u>7,003,000</u>

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation . . . . .	\$	6,341,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<u>950,000</u>
TOTAL APPROPRIATION . . . . .	\$	<u>7,291,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: The general fund—state appropriation in this section is provided solely for continued operation of the primary intervention program, in the school districts in which those projects previously operated, to the extent they continue to meet contract terms and performance standards.

(5) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1996) . . . . .	\$	2,549,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	2,544,000
General Fund—Federal Appropriation . . . . .	\$	1,511,000
TOTAL APPROPRIATION . . . . .	\$	6,604,000

Sec. 205. 1995 2nd sp.s. c 18 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
DEVELOPMENTAL DISABILITIES PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<u>((117,802,000))</u>
		<u>121,641,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<u>((121,580,000))</u>
		<u>126,500,000</u>
General Fund—Federal Appropriation . . . . .	\$	<u>((165,632,000))</u>
		<u>170,481,000</u>
Health Services Account Appropriation . . . . .	\$	<u>((4,699,000))</u>
		<u>4,679,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><u>((409,713,000))</u></b>
		<b><u>423,301,000</u></b>

**(2) INSTITUTIONAL SERVICES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<u>((62,357,000))</u>
		<u>62,152,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<u>((62,953,000))</u>
		<u>62,291,000</u>
General Fund—Federal Appropriation . . . . .	\$	<u>((139,600,000))</u>
		<u>140,652,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<u>9,100,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><u>((274,010,000))</u></b>
		<b><u>274,195,000</u></b>

**(3) PROGRAM SUPPORT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<u>((2,837,000))</u>
		<u>2,964,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<u>((2,848,000))</u>
		<u>3,000,000</u>
General Fund—Federal Appropriation . . . . .	\$	<u>((777,000))</u>
		<u>940,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><u>((6,462,000))</u></b>
		<b><u>6,904,000</u></b>

**(4) SPECIAL PROJECTS**

General Fund—Federal Appropriation . . . . .	\$	<u>7,878,000</u>
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(5) The appropriations in this section are subject to the following conditions and limitations:

(a) \$6,569,000 of the general fund—state appropriation and \$19,000 of the health services account appropriation and \$4,298,000 of the general fund—federal appropriation are provided solely to increase payment rates to contracted social services providers. It is the legislature’s intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(b) \$1,447,000 of the general fund—state appropriation is provided solely for employment or other day programs for eligible persons who complete a high school curriculum during the 1995-97 biennium.

(c) \$500,000 of the health services account appropriation is provided solely for fiscal year 1996 and \$3,500,000 of the health services account appropriation is provided solely for fiscal year 1997 for family support services for families who need but are currently unable to receive such services because of funding limitations. The fiscal year 1996 amount shall be prioritized for unserved families who have the most critical need for assistance. The fiscal year 1997 amount shall be distributed among unserved families according to priorities developed in consultation with organizations representing families of people with developmental disabilities.

~~((f))~~ (d) The secretary of social and health services shall investigate and by November 15, 1995, report to the appropriations committee of the house of representatives and the ways and means committee of the senate on the feasibility of obtaining a federal managed-care waiver under which growth which would otherwise occur in state and federal spending for the medicaid personal care and targeted case management programs is instead capitated and used to provide a flexible array of employment, day program, and in-home supports.

~~((g))~~ (e) \$1,015,000 of the program support general fund—state appropriation is provided solely for distribution among the five regional deaf centers for services for the deaf and hard of hearing.

(f) \$25,000 of the program support general fund—state appropriation is provided solely for a vendor rate increase in fiscal year 1997 for an organization specializing in the provision of case management and support services to persons with both deafness and blindness.

\*Sec. 206. 1995 2nd sp.s. c 18 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
AGING AND ADULT SERVICES PROGRAM**

<i>General Fund—State Appropriation (FY 1996)</i> . . . . .	\$	<del>((378,972,000))</del> <u>369,055,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((393,491,000))</del> <u>385,377,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((793,250,000))</del> <u>773,530,000</u>
Health Services Account—State Appropriation . . . . .	\$	<del>((9,885,000))</del> <u>6,858,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((1,575,598,000))</del> <u>1,534,820,000</u>

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

(1) \$6,492,000 of the general fund—state appropriation is provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

((4)) (2) The department shall seek a federal plan amendment to increase the home maintenance needs allowance for unmarried COPES recipients only to 100 percent of the federal poverty level. No changes shall be implemented in COPES home maintenance needs allowances until the amendment has been approved.

((5)) (3) The secretary of social and health services shall transfer funds appropriated under section 207(2) of this act to this section for the purpose of integrating and streamlining programmatic and financial eligibility determination for long-term care services.

((6)) (4) A maximum of \$2,603,000 of the general fund—state appropriation and \$2,670,000 of the general fund—federal appropriation for fiscal year 1996 and \$5,339,000 of the general fund—state appropriation and \$5,380,000 of the general fund—federal appropriation for fiscal year 1997 are provided to fund the medicaid share of any prospective payment rate adjustments as may be necessary in accordance with RCW 74.46.460.

((7)) (5) The entire health services account appropriation and the associated general fund—federal match is ((to be used)) provided solely for the enrollment in the basic health plan of home care workers below 200 percent of the federal poverty level who are employed through state contracts ((in the basic health plan)). Enrollment for workers with family incomes at or above 200 percent of poverty shall be covered with general fund—state and matching general fund—federal revenues that have previously been appropriated for health benefits coverage, to the extent that these funds have not been contractually obligated prior to March 1, 1996, for worker wage increases.

(6) By November 1, 1996, the department of social and health services and the health care authority shall report to the appropriate committees of the legislature on (a) the extent, if any, to which previously appropriated general fund—state and matching general fund—federal funds are insufficient to provide basic health plan enrollment coverage for homecare workers above 200 percent of the federal poverty level; and (b) recommended procedural and, if necessary, statutory changes needed to minimize the administrative costs and complexity of basic health plan enrollment by employer groups.

(7) \$126,000 of the general fund—state appropriation for fiscal year 1997 is provided solely for adult day health services for persons with AIDS. These services shall be provided through a state-only program by a single agency specializing in long-term care for persons with AIDS.

(8) \$403,000 of the general fund—state appropriation for fiscal year 1996 and \$698,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to reimburse the medical assistance administration for medicaid services used by persons not previously eligible for medical assistance services



who become so as a result of transferring from the chore services to the COPES program.

\*Sec. 206 was partially vetoed. See message at end of chapter.

Sec. 207. 1995 2nd sp.s. c 18 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ECONOMIC SERVICES PROGRAM**

**(1) GRANTS AND SERVICES TO CLIENTS**

General Fund—State Appropriation (FY 1996) . . . . .	\$	((403,859,000))
		<u>379,619,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	((405,332,000))
		<u>389,585,000</u>
General Fund—Federal Appropriation . . . . .	\$	((677,127,000))
		<u>636,859,000</u>
TOTAL APPROPRIATION . . . . .	\$	((1,486,318,000))
		<u>1,406,063,000</u>

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

(a) Payment levels in the programs for aid to families with dependent children, general assistance, and refugee assistance shall contain an energy allowance to offset the costs of energy. The allowance shall 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 \$300,000,000 of the income assistance payments is so designated for exemptions of the following amounts:

Family size:	1	2	3	4	5	6	7	8 or more
Exemption:	\$55	71	86	102	117	133	154	170

(b) \$18,000 of the general fund—state appropriation for fiscal year 1996 and \$37,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted social services providers. It is the legislature’s intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(c) During the 1995-97 fiscal biennium, the department of social and health services shall provide assistance under the general assistance for children program to needy families with legal immigrants permanently residing in the United States under color of law who are not eligible under federal law for aid to families with dependent children benefits solely due to their immigration status. Assistance to need families shall be in the same amount as benefits under the aid to families with dependent children program. The families must be otherwise eligible for aid to families with dependent children including consideration of the current alien sponsor deeming rules. The department is authorized to use state general funds appropriated in this section to provide such benefits.

(2) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((113,329,000))</del>
		<u>112,427,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((110,137,000))</del>
		<u>109,168,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((202,152,000))</del>
		<u>200,555,000</u>
Health Services Account Appropriation . . . . .	\$	750,000
TOTAL APPROPRIATION . . . . .	\$	<del>((426,368,000))</del>
		<u>422,900,000</u>

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

(a) \$16,000 of the general fund—state appropriation for fiscal year 1996 and \$34,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted social service providers. It is the legislature’s intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(b) The department shall report to the fiscal committees of the legislature no later than December 20, 1995, concerning the number and dollar value of contracts for services provided as part of the job opportunities and basic skills program. This report shall indicate the criteria used in the choice of state agencies or private entities for a particular contract, the total value of contracts with state agencies, and the total value of contracts with private entities. The report shall also indicate what, if any, performance criteria are included in job opportunities and basic skills program contracts.

(c) The department shall:

- ~~((#))~~ (i) Coordinate with other state agencies, including but not limited to the employment security department, to ensure that persons receiving federal or state funds are eligible in terms of citizenship and residency status; ~~((and))~~ and
- ~~((+))~~ (ii) Systematically use all processes available to verify eligibility in terms of the citizenship and residency status of applicants and recipients for public assistance.

Sec. 208. 1995 2nd sp.s. c 18 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund—State Appropriation (FY 1996) . . . . .	\$	8,199,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((8,736,000))</del>
		<u>11,990,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((76,400,000))</del>
		<u>77,594,000</u>
Violence Reduction and Drug Enforcement Account Appropriation . . . . .	\$	71,900,000

Health Services Account Appropriation . . . . .	\$	969,000
TOTAL APPROPRIATION . . . . .	\$	<del>((166,204,000))</del>
		<u>170,652,000</u>

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

(1) \$9,544,000 of the total appropriation is provided solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

(2) \$400,000 of the health services account appropriation is provided solely to implement Second Substitute Senate bill No. 5688 (fetal alcohol syndrome). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$502,000 of the general fund—state appropriation and \$435,000 of the violence reduction and drug enforcement account appropriation for fiscal year 1996 and \$1,015,000 of the general fund—state appropriation and \$1,023,000 of the violence reduction and drug enforcement account appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted and subcontract social services providers. It is the legislature’s intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(4) \$552,000 of the general fund—state appropriation is provided solely to implement the division’s responsibilities under Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth).

(5) \$1,387,000 of the general fund—state appropriation and \$363,000 of the general fund—federal appropriation are provided solely for detoxification and stabilization services, inpatient treatment, and recovery house treatment for at-risk youth. If Second Substitute House Bill No. 2217 (at-risk youth) is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(6) \$1,902,000 of the general fund—state appropriation and \$796,000 of the general fund—federal appropriation are provided solely for alcohol and substance abuse assessment, treatment, and child care services for clients of the division of children and family services. Assessment shall be provided by approved chemical dependency treatment programs as requested by child protective services personnel in the division of children and family services. Treatment shall be outpatient treatment for parents of children who are under investigation by the division of children and family services. Child care shall be provided as deemed necessary by the division of children and family services while parents requiring alcohol and substance abuse treatment are attending treatment programs.

Sec. 209. 1995 2nd sp.s. c 18 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((670,792,000))</del>
		<u>669,448,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((692,015,000))</del>
		<u>658,055,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((1,761,005,000))</del>
		<u>1,774,688,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((242,525,000))</del>
		<u>199,160,000</u>
Health Services Account Appropriation . . . . .	\$	<del>((199,571,000))</del>
		<u>207,272,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((3,565,908,000))</b></del>
		<b><u>3,508,623,000</u></b>

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

(1) The department shall continue to make use of the special eligibility category created for children through age 18 and in households with incomes below 200 percent of the federal poverty level made eligible for medicaid as of July 1, 1994. The department shall also continue to provide consistent reporting on other medicaid children served through the basic health plan.

(2) The department shall contract for the services of private debt collection agencies to maximize financial recoveries from third parties where it is not cost-effective for the state to seek the recovery directly.

(3) It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state's financial interest in Harborview medical center be recognized.

(4) \$3,682,000 of the general fund—state appropriation for fiscal year 1996 and \$7,844,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted medical services providers.

(5)(a) Pursuant to RCW 74.09.700, the medically needy program shall be limited to include only the following groups: Those persons who, except for income and resources, would be eligible for the medicaid categorically needy aged, blind, or disabled programs and medically needy persons under age 21 or over age 65 in institutions for mental diseases or in intermediate care facilities for the mentally retarded. Existing departmental rules concerning income, resources, and other aspects of eligibility for the medically needy program shall continue to apply to these groups. The medically needy program will not provide coverage for caretaker relatives of medicaid-eligible children or for adults in families with dependent children who, except for income and resources, would be eligible for the medicaid categorically needy aid to families with dependent children program.

(b) Notwithstanding (a) of this subsection, the medically needy program shall provide coverage until December 31, 1995, to those persons who, except for income and resources, would be eligible for the medicaid aid to families with dependent children program. ~~((Not more than \$2,020,000 of the general fund—state appropriation may be expended for this purpose.))~~

(6) These appropriations may not be used for any purpose related to a supplemental discount drug program or agreement created under WAC 388-91-007 and 388-91-010.

(7) Funding is provided in this section for the adult dental program for Title XIX categorically eligible and medically needy persons and to provide foot care services by podiatric physicians and surgeons.

(8) \$160,000 of the general fund—state appropriation and \$160,000 of the general fund—federal appropriation are provided solely for the prenatal triage clearinghouse to provide access and outreach to reduce infant mortality.

(9) \$3,128,000 of the general fund—state appropriation is provided solely for treatment of low-income kidney dialysis patients.

(10) Funding is provided in this section to fund payment of insurance premiums for persons with human immunodeficiency virus who are not eligible for medicaid.

(11) Not more than \$11,410,000 of the general fund—state appropriation during fiscal year 1996 and \$11,410,000 of the health services account appropriation during fiscal year 1997 may be expended for the purposes of operating the medically indigent program ((during fiscal year 1996)). Funding is provided solely for emergency transportation and acute emergency hospital services, including emergency room physician services and related inpatient hospital physician services. In any twelve-month period, funding for such services is to be provided to an eligible individual for a maximum of three months following a hospital admission and only after \$2,000 of emergency medical expenses have been incurred ((in any twelve-month period)).

~~(12) ((Not more than \$10,000,000 of the health services account appropriation and \$5,674,000 of the general fund—federal appropriation may be expended for the purposes of providing reimbursement during fiscal year 1997 to those hospitals and physicians most adversely affected by the provision of uncompensated emergency room and uncompensated inpatient hospital care. The department shall develop rules stating the conditions for and rates of compensation.~~

~~—((13)))~~ \$21,525,000 of the health services account appropriation and \$21,031,000 of the general fund—federal appropriation are provided solely to increase access to dental services and to increase the use of preventative dental services for title XIX categorically eligible children.

~~(((14)))~~ (13) After considering administrative and cost factors, the department shall adopt measures to realize savings in the purchase of prescription drugs, hearing aids, home health services, wheelchairs and other durable medical equipment, and disposable supplies. Such measures may include, but not be

limited to, point-of-sale pharmacy adjudication systems, modification of reimbursement methodologies or payment schedules, selective contracting, and inclusion of such services in managed care rates.

~~((+5))~~ (14) As part of the long-term care reforms contained in Engrossed Second Substitute House Bill No. 1908, after receiving acute inpatient hospital care, eligible clients shall be transferred from the high cost institutional setting to the least restrictive, least costly, and most appropriate facility as soon as medically reasonable. Physical medicine and rehabilitation services (acute rehabilitation) shall take place in the least restrictive environment, at the least cost and in the most appropriate facility as determined by the department in coordination with appropriate health care professionals and facilities. Facilities providing physical medicine and rehabilitation services must meet the quality care certification standards required of acute rehabilitation hospitals and rehabilitation units of hospitals.

~~((+6))~~ (15) The department is authorized to provide no more than five chiropractic service visits per person per year for those eligible recipients with acute conditions.

(16) The department shall achieve an actual reduction in the per capita rates paid to managed care plans in calendar year 1997 by taking actions including but not limited to the following: (a) Selectively contracting with only those managed care plans in a given geographic area that offer the lowest price, while meeting specified standards of service quality and network adequacy; (b) revising program procedures, through a federal waiver if necessary, so that recipients are required to enroll in only one managed care plan during a contract period, except for documented good cause; and (c) disproportionately assigning recipients who do not designate a plan preference to plans offering more competitive rates.

(17) By July 1, 1996, the department shall report to the committees on health care and appropriations of the house of representatives, and to the committees on health and long-term care and ways and means of the senate, on the projected costs and benefits of (a) alternative point-of-service copay requirements for recipients with incomes at various percentages of the federal poverty level; and (b) alternative premium-sharing requirements for recipients with incomes at or above 100 percent of the federal poverty level.

(18) \$4,600,000 of the general fund—state appropriation is provided solely to compensate designated trauma centers for trauma services provided to medically indigent and general assistance clients who have an index of severity score of 16 or higher. Such compensation is to be provided (a) through reimbursement at the medicaid rate; or (b) through a direct payment to governmental hospitals. To be eligible for this higher compensation, the trauma center must (i) be designated a Level I through V trauma center by the department of health; (ii) provide complete trauma care data to the trauma care registry in accordance with WAC 246-976-430; (iii) establish an internal quality assurance trauma program that complies with WAC 246-976-880; and (iv)

encourage and assist medically indigent and charity care patients to enroll in the basic health plan.

Sec. 210. 1995 2nd sp.s. c 18 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation (FY 1996) . . . . .	\$	25,933,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	25,934,000
General Fund—Federal Appropriation . . . . .	\$	41,503,000
General Fund—Private/Local Appropriation . . . . .	\$	270,000
TOTAL APPROPRIATION . . . . .	\$	93,640,000

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

(1) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1995, and every six months thereafter, on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

(2) \$500,000 of the general fund—state appropriation and \$300,000 of the general fund—federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). The department may transfer all or a portion of these amounts to the appropriate divisions of the department for this purpose. If Engrossed Substitute House Bill No. 1010 (regulatory reform) is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(3) By December 1, 1996, the department of personnel and the department of social and health services shall jointly report to the legislature on strategies for increasing, within existing funds, supported employment opportunities in state government for persons with developmental and other substantial and chronic disabilities. In developing the report, the departments shall consult with employee representatives, organizations involved in job training and placement for persons with severe disabilities, and other state and local governments that have successfully offered supported employment opportunities for their citizens with disabilities.

Sec. 211. 1995 2nd sp.s. c 18 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILD SUPPORT PROGRAM**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((18,058,000))</del>
		<u>19,019,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((18,169,000))</del>
		<u>18,820,000</u>

General Fund—Federal Appropriation . . . . .	\$	<del>((135,488,000))</del>
		<u>139,220,000</u>
General Fund—Local Appropriation . . . . .	\$	<del>((33,232,000))</del>
		<u>32,289,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((204,947,000))</del>
		<u>209,348,000</u>

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

(1) The department shall contract with private collection agencies to pursue collection of AFDC child support arrearages in cases that might otherwise consume a disproportionate share of the department’s collection efforts. The department’s child support collection staff shall determine which cases are appropriate for referral to private collection agencies. In determining appropriate contract provisions, the department shall consult with other states that have successfully contracted with private collection agencies to the extent allowed by federal support enforcement regulations.

(2) The department shall request a waiver from federal support enforcement regulations to replace the current program audit criteria, which is process-based, with performance measures based on program outcomes.

(3) The amounts appropriated in this section for child support legal services shall only be expended by means of contracts with local prosecutor’s offices.

Sec. 212. 1995 2nd sp.s. c 18 s 215 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE AUTHORITY**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((3,403,000))</del>
		<u>3,403,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	3,403,000
State Health Care Authority Administrative		
Account Appropriation . . . . .	\$	15,744,000
Health Services Account Appropriation . . . . .	\$	<del>((249,642,000))</del>
		<u>247,010,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((272,192,000))</del>
		<u>269,560,000</u>

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

(1) \$6,806,000 of the general fund appropriation and \$5,590,000 of the health services account appropriation are provided solely for health care services provided through local community clinics.

(2) ~~\$((1,268,000))~~ 1,189,000 of the health care authority administrative fund appropriation is provided to accommodate additional enrollment from school districts that voluntarily choose to purchase employee benefits through public employee benefits board programs. The office of financial management is directed to monitor K-12 enrollment in PEBB plans and to reduce allotments



proportionally if the number of K-12 active employees enrolled after January 1995 is less than 11,837.

(3) By November 1, 1996, the health care authority shall report to the health care and fiscal committees of the legislature on potential program adjustments to the basic health plan to achieve reductions in anticipated health services account expenditures. Options addressed in the report shall include, but not be limited to: (a) Reductions in the maximum income eligibility level; (b) changes in the premium subsidy schedule; (c) increasing required copayments; and (d) reducing the number of contracting health plans. For each option, the report shall describe anticipated 1997-99 savings from the proposed change, and the potential impact on health insurance access and health status.

(4) The state health care authority administrative account appropriation includes sufficient funds to study options for expanding state and school district retiree access to health benefits purchased through the health care authority and the fiscal impacts of each option. The health care authority shall conduct this study in conjunction with the state actuary, the office of financial management, and the fiscal committees of the legislature.

(5) \$79,000 of the state health care authority administrative account appropriation is provided to implement Substitute House Bill No. 2186 (public employees long-term care).

(6) By November 1, 1996, the department of social and health services and the health care authority shall report to the appropriate committees of the legislature on (a) the extent, if any, to which previously appropriated general fund—state and matching general fund—federal funds are insufficient to provide basic health plan enrollment coverage for homecare workers at or above 200 percent of the federal poverty level; and (b) recommended procedural and, if necessary, statutory changes needed to minimize the administrative costs and complexity of basic health plan enrollment by employer groups.

(7) \$919,000 of the health services account appropriation is provided for enhanced basic health plan subsidies for foster parents licensed under chapter 74.15 RCW. Under this enhanced subsidy option, foster parents with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of \$10 per month per parent. The health care authority shall endeavor to provide this enhanced subsidy to a monthly average of 1,000 foster parents during state fiscal year 1997, and no more than 2,000 shall be enrolled by the end of the 1995-97 biennium.

\*Sec. 213. 1995 2nd sp.s. c 18 s 216 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	1,905,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((1,912,000))</del>
		<u>2,012,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,344,000
General Fund—Private/Local Appropriation . . . . .	\$	402,000

TOTAL APPROPRIATION . . . . .	\$	(( <del>5,563,000</del> ))
		<u>5,663,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$100,000 of the general fund—state appropriation is provided solely to implement House Bill No. 2932 (discrimination dispute resolution). If the bill is not enacted by June 30, 1996, this amount shall lapse.

\*Sec. 213 was partially vetoed. See message at end of chapter.

Sec. 214. 1995 2nd sp.s. c 18 s 218 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Death Investigations Account Appropriation . . . . .	\$	38,000
Public Safety and Education Account Appropriation . . . . .	\$	(( <del>10,654,000</del> ))
		<u>11,036,000</u>
Violence Reduction and Drug Enforcement Account Appropriation . . . . .	\$	344,000
TOTAL APPROPRIATION . . . . .	\$	(( <del>11,036,000</del> ))
		<u>11,418,000</u>

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

(1) \$28,000 of the public safety and education account is provided solely to implement Engrossed Second Substitute Senate Bill No. 5219 (domestic violence). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(2) \$45,000 of the public safety and education account appropriation is provided solely for the implementation of Second Substitute House Bill No. 2323 (law enforcement training). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(3) \$27,000 of the public safety and education account appropriation is provided solely for the implementation of the reporting requirements contained in section 6 of House Bill No. 2472. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

Sec. 215. 1995 2nd sp.s. c 18 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation (FY 1996) . . . . .	\$	5,270,000
General Fund Appropriation (FY 1997) . . . . .	\$	(( <del>5,311,000</del> ))
		<u>5,711,000</u>
Public Safety and Education Account—State Appropriation . . . . .	\$	(( <del>19,547,000</del> ))
		<u>19,990,000</u>
Public Safety and Education Account—Federal Appropriation . . . . .	\$	6,002,000

Public Safety and Education Account—Private/Local		
Appropriation . . . . .	\$	972,000
Electrical License Account Appropriation . . . . .	\$	((19,321,000))
		<u>20,125,000</u>
Farm Labor Revolving Account—Private/Local		
Appropriation . . . . .	\$	28,000
Worker and Community Right-to-Know Account		
Appropriation . . . . .	\$	2,138,000
Public Works Administration Account		
Appropriation . . . . .	\$	1,928,000
Accident Account—State Appropriation . . . . .	\$	((137,909,000))
		<u>139,991,000</u>
Accident Account—Federal Appropriation . . . . .	\$	9,112,000
Medical Aid Account—State Appropriation . . . . .	\$	((148,204,000))
		<u>150,284,000</u>
Medical Aid Account—Federal Appropriation . . . . .	\$	1,592,000
Plumbing Certificate Account Appropriation . . . . .	\$	682,000
Pressure Systems Safety Account Appropriation . . . . .	\$	2,053,000
TOTAL APPROPRIATION . . . . .	\$	((360,069,000))
		<u>365,878,000</u>

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

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "crime victims—prime migration" and "document imaging—field offices" are conditioned upon compliance with section 902 of this act. In addition, funds for the "document imaging—field offices" project shall not be released until the required components of a feasibility study are completed and approved by the department of information services.

(2) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider and managed care contracts; and (c) coordinate with the department of social and health services to use public safety and education account funds as matching funds for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims.

(3) \$108,000 of the general fund appropriation is provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(4) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1995, and every six months thereafter, on the measurable changes in employee injury and time-loss rates that have occurred in the state

developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

~~((b))~~ (5) The appropriations in this section may not be used to implement or enforce rules that the joint administrative rules review committee finds are not within the intent of the legislature as expressed by the statute that the rule implements.

~~((7))~~ (6) \$450,000 of the accident account—state appropriation and \$450,000 of the medical aid account—state appropriation are provided solely to implement an on-line claims data access system that will include all employers in the retrospective rating plan program.

~~((8))~~ (7) Within the appropriations provided in this section, the department shall implement an integrated state-wide on-line verification system for pharmacy providers. The system shall be implemented by means of contracts that are competitively bid. Until this system is implemented, no department rules may take effect that reduce the dispensing fee for industrial insurance pharmacy services in effect on January 1, 1995.

(8) \$4,000 of the accident account—state appropriation and \$4,000 of the medical aid—state appropriation is provided solely for the implementation of Senate Bill No. 6223 or House Bill No. 2498 (construction trade procedures). If neither bill is enacted by June 30, 1996, these amounts shall lapse.

(9) \$38,000 of the accident account—state appropriation and \$37,000 of the medical aid—state appropriation is provided solely for the implementation of Senate Bill No. 6225 or House Bill No. 2499 (employer assessments). If neither bill is enacted by June 30, 1996, these amounts shall lapse.

(10) \$7,000 of the accident account—state appropriation and \$6,000 of the medical aid—state appropriation is provided solely for the implementation of Senate Bill No. 6224 or House Bill No. 2496 (disability pilot project). If neither bill is enacted by June 30, 1996, these amounts shall lapse.

(11) \$443,000 of the public safety and education account appropriation is provided solely for the implementation of Substitute House Bill No. 2358 (crime victim and witness programs). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(12) \$121,000 of the accident account—state appropriation and \$121,000 of the medical aid account—state appropriation are provided solely for the implementation of House Bill No. 2322 (family farm exemptions). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse.

(13) \$271,000 of the accident account—state appropriation and \$271,000 of the medical aid account—state appropriation are provided solely for the implementation of Second Substitute Senate Bill No. 5516 (drug free workplaces). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse.

**Sec. 216.** 1995 2nd sp.s. c 18 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**(1) HEADQUARTERS**

General Fund Appropriation (FY 1996) . . . . .	\$	1,227,000
General Fund Appropriation (FY 1997) . . . . .	\$	1,226,000
Industrial Insurance Refund Account		
Appropriation . . . . .	\$	25,000
Charitable, Educational, Penal, and Reformatory		
Institutions Account Appropriation . . . . .	\$	4,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>2,482,000</b>

**(2) FIELD SERVICES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	1,853,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((1,852,000))</del>
		<u>2,257,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((736,000))</del>
		<u>381,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	85,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((4,526,000))</del></b>
		<u>4,576,000</u>

**(3) VETERANS HOME**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((4,127,000))</del>
		<u>3,893,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((3,984,000))</del>
		<u>3,788,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((10,703,000))</del>
		<u>11,470,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((7,527,000))</del>
		<u>7,392,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((26,341,000))</del></b>
		<u>26,543,000</u>

**(4) SOLDIERS HOME**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((3,135,000))</del>
		<u>2,927,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((3,049,000))</del>
		<u>2,825,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((6,158,000))</del>
		<u>5,975,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((4,667,000))</del>
		<u>5,312,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((17,009,000))</del></b>
		<u>17,039,000</u>

\*Sec. 217. 1995 2nd sp.s. c 18 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((44,314,000))</del>
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	<u>44,328,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$ ((44,313,000))
	<u>44,639,000</u>
General Fund—Federal Appropriation . . . . .	\$ ((233,122,000))
	<u>234,275,000</u>
General Fund—Private/Local Appropriation . . . . .	\$ ((25,476,000))
	<u>25,476,000</u>
Hospital Commission Account Appropriation . . . . .	\$ 3,019,000
Medical Disciplinary Account Appropriation . . . . .	\$ 1,798,000
Health Professions Account Appropriation . . . . .	\$ ((32,592,000))
	<u>32,964,000</u>
<u>Industrial Insurance Account Appropriation</u> . . . . .	<u>\$ 62,000</u>
Safe Drinking Water Account Appropriation . . . . .	\$ 2,751,000
Public Health Services Account Appropriation . . . . .	\$ 23,753,000
Waterworks Operator Certification	
Appropriation . . . . .	\$ 605,000
Water Quality Account Appropriation . . . . .	\$ 3,079,000
State Toxics Control Account Appropriation . . . . .	\$ 2,824,000
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . .	\$ 469,000
Medical Test Site Licensure Account	
Appropriation . . . . .	\$ 1,822,000
Youth Tobacco Prevention Account Appropriation . . .	\$ 1,412,000
Health Services Account Appropriation . . . . .	\$ ((16,516,000))
	<u>19,081,000</u>
State and Local Improvements Revolving Account—	
Water Supply Facilities Appropriation . . . . .	\$ 40,000
TOTAL APPROPRIATION . . . . .	\$ ((437,905,000))
	<u>442,397,000</u>

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

(1) \$2,466,000 of the general fund—state appropriation is provided for the implementation of the Puget Sound water quality management plan.

(2) \$10,000,000 of the public health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(3) \$4,750,000 of the public health account appropriation is provided solely for distribution to local health departments for capacity building and community assessment and mobilization.

(4) \$2,000,000 of the health services account appropriation is provided solely for public health information systems development. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(5) \$1,000,000 of the health services account appropriation is provided solely for state level capacity building.

(6) \$1,000,000 of the health services account appropriation is provided solely for training of public health professionals.

(7) \$200,000 of the health services account appropriation is provided solely for the American Indian health plan.

(8) \$1,640,000 of the health services account appropriation is provided solely for health care quality assurance and health care data standards activities as required by Engrossed Substitute House Bill No. 1589 (health care quality assurance).

(9) \$1,000,000 of the health services account appropriation is provided solely for development of a youth suicide prevention program at the state level, including a state-wide public educational campaign to increase knowledge of suicide risk and ability to respond and provision of twenty-four hour crisis hotlines, staffed to provide suicidal youth and caregivers a source of instant help.

(10) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. 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. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(11) \$981,000 of the general fund—state appropriation and ~~\$(3,873,000))~~ 469,000 of the general fund—private/local appropriation are provided solely for implementing Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(12) The department is authorized to raise existing fees for nursing assistants and hypnotherapists in excess of the fiscal growth factor established by Initiative 601, if necessary, in order to meet the actual costs of investigative and legal services due to disciplinary activities.

(13) \$750,000 of the general fund—federal appropriation is provided solely for one-time costs for a health clinic for immigrants to be managed by a local public health entity.

(14) \$70,000 of the general fund—state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 1908 (chapter 18, Laws of 1995 1st sp. sess., long-term care reform).

(15) \$210,000 of the general fund—state appropriation is provided solely for stabilizing the four existing child profile counties. The department is directed to develop a plan analyzing the progress of existing child profile immunization tracking systems in the state. The department shall make recommendations for expanding child profile systems to other areas of the state. The plan for expansion must take into account the current immunization rate for children between the ages of birth and two years, goals set by the local health departments in conjunction with their own public health improvement plan work plans, and estimated population growth. The secretary shall submit recommendations to the appropriate standing committees of the senate and the house of representatives on the proposed timeline for expansion of child profile systems, with a goal of state-wide coverage by July 1, 1997.

(16) \$195,000 of the general fund appropriation is provided solely for the cost of laboratory testing of shellfish for domoic acid.

(17)(a) Within available resources, the department of health may use any of the following strategies for raising public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating the disease:

(i) An outreach campaign utilizing print, radio, and television public service announcements, advertisements, posters, and other materials;

(ii) Community forums;

(iii) Health information and risk factor assessment at public events;

(iv) Targeting at-risk populations;

(v) Providing reliable information to policy makers;

(vi) Distributing information through county health departments, schools, area agencies on aging, employer wellness programs, physicians, hospitals and health maintenance organizations, women's groups, nonprofit organizations, community-based organizations, and departmental regional offices.

(b) The secretary of health may accept grants, services, and property from the federal government, foundations, organizations, medical schools, and other entities as may be available for the purposes of fulfilling the obligations of this program.

(18) \$8,000 of the general fund—state appropriation is provided for a study to be completed by the board of health on the current and potential use of telemedicine in the state, including recommended changes in rules and statutes. The study shall be completed by November 1, 1997, and a report submitted to the appropriate committees of the legislature.

\*Sec. 217 was partially vetoed. See message at end of chapter.

\*Sec. 218. 1995 2nd sp.s. c 18 s 223 (uncodified) is amended to read as follows:

#### **FOR THE DEPARTMENT OF CORRECTIONS**

The appropriations in this section shall be expended for the programs and in the amounts listed. However, after May 1, 1996, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for



fiscal year 1996 among programs after approval by the director of financial management. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviations.

<b>(1) ADMINISTRATION AND PROGRAM SUPPORT</b>	
General Fund Appropriation (FY 1996) . . . . .	\$ ((12,269,000))
	<u>12,255,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$ ((12,047,000))
	<u>12,171,000</u>
<u>Industrial Insurance Premium Refund Account</u>	
<u>Appropriation</u> . . . . .	\$ 631,000
TOTAL APPROPRIATION . . . . .	\$ ((24,316,000))
	<u>25,057,000</u>

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

~~(a) ((\$211,000 of the general fund appropriation is provided solely to implement Second Substitute Senate Bill No. 5088 (sexually violent predators). If the bill is not enacted by June 30, 1995, the amount provided in this subsection (a) shall lapse.~~

~~(b))~~ The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. If any funds are generated in excess of actual costs, they shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

~~((e))~~ (b) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

~~((d))~~ (c) Appropriations in this section provide sufficient funds to implement the provisions of Second Engrossed Second Substitute House Bill 2010 (corrections cost-efficiency and inmate responsibility omnibus act).

~~((e))~~ (d) In treating sex offenders at the Twin Rivers corrections center, the department of corrections shall prioritize treatment services to reduce recidivism and shall develop and implement an evaluation tool that: (i) States the purpose of the treatment; (ii) measures the amount of treatment provided; (iii) identifies the measure of success; and (iv) determines the level of successful and unsuccessful outcomes. The department shall report to the legislature by December 1, 1995, on how treatment services were prioritized among categories of offenses and provide a description of the evaluation tool and its incorporation into the treatment program.

(e) \$121,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the department to develop and implement a centralized

educational data base (education automation project), pursuant to chapter 19, Laws of 1995 1st sp. sess.

*(f) \$78,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the implementation of Substitute Senate Bill No. 6274 (supervision of sex offenders). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.*

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((265,008,000))</del>
		<u>262,352,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((270,221,000))</del>
		<u>270,160,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((2,000,000))</del>
		<u>2,153,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	1,214,000
TOTAL APPROPRIATION . . . . .	\$	<del>((538,443,000))</del>
		<u>535,879,000</u>

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

(a) \$196,000 of the general fund—state fiscal year 1997 appropriation is provided solely for costs associated with data entry activities related to the department’s efforts at managing health care costs, pursuant to chapter 19, Laws of 1995 1st sp. sess. and chapter 6, Laws of 1994 sp. sess.

(b) \$17,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 2711 (illegal alien offender camps). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(c) Within the amounts appropriated in this subsection, the department shall fund the "Life Skills" program at the Washington correctional center for women in fiscal year 1997 at a level equal to or greater than that funded in fiscal year 1995.

(3) COMMUNITY CORRECTIONS

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((80,068,000))</del>
		<u>78,843,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((81,226,000))</del>
		<u>80,290,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	400,000
TOTAL APPROPRIATION . . . . .	\$	<del>((161,694,000))</del>
		<u>159,533,000</u>

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

(a) \$72,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the implementation of Substitute House Bill No. 2533 (supervision of misdemeanants). If the bill is not enacted by June 30, 1996, the amount shall lapse.

(b) \$38,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the implementation of Substitute Senate Bill No. 6274 (supervision of sex offenders). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

**(4) CORRECTIONAL INDUSTRIES**

General Fund Appropriation (FY 1996) . . . . .	\$	3,330,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((3,503,000))</del>
		<u>3,603,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((6,833,000))</del>
		<u>6,933,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$100,000 of the general fund fiscal year 1997 appropriation is provided solely for transfer to the jail industries board. The board shall use the amount specified in this subsection only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

**(5) INTERAGENCY PAYMENTS**

General Fund Appropriation (FY 1996) . . . . .	\$	6,223,000
General Fund Appropriation (FY 1997) . . . . .	\$	6,223,000
TOTAL APPROPRIATION . . . . .	\$	12,446,000

\*Sec. 218 was partially vetoed. See message at end of chapter.

**Sec. 219.** 1995 2nd sp.s. c 18 s 225 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund Appropriation (FY 1996) . . . . .	\$	517,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((469,000))</del>
		<u>745,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((986,000))</del>
		<u>1,262,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$276,000 of the total general fund appropriation is provided solely for the implementation of Senate Bill No. 6253 (revising duties of sentencing guidelines commission). If this bill is not enacted by June 30, 1996, this amount shall lapse.

**Sec. 220.** 1995 2nd sp.s. c 18 s 226 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((334,000))</del>
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		<u>834,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	((334,000))
		<u>5,279,000</u>
General Fund—Federal Appropriation . . . . .	\$	190,936,000
General Fund—Private/Local Appropriation . . . . .	\$	21,965,000
Unemployment Compensation Administration		
Account—Federal Appropriation . . . . .	\$	((177,891,000))
		<u>177,891,000</u>
Administrative Contingency Account—((Federal))		
State Appropriation . . . . .	\$	((8,146,000))
		<u>8,735,000</u>
Employment Services Administrative Account—		
((Federal)) State Appropriation . . . . .	\$	12,294,000
Employment and Training Trust Account		
Appropriation . . . . .	\$	9,294,000
TOTAL APPROPRIATION . . . . .	\$	((421,194,000))
		<u>427,228,000</u>

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

(1) The employment security department shall spend no more than \$25,049,511 of the unemployment compensation administration account—federal appropriation for the general unemployment insurance development effort (GUIDE) project. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) The employment and training trust account appropriation shall not be expended until a plan for such expenditure is reviewed and approved by the workforce training and education coordinating board for consistency with chapter 226, Laws of 1993 (employment and training for unemployed workers), and the comprehensive plan for workforce training provided in RCW 28C.18.060(4).

(3) \$95,000 of the employment services administrative account—federal appropriation is provided solely for a study of the financing provisions of the state’s unemployment insurance law pursuant to Engrossed Senate Bill No. 5925.

(4) \$500,000 of the general fund—state fiscal year 1996 appropriation and \$4,945,000 of the general fund—state fiscal year 1997 appropriation are provided solely for the department to administer a comprehensive set of summer employment and training programs to disadvantaged youth. In administering this program, the department shall adhere to the following guidelines: (a) Coordinate with the work force training and education board and the service delivery areas in program development and implementation; (b) maximize employment and training opportunities for youth, while at the same time minimize state fiscal resources required; (c) adhere to the state’s comprehensive plan for work force training; (d) support the state’s one-stop approach to service delivery; (e) maintain low administrative overhead; (f) support the school-to-work transition system; and (g) submit an evaluation of the program by February 1, 1997. The

evaluation shall identify: (i) The number of participants in the program by service delivery area; (ii) demographic information on the participants; (iii) the benefits to clients participating in employment and training programs; and (iv) recommendations on the merits of continuing the program.

**PART III  
NATURAL RESOURCES**

\*Sec. 301. 1995 2nd sp.s. c 18 s 303 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((22,125,000))</del>
		<u>22,289,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((20,639,000))</del>
		<u>21,409,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((42,131,000))</del>
		<u>41,534,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	1,385,000
Special Grass Seed Burning Research Account		
Appropriation . . . . .	\$	42,000
Reclamation Revolving Account Appropriation . . . . .	\$	2,664,000
Flood Control Assistance Account Appropriation . . . . .	\$	<del>((4,000,000))</del>
		<u>10,031,000</u>
State Emergency Water Projects Revolving Account		
Appropriation . . . . .	\$	312,000
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>189,000</u>
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	<del>((5,461,000))</del>
		<u>5,561,000</u>
State and Local Improvements Revolving Account—		
Waste Disposal Appropriation . . . . .	\$	1,000,000
State and Local Improvements Revolving Account—		
Water Supply Facilities Appropriation . . . . .	\$	1,344,000
Basic Data Account Appropriation . . . . .	\$	182,000
Vehicle Tire Recycling Account Appropriation . . . . .	\$	<del>((3,283,000))</del>
		<u>5,759,000</u>
Water Quality Account Appropriation . . . . .	\$	<del>((3,420,000))</del>
		<u>3,583,000</u>
Worker and Community Right to Know Account		
Appropriation . . . . .	\$	408,000
State Toxics Control Account Appropriation . . . . .	\$	<del>((49,924,000))</del>
		<u>50,024,000</u>
Local Toxics Control Account Appropriation . . . . .	\$	<del>((3,342,000))</del>
		<u>3,842,000</u>

Water Quality Permit Account Appropriation . . . . .	\$	19,600,000
Underground Storage Tank Account		
Appropriation . . . . .	\$	2,336,000
Solid Waste Management Account Appropriation . . . .	\$	3,631,000
Hazardous Waste Assistance Account		
Appropriation . . . . .	\$	3,476,000
Air Pollution Control Account Appropriation . . . . .	\$	<del>((13,458,000))</del>
		<u>16,221,000</u>
Oil Spill Administration Account Appropriation . . . . .	\$	2,939,000
Water Right Permit Processing Account		
Appropriation . . . . .	\$	<del>((500,000))</del>
		<u>750,000</u>
Wood Stove Education Account Appropriation . . . . .	\$	1,251,000
Air Operating Permit Account Appropriation . . . . .	\$	4,548,000
Freshwater Aquatic Weeds Account Appropriation . . .	\$	<del>((1,187,000))</del>
		<u>2,047,000</u>
Oil Spill Response Account Appropriation . . . . .	\$	7,060,000
Metals Mining Account Appropriation . . . . .	\$	300,000
Water Pollution Control Revolving Account—State		
Appropriation . . . . .	\$	165,000
Water Pollution Control Revolving Account—Federal		
Appropriation . . . . .	\$	<del>((1,019,000))</del>
		<u>1,419,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((23,132,000))</del>
		<u>237,301,000</u>

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

(1) ~~\$(6,324,000))~~ 5,933,000 of the general fund—state appropriation is provided solely for the implementation of the Puget Sound water quality management plan. In addition, \$394,000 of the general fund—federal appropriation, \$819,000 of the state toxics control account appropriation, \$3,591,000 of the water quality permit fee account appropriation, ~~(\$883,000 of the water quality account appropriation,)~~ and \$2,715,000 of the oil spill administration account appropriation may be used for the implementation of the Puget Sound water quality management plan.

~~(((3)))~~ (2) \$150,000 of the state toxics control account appropriation and \$150,000 of the local toxics control account appropriation are provided solely for implementing Engrossed Substitute House Bill No. 1810 (hazardous substance cleanup). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

~~(((4)))~~ (3) \$581,000 of the general fund—state appropriation, \$170,000 of the air operating permit account appropriation, \$80,000 of the water quality permit account appropriation, and \$63,000 of the state toxics control account appropriation are provided solely for implementing Engrossed Substitute House

Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

~~((5))~~ (4) \$2,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons or for which potentially liable persons cannot be found;

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to comply with the orders issued by the department under RCW 70.105D.030 requiring the persons to provide the remedial action.

~~((6))~~ (5) \$250,000 of the flood control assistance account is provided solely for a grant or contract to the lead local entity for technical analysis and coordination with the Army Corps of Engineers and local agencies to address the breach in the south jetty at the entrance of Grays Harbor.

~~((7))~~ (6) \$70,000 of the general fund—state appropriation, \$90,000 of the state toxics control account appropriation, and \$55,000 of the air pollution control account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1724 (growth management). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

~~((8))~~ (7) If Engrossed Substitute House Bill No. 1125 (dam safety inspections), or substantially similar legislation, is not enacted by June 30, 1995, then the department shall not expend any funds appropriated in this section for any regulatory activity authorized under RCW 90.03.350 with respect to hydroelectric facilities which require a license under the federal power act, 16 ASCUS Sec. 791a et seq. If Engrossed Substitute House Bill No. 1125, or substantially similar legislation, is enacted by June 30, 1995, then the department may apply all available funds appropriated under this section for regulatory activity authorized under RCW 90.03.350 for the purposes of inspecting and regulating the safety of dams under the exclusive jurisdiction of the state.

~~((9))~~ (8) \$425,000 of the general fund—state appropriation and \$525,000 of the general fund—federal appropriation are provided solely for the Padilla Bay national estuarine research reserve and interpretive center.

~~((11))~~ (9) The water right permit processing account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used solely for water right permit processing ~~((, regional water planning, and implementation of regional water plans))~~ and expenses associated with the Yakima adjudication.

~~((12))~~ (10) \$1,298,000 of the general fund—state appropriation, \$188,000 of the general fund—federal appropriation, and \$883,000 of the water quality account appropriation are provided solely to coordinate and implement the activities required by the Puget Sound water quality management plan and to perform the powers and duties under chapter 90.70 RCW.

(11) \$110,000 of the water quality permit account appropriation is provided solely for the department and the wastewater discharge permit program partnership advisory group to hire a consultant. In conjunction with the department and the advisory group, the consultant shall develop a fee schedule for the 1997-99 bicennium, based on a work load model. Further, as a part of developing the fee schedule, the consultant shall use a zero based budget approach to make recommendations regarding the size of the program, what activities are fee eligible, the rate of fee increases imposed on small businesses and small municipalities, and the ramifications on existing statutory rate limits. The consultant's recommendations shall be provided to the appropriate committees of the legislature by September 1, 1996.

(12) \$331,000 of the flood control assistance account appropriation is provided solely for the implementation of flood reduction plans. Of this amount, \$250,000 is to implement the Mason county flood reduction plan and \$81,000 is to implement the Chelan/Douglas county flood reduction plan.

(13) Within the air pollution control account appropriation, the department shall continue monitoring air quality in the Northport area.

(14) \$60,000 of the freshwater aquatic weeds account appropriation is provided solely for a grant to the department of fish and wildlife to control and eradicate purple loosestrife using the most cost-effective methods available, including chemical control where appropriate.

(15) Within the funds appropriated in this section, the department shall prepare a report regarding the feasibility of pollution reduction target measures for point source facilities that are based on actual facility outputs rather than technologies used within a facility. In preparing the report the department shall create and seek recommendations from an advisory committee consisting of business, local government, and environmental representatives. The department shall submit the report to the appropriate committees of the legislature by November 30, 1996.

(16) \$700,000 of the flood control assistance account appropriation is provided solely for the study and abatement of coastal erosion in the region of Willapa bay, Grays Harbor, and the lower Columbia river.

(17) \$5,000,000 of the flood control assistance account appropriation is provided solely for grants to assist local governments in repairing or replacing dikes and levees damaged in the November 1995 and February 1996 flood events.

(18) \$500,000 of the local toxics control account appropriation is provided solely to satisfy nonfederal cost-sharing requirements for the Puget Sound confined disposal site feasibility study to be conducted jointly with the United States army corps of engineers. The study will address site design, construction standards, operational requirements, and funding necessary to establish a disposal site for contaminated aquatic sediments.

(19) \$1,100,000 of the air pollution control account appropriation is provided solely for grants to local air pollution control authorities to expedite the



redesignation of nonattainment areas. These funds shall not be used to supplant existing local funding sources for air pollution control authority programs. Of the amount allocated to the southwest Washington air pollution control authority, \$25,000 is provided solely for the University of Washington to review a study by the southwest air pollution control authority on sources contributing to atmospheric ozone.

(20) \$250,000 of the water right permit processing account appropriation is provided solely for additional staff and associated costs to support the Yakima county superior court in adjudicating water rights in the Yakima river basin.

(21) \$590,000 of the general fund—state appropriation, \$65,000 of the waste reduction, recycling, and litter control account appropriation, \$65,000 of the state toxics control account appropriation, \$250,000 of the air pollution control account appropriation, and \$130,000 of the water pollution control revolving account—federal appropriation are provided solely for implementation of the department's information integration project.

(22) \$300,000 of the general fund—state appropriation is provided solely for payment of attorneys' fees pursuant to *Rettkowski v. Washington*, (cause no. 62718-5).

\*Sec. 301 was partially vetoed. See message at end of chapter.

Sec. 302. 1995 2nd sp.s. c 18 s 304 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((18,020,000))</del>
		<u>18,145,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((17,877,000))</del>
		<u>18,202,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,930,000
General Fund—Private/Local Appropriation . . . . .	\$	<del>((1,463,000))</del>
		<u>31,000</u>
Winter Recreation Program Account		
Appropriation . . . . .	\$	725,000
Off Road Vehicle Account Appropriation . . . . .	\$	241,000
Snowmobile Account Appropriation . . . . .	\$	2,174,000
Aquatic Lands Enhancement Account		
Appropriation . . . . .	\$	313,000
Public Safety and Education Account		
Appropriation . . . . .	\$	48,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	10,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	34,000
Water Trail Program Account Appropriation . . . . .	\$	26,000
Parks Renewal and Stewardship Account		
Appropriation . . . . .	\$	<del>((22,461,000))</del>

	<u>23,893,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((65,322,000))
	<u>65,772,000</u>

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

(1) \$189,000 of the aquatic lands enhancement account appropriation is provided solely to implement the Puget Sound water quality plan.

(2) The general fund—state appropriation and the parks renewal and stewardship account appropriation are provided to maintain full funding and continued operation of all state parks and state parks facilities.

(3) \$1,800,000 of the general fund—state appropriation is provided solely for the Washington conservation corps program established under chapter 43.220 RCW.

(4) \$3,591,000 of the parks renewal and stewardship account appropriation is provided for the operation of a centralized reservation system, to expand marketing, to enhance commission review, and for other revenue generating activities.

(5) \$100,000 of the general fund—state appropriation is provided solely for a state match to local funds to prepare a master plan for Mt. Spokane state park.

Sec. 303. 1995 2nd sp.s. c 18 s 307 (uncodified) is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund Appropriation (FY 1996) . . . . .	\$ ((852,000))
	<u>867,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$ ((810,000))
	<u>825,000</u>
Water Quality Account Appropriation . . . . .	\$ ((202,000))
	<u>321,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((1,864,000))
	<u>2,013,000</u>

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

(1) Not more than eight percent of the water quality account moneys administered by the commission may be used by the commission for administration and program activities related to the grant and loan program.

(2) \$362,000 of the general fund appropriation is provided solely to implement the Puget Sound water quality management plan. ~~((In addition, \$130,000 of the water quality account appropriation is provided for the implementation of the Puget Sound water quality management plan.))~~

(3) \$42,000 of the general fund appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5616 (watershed restoration projects). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(4) \$750,000 of the general fund appropriation is provided solely for grants to local conservation districts.

Sec. 304. 1995 2nd sp.s. c 18 s 309 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((32,380,000))</del>
		<u>33,187,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((32,339,000))</del>
		<u>33,701,000</u>
General Fund—Federal Appropriation . . . . .	\$	54,098,000
General Fund—Private/Local Appropriation . . . . .	\$	15,986,000
Off Road Vehicle Account Appropriation . . . . .	\$	476,000
Aquatic Lands Enhancement Account		
Appropriation . . . . .	\$	5,412,000
Public Safety and Education Account		
Appropriation . . . . .	\$	590,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	156,000
Recreational Fisheries Enhancement Account		
Appropriation . . . . .	\$	<del>((2,200,000))</del>
		<u>2,217,000</u>
Wildlife Account Appropriation . . . . .	\$	<del>((49,741,000))</del>
		<u>50,003,000</u>
Special Wildlife Account Appropriation . . . . .	\$	1,884,000
Oil Spill Administration Account		
Appropriation . . . . .	\$	831,000
<u>Warm Water Game Fish Account Appropriation</u> . . . . .	\$	<u>980,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((196,093,000))</del>
		<u>199,521,000</u>

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

(1) \$1,532,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

(2) \$250,000 of the general fund—state appropriation is provided solely for attorney general costs on behalf of the department of fisheries, department of natural resources, department of health, and the state parks and recreation commission in defending the state and public interests in tribal shellfish litigation (*United States v. Washington*, subproceeding 89-3). The attorney general costs shall be paid as an interagency reimbursement.

~~((4))~~ (3) \$350,000 of the wildlife account appropriation ((is)) and \$145,000 of the general fund—state appropriation are provided solely for control and eradication of class B designate weeds on department owned and managed lands. The general fund—state appropriation is provided solely for control of spartina.

The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1997, on control methods, costs, and acres treated during the previous year.

~~((5))~~ (4) \$250,000 of the general fund—state appropriation is provided solely for costs associated with warm water fish production. Expenditure of this amount shall be consistent with the goals established under RCW 77.12.710 for development of a warm water fish program. No portion of this amount may be expended for any type of feasibility study.

~~((6))~~ (5) \$634,000 of the general fund—state appropriation and \$50,000 of the wildlife account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

~~((7))~~ (6) \$2,000,000 of the general fund—state appropriation is provided solely for implementation of Second Substitute Senate Bill No. 5157 (mass marking), chapter 372, Laws of 1995, under the following conditions:

(a) If, by October 1, 1995, the state reaches agreement with Canada on a marking and detection program, implementation will begin with the 1994 Puget Sound brood coho.

(b) If, by October 1, 1995, the state does not reach agreement with Canada on a marking and detection program, a pilot project shall be conducted with 1994 Puget Sound brood coho.

(c) Full implementation will begin with the 1995 brood coho.

(d) \$700,000 of the department's equipment funding and \$300,000 of the department's administration funding will be redirected toward implementation of Second Substitute Senate Bill No. 5157 during the 1995-97 biennium.

~~((8))~~ (7) The department shall request a reclassification study be conducted by the personnel resources board for hatchery staff. Any implementation of the study, if approved by the board, shall be pursuant to section 911 of this act.

~~((9))~~ (8) Within the appropriations in this section, the department shall maintain the Issaquah hatchery at the current 1993-95 operational level.

~~((10))~~ (9) \$140,000 of the wildlife account appropriation is provided solely for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1997, on control methods, costs, and acres treated during the previous year.

~~((11))~~ (10) \$110,000 of the aquatic lands enhancement account appropriation may be used for publishing a brochure concerning hydraulic permit application requirements for the control of spartina and purple loosestrife.

(11) \$530,000 of the general fund—state appropriation is provided solely for providing technical assistance to landowners and for reviewing plans submitted to the state pursuant to the forest practices board's proposed rules for the

northern spotted owl. If the rules are not adopted by September 1, 1996, the amount provided in this subsection shall lapse.

(12) \$145,000 of the general fund—state appropriation is provided solely for the fish and wildlife commission to support additional commission meetings, briefings, and other activities necessary to ensure effective implementation of Referendum No. 45 during the 1995-97 biennium.

(13) \$980,000 of the warm water game fish account appropriation is provided solely for implementation of the warm water game fish enhancement program pursuant to Fourth Substitute Senate Bill No. 5159. If the bill or substantially similar legislation is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(14) \$15,000 of the fiscal year 1997 general fund—state appropriation and \$85,000 of the wildlife account appropriation are provided solely for the payment of claims during fiscal year 1997 arising from damages to crops by wildlife, pursuant to Second Substitute Senate Bill No. 6146 (wildlife claims). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse.

(15) \$813,000 of the general fund—state appropriation is provided solely to operate Columbia river fish hatcheries for which federal funding has been reduced.

Sec. 305. 1995 2nd sp.s. e 18 s 310 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>(20,300,000)</del>
		<u>20,325,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>(20,299,000)</del>
		<u>20,424,000</u>
General Fund—Federal Appropriation . . . . .	\$	3,024,000
General Fund—Private/Local Appropriation . . . . .	\$	414,000
Forest Development Account Appropriation . . . . .	\$	<del>((37,946,000))</del>
		<u>41,608,000</u>
Off Road Vehicle Account Appropriation . . . . .	\$	3,074,000
Surveys and Maps Account Appropriation . . . . .	\$	1,788,000
Aquatic Lands Enhancement Account Appropriation . .	\$	2,512,000
Resource Management Cost Account Appropriation . . .	\$	11,624,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	440,000
Surface Mining Reclamation Account		
Appropriation . . . . .	\$	1,273,000
Wildlife Account Appropriation . . . . .	\$	1,300,000
Water Quality Account Appropriation . . . . .	\$	<del>((2,000,000))</del>
		<u>6,000,000</u>
Aquatic Land Dredged Material Disposal Site		
Account Appropriation . . . . .	\$	734,000

Natural Resources Conservation Areas Stewardship	
Account Appropriation . . . . .	\$ 1,003,000
Air Pollution Control Account Appropriation . . . . .	\$ 921,000
Watershed Restoration Account Appropriation . . . . .	\$ ((5,000,000))
	<u>1,600,000</u>
Metals Mining Account Appropriation . . . . .	\$ 41,000
<u>Industrial Insurance Premium Refund Account</u>	
Appropriation . . . . .	\$ 62,000
TOTAL APPROPRIATION . . . . .	\$ ((113,023,000))
	<u>118,167,000</u>

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

(1) \$7,998,000 of the general fund—state appropriation is provided solely for the emergency fire suppression subprogram.

(2) \$36,000 of the general fund—state appropriations is provided solely for the implementation of the Puget Sound water quality management plan. In addition, \$957,000 of the aquatics lands enhancement account is provided for the implementation of the Puget Sound water quality management plan.

(3) \$450,000 of the resource management cost account appropriation is provided solely for the control and eradication of class B designate weeds on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1997, on control methods, costs, and acres treated during the previous year.

(4) \$22,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 1437 (amateur radio repeater sites). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(5) \$49,000 of the air pollution control account appropriation is provided solely to implement Substitute House Bill No. 1287 (silvicultural burning). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(6) \$290,000 of the general fund—state appropriation, \$10,000 of the surface mining reclamation account appropriation, and \$29,000 of the air pollution control account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). If this bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(7) By September 30, 1995, the agency shall report to the appropriate fiscal committees of the legislature on fire suppression costs incurred during the 1993-95 biennium. The report shall provide the following information: (a) An object breakdown of costs for the 1993-95 fire suppression subprogram; (b) the amount of reimbursement provided for personnel, services, and equipment outside the agency; (c) FTE levels and salary amounts by fund of positions backfilled as a result of the fires; (d) overtime costs paid to agency personnel; (e) equipment

replacement costs, and (f) final allocation of costs for the Hatchery and Tye fires between the United States forest service, local governments, and the state.

(8) By December 1, 1995, the department shall report to the house committee on natural resources and the senate committee on natural resources on measures taken to improve the health of the Loomis state forest.

(9) \$13,000 of the general fund—state appropriation is provided solely to pay a portion of the rent charged to nonprofit television reception improvement districts pursuant to chapter 294, Laws of 1994.

(10) \$1,200,000 of the general fund—state appropriation is provided solely for cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(11) Up to \$572,000 of the general fund—state appropriation may be expended for the natural heritage program.

(12) ~~\$(13,000,000,)~~ 13,600,000 of which ~~\$(5,000,000)~~ 1,600,000 is from the watershed restoration account appropriation, \$1,300,000 is from the wildlife account appropriation, \$2,500,000 is from the resource management cost account appropriation, \$500,000 is from the forest development account appropriation, ~~\$(2,000,000)~~ 6,000,000 is from the water quality account appropriation, and \$1,700,000 is from the general fund—federal appropriation, is provided solely for the jobs in the environment program and/or the watershed restoration partnership program.

(a) These funds shall be used to:

(i) Restore and protect watersheds in accordance with priorities established to benefit fish stocks in critical or depressed condition as determined by the watershed coordinating council;

(ii) Conduct watershed restoration and protection projects primarily on state lands in coordination with federal, local, tribal, and private sector efforts; and

(iii) Create market wage jobs in environmental restoration for displaced natural resource impact area workers, as defined under Second Substitute Senate Bill No. 5342 (rural natural resource impact areas).

(b) Except as provided in subsection (c) of this section, these amounts are solely for projects jointly selected by the department of natural resources and the department of fish and wildlife. Funds may be expended for planning, design, and engineering for projects that restore and protect priority watersheds identified by the watershed coordinating council and conform to priorities for fish stock recovery developed through watershed analysis conducted by the department of natural resources and the department of fish and wildlife. Funds expended shall be used for specific projects and not for on-going operational costs. Eligible projects include, but are not limited to, closure or improvement of forest roads, repair of culverts, clean-up of stream beds, removal of fish barriers, installation of fish screens, fencing of streams, and construction and planting of fish cover.

(c) The department of natural resources and the department of fish and wildlife, in consultation with the watershed coordinating council, the office of financial management, and other appropriate agencies, shall report to the

appropriate committees of the legislature on January 1, 1996, and annually thereafter, on any expenditures made from these amounts and a plan for future use of the moneys provided in this subsection. The plan shall include a prioritized list of watersheds and future watershed projects. The plan shall also consider future funding needs, the availability of federal funding, and the integration and coordination of existing watershed and protection programs.

(d) All projects shall be consistent with any development regulations or comprehensive plans adopted under the growth management act for the project areas. No funds shall be expended to acquire land through condemnation.

(e) Funds from the wildlife account appropriation shall be available only to the extent that the department of fish and wildlife sells surplus property.

(f) Funds from the resource management cost account appropriation shall only be used for projects on trust lands. Funds from the forest development account shall only be used for projects on county forest board lands.

(g) Projects under contract as of June 1, 1995 will be given first priority.

(13) \$3,662,000 of the forest development account appropriation is provided solely to prepare forest board lands for harvest. To the extent possible, the department shall use funds provided in this subsection to hire unemployed timber workers to perform silviculture activities, address forest health concerns, and repair damages on these lands.

(14) \$375,000 of the water quality account appropriation is provided solely for a grant to the department of ecology for continuing the Washington conservation corps program in fiscal year 1997.

(15) \$1,306,000 of the resource management cost account appropriation is provided solely for forest-health related management activities at the Loomis state forest.

(16) \$363,000 of the natural resources conservation areas stewardship account appropriation is provided solely for site-based management of state-owned natural area preserves and natural resource conservation areas.

Sec. 306. 1995 2nd sp.s. c 18 s 312 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((6,770,000))</del>
		<u>7,100,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((6,572,000))</del>
		<u>7,157,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((4,278,000))</del>
		<u>5,168,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	406,000
Aquatic Lands Enhancement Account		
Appropriation . . . . .	\$	800,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	178,000
State Toxics Control Account Appropriation . . . . .	\$	1,088,000



TOTAL APPROPRIATION . . . . .	\$	<del>((20,092,000))</del>
		<u>21,897,000</u>

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

(1) \$300,000 of the general fund—state appropriation is provided solely for consumer protection activities of the department’s weights and measures program. Moneys provided in this subsection may not be used for device inspection of the weights and measures program.

(2) \$142,000 of the general fund—state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$100,000 of the general fund—state appropriation is provided solely for grasshopper and mormon cricket control.

(4) \$200,000 of the general fund—state appropriation is provided solely for the agricultural showcase.

(5) \$724,000 of the general fund—state appropriation and \$891,000 of the general fund—federal appropriation are provided solely to monitor and eradicate the Asian gypsy moth.

(6) \$71,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

NEW SECTION. Sec. 307. A new section is added 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE OFFICE OF MARINE SAFETY**

Oil Spill Administration Account Appropriation . . . . .	\$	250,000
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The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the oil spill administration account appropriation is provided solely for the defense of the Intertanko litigation, *Intertanko v. Washington* (cause no. 951096c).

**PART IV  
TRANSPORTATION**

Sec. 401. 1995 2nd sp.s. c 18 s 401 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((4,229,000))</del>
		<u>4,336,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((4,257,000))</del>
		<u>4,399,000</u>
Architects’ License Account Appropriation . . . . .	\$	<del>((872,000))</del>
		<u>899,000</u>
Cemetery Account Appropriation . . . . .	\$	<del>((167,000))</del>
		<u>177,000</u>
Professional Engineers’ Account		

Appropriation . . . . .	\$	<del>((2,235,000))</del>
		<u>2,404,000</u>
Real Estate Commission Account		
Appropriation . . . . .	\$	<del>((6,172,000))</del>
		<u>6,247,000</u>
<u>Industrial Insurance Account Appropriation . . . . .</u>	<u>\$</u>	<u>24,000</u>
Master License Account Appropriation . . . . .	\$	<del>((5,800,000))</del>
		<u>6,131,000</u>
Uniform Commercial Code Account		
Appropriation . . . . .	\$	<del>((4,920,000))</del>
		<u>4,830,000</u>
Real Estate Education Account		
Appropriation . . . . .	\$	606,000
Funeral Directors and Embalmers Account		
Appropriation . . . . .	\$	<del>((400,000))</del>
		<u>369,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((29,667,000))</del>
		<u>30,422,000</u>

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

(1) \$637,000 of the general fund appropriation is provided solely to implement sections 1001 through 1007 of Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(2) \$122,000 of the master license account appropriation is provided solely for the implementation of House Bill No. 2551 (limousine regulation). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

Sec. 402. 1995 2nd sp.s. c 18 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((7,198,000))</del>
		<u>8,011,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((7,883,000))</del>
		<u>11,232,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,035,000
General Fund—Private/Local Appropriation . . . . .	\$	254,000
Public Safety and Education Account		
Appropriation . . . . .	\$	4,492,000
County Criminal Justice Assistance		
Appropriation . . . . .	\$	3,572,000
Municipal Criminal Justice Assistance Account		
Appropriation . . . . .	\$	1,430,000

Fire Services Trust Account Appropriation . . . . .	\$	90,000
Fire Services Training Account Appropriation . . . . .	\$	1,740,000
State Toxics Control Account Appropriation . . . . .	\$	425,000
Violence Reduction and Drug Enforcement Account Appropriation . . . . .	\$	2,133,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((30,252,000))</b>
		<u>34,414,000</u>

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

(1) Expenditures from the nonappropriated fingerprint identification account for the automation of pre-employment background checks for public and private employers and background checks for firearms dealers and firearm purchasers are subject to office of financial management approval of a completed feasibility study.

(2) Expenditures from the county criminal justice assistance account appropriation and municipal criminal justice assistance account appropriation in this section shall be expended solely for enhancements to crime lab services.

(3) The Washington state patrol shall report to the department of information services and office of financial management by October 30, 1995, on the implementation and financing plan for the state-wide integrated narcotics system.

(4) \$300,000 of the violence reduction and drug enforcement account appropriation is provided solely for enhancements to the organized crime intelligence unit.

(5) \$813,000 of the general fund—state fiscal year 1996 appropriation and \$3,247,000 of the general fund—state fiscal year 1997 appropriation are provided solely for the implementation of Second Substitute Senate Bill No. 6272 (background checks for school employees). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse. Expenditures of the amounts specified in this subsection shall be expended at the following rate: As the state patrol initiates the fingerprint process on a school employee, sixty-six dollars shall be transferred from the amounts specified in this subsection into the fingerprint identification account. Upon completion of the background check, seven dollars of this amount shall be transferred by the state patrol to the superintendent of public instruction for final disposition of the records check.

**PART V  
EDUCATION**

Sec. 501. 1995 2nd sp.s. c 18 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	((18,341,000))
		<u>18,421,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	((17,819,000))

		<u>37,689,000</u>
General Fund—Federal Appropriation . . . . .	\$	39,791,000
Health Services Account Appropriation . . . . .	\$	((400,000))
		<u>850,000</u>
Public Safety and Education Account		
Appropriation . . . . .	\$	((338,000))
		<u>3,138,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	3,122,000
TOTAL APPROPRIATION . . . . .	\$	((79,811,000))
		<u>103,011,000</u>

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

(1) AGENCY OPERATIONS

(a) \$770,000 of the general fund—state appropriation is provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(b) \$659,000 of the general fund—state appropriation is provided solely for investigation activities of the office of professional practices.

(c) \$1,700,000 of the general fund—state appropriation is provided solely to rprogram computer applications for collecting and processing school fiscal, personnel, and student data and for calculating apportionment payments and to upgrade agency computer hardware. A maximum of \$600,000 of this amount shall be used for computer hardware.

By December 15, 1995, and before implementation of a new state-wide data system, the superintendent shall present a plan to the house of representatives and senate education and fiscal committees which identifies state data base uses that could involve potentially sensitive data on students and parents. The plan shall detail methods that the superintendent shall employ internally and recommend to school organizations to insure integrity and proper use of data in any student data base, with particular attention to eliminating unnecessary and intrusive data about nonschool related information.

(d) ~~((The entire))~~ \$338,000 of the public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(e) The superintendent of public instruction shall develop standards and rules for disposal of surplus technology equipment accounting for proper depreciation and maximum benefit to the district from the disposal.

(2) STATE-WIDE PROGRAMS

(a) \$2,174,000 of the general fund—state appropriation is provided for in-service training and educational programs conducted by the Pacific Science Center.

(b) \$63,000 of the general fund—state appropriation is provided for operation of the Cispus environmental learning center.

(c) \$2,654,000 of the general fund—state appropriation is provided for educational centers, including state support activities.

(d) \$3,093,000 of the general fund—state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(e) \$4,370,000 of the general fund—state appropriation is provided for complex need grants. Grants shall be provided according to funding ratios established in LEAP Document 30C as developed on May 21, 1995, at 23:46 hours.

(f) \$3,050,000 of the drug enforcement and education account appropriation ((is)) and \$2,800,000 of the public safety and education account appropriation are provided solely for matching grants to enhance security in ((secondary)) schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in ((secondary)) schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(g) Districts receiving allocations from subsections (2) (d) and (e) of this section shall submit an annual report to the superintendent of public instruction on the use of all district resources to address the educational needs of at-risk students in each school building. The superintendent of public instruction shall make copies of the reports available to the office of financial management and the legislature.

(h) \$500,000 of the general fund—federal appropriation is provided for plan development and coordination as required by the federal goals 2000: Educate America Act. The superintendent shall collaborate with the commission on student learning for the plan development and coordination and submit quarterly reports on the plan development to the education committees of the legislature.

(i) \$((400,000)) 850,000 of the health services account appropriation is provided solely for media productions by students ((at up to 40 sites)) to focus on issues and consequences of teenage pregnancy and child rearing. The projects shall be consistent with the provisions of Engrossed Second Substitute House Bill No. 2798 as passed by the 1994 legislature, including a local/private or public sector match equal to fifty percent of the state grant; and shall be awarded to schools or consortia not granted funds in 1993-94. \$450,000 of this amount is for costs of new projects not funded in the 1995-96 school year.

(j) \$7,000 of the general fund—state appropriation is provided to the state board of education to establish teacher competencies in the instruction of braille to legally blind and visually impaired students.

(k) \$50,000 of the general fund—state appropriation is provided solely for matching grants to school districts for analysis of budgets for classroom-related activities as specified in chapter 230, Laws of 1995.

(l) \$3,050,000 of the general fund—state appropriation is provided solely to implement Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth). Of that amount, \$50,000 is provided for a contract in fiscal year 1996 to the Washington state institute for public policy to conduct an evaluation and review as outlined in section 81 of Engrossed Second Substitute Senate Bill No. 5439. Allocation of the remaining amount shall be based on the number of petitions filed in each district.

(m) \$300,000 of the general fund—state appropriation is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(n) \$1,500,000 of the general fund—state appropriation is provided for implementation of Engrossed Second Substitute House Bill No. 2909 (reading literacy). Of this amount: (i) \$100,000 is for the center for the improvement of student learning's activities related to identifying effective reading programs, providing information on effective reading programs, and developing training programs for educators on effective reading instruction and assessment; (ii) \$500,000 is for grants as specified in section 2 of the bill to provide incentives for the use of the effective reading programs; and (iii) \$900,000 is for reading instruction and reading assessment training programs for educators as specified in section 3 of the bill.

(o) \$5,000,000 of the general fund—state appropriation is provided to update high-technology vocational education equipment in the 1996-97 school year. Of this amount, \$303,000 shall be allocated to skill centers. The superintendent shall allocate the remaining funds at a maximum rate of \$91.46 per full-time equivalent vocational education student excluding skill center students. The funds shall be allocated prior to June 30, 1997.

(p) \$10,000,000 of the general fund—state appropriation is provided solely for technology grants to school districts and for per diem and travel costs of the technology education committee for school years 1995-96 and 1996-97. A district is eligible for a grant if it either has ongoing programs emphasizing specific approaches to learning assisted by technology or it is identified by the center for the improvement of student learning based on best practices; and

(i) The district is part of a consortium, of at least two school districts, formed to pool resources to maximize technology related acquisitions, to start up new programs or new staff development, and to share advantages of the consortium with other districts;

(ii) The district will match state funds, on an equal value basis, with a combination of:

(A) Contributions through partnerships with technology companies, educational service districts, institutions of higher education, community and technical colleges, or any other organization with expertise in applications of technology to learning which are willing to assist school districts in applying technology to the learning process through in-kind assistance; and

(B) School district funds; and

(iii) The district has plans and means for evaluating the improvement in student learning resulting from the technology-based strategies of the district.

To the extent that funds are available, school districts that meet the criteria of this subsection shall be provided grants under this subsection in the order they are prioritized by the technology education committee and for no more than \$600 per student in the proposed program.

The superintendent of public instruction shall appoint a technology education committee to develop an application and review process for awarding the technology grants established in this subsection. The committee shall be appointed by the superintendent and shall consist of five representatives from technology companies, five technology coordinators representing educational service districts, and five school district representatives. Committee members shall serve without additional compensation but shall be eligible for per diem and mileage allowances pursuant to RCW 43.03.050 and 43.03.060. The superintendent shall award the first round of technology grants based on the recommendation of the technology education committee by July 1, 1996. No more than fifty percent of funds provided in this appropriation shall be allocated in the first round of awards.

(q) \$2,000,000 of the general fund—state appropriation is provided for start-up grants to establish alternative programs for students who have been truant, suspended, or expelled or are subject to other disciplinary actions in accordance with section 10 of Substitute House Bill No. 2640 (changing truancy provisions).

(r) \$50,000 of the general fund—state appropriation is provided solely for allocation to the primary coordinators of the state geographic alliance for the purpose of improving the teaching of geography in the common school system.

(s) \$100,000 of the general fund—state appropriation is provided solely for a contract for a feasibility analysis and implementation plan to provide the resources of a skill center for students in the area served by the north central educational service district.

(t) \$1,000,000 of the general fund—state appropriation is provided for conflict resolution and anger management training.

Sec. 502. 1995 2nd sp.s. c 18 s 502 (uncodified) is amended to read as follows:

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

General Fund Appropriation (FY 1996) . . . . .	\$ ((3,174,826,000))
	3,166,013,000
General Fund Appropriation (FY 1997) . . . . .	\$ ((3,284,918,000))

	<u>3,261,992,000</u>
TOTAL APPROPRIATION . . . . .	\$ (( <del>6,459,744,000</del> ))
	<u>6,428,005,000</u>

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

(1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) Allocations for certificated staff salaries for the 1995-96 and 1996-97 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3; and

(iii) An additional 5.3 certificated instructional staff units for grades K-3. Any funds allocated for these additional certificated units shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iii) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-3 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3 may



use allocations generated under this subsection (2)(a)(iii) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 4-6. Funds allocated under this subsection (2)(a)(iii) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants; and

(iv) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the 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;

(c) On the basis of full-time equivalent enrollment in:

(i) Vocational education programs approved by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 18.3 full-time equivalent vocational students;

(ii) Skills center programs approved by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students; and

(iii) Indirect cost charges to vocational-secondary programs shall not exceed 10 percent;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades seven and eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students.

(g) 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 instructional staff unit;

(h) 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 instructional staff unit.

(3) Allocations for classified salaries for the 1995-96 and 1996-97 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2) (d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; 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.

(4) Fringe benefit allocations shall be calculated at a rate of 20.71 percent in the 1995-96 school year and 20.71 percent in the 1996-97 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 18.77 percent in the 1995-96 school year and 18.77 percent in the 1996-97 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the rates specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent;

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2) (a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$7,656 per certificated staff unit in the 1995-96 school year and a maximum of ~~\$(7,893)~~ 7,786 per certificated staff unit in the 1996-97 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a maximum of \$14,587 per certificated staff unit in the 1995-96 school year and a maximum of ~~\$(15,039)~~ 14,835 per certificated staff unit in the 1996-97 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maximum rate of \$341 for the 1995-96 school year and \$341 per year for the 1996-97 school year ~~((for))~~ per allocated classroom teacher~~(s))~~ excluding salary adjustments made in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1994-95 school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of ~~\$(3,122,000)~~ 5,820,000 outside the basic education formula during fiscal years 1996 and 1997 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 \$431,000 may be expended in fiscal year 1996 and a maximum of \$444,000 may be expended in fiscal year 1997;

(b) For summer vocational programs at skills centers, a maximum of \$1,938,000 may be expended in ~~((the 1995-96 school year))~~ fiscal year 1996 and a maximum of \$1,948,000 may be expended in fiscal year 1997; ~~((and))~~

(c) A maximum of \$309,000 may be expended for school district emergencies; and

(d) A maximum of \$250,000 may be expended for fiscal year 1996 and a maximum of \$500,000 may be expended for fiscal year 1997 for programs providing skills training for secondary students who are at risk of academic failure or who have dropped out of school and are enrolled in the extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For the purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.2 percent from the 1994-95 school year to the 1995-96 school year, and ~~((4.5))~~ 1.3 percent from the 1995-96 school year to the 1996-97 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2) (b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2) (a) through (h) of this section shall be reduced in increments of twenty percent per year.

*\*Sec. 503. 1995 2nd sp.s. c 18 s 503 (uncodified) is amended to read as follows:*

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION**

*(1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:*

**(a) For the 1995-96 school year, salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional derived base salary shown on LEAP Document 12C, by the district's average staff mix factor for basic education certificated instructional staff in that school year, computed using LEAP Document 1A; ((and))**

**(b) For the 1996-97 school year, salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional derived base salary shown on LEAP Document 12C, by the district's average staff mix factor for basic education certificated instructional staff and special education certificated instructional staff for that year, computed using LEAP Document 1A; and**

**(c) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12C.**

**(2) For the purposes of this section:**

**(a) "Basic education certificated instructional staff" is defined as provided in RCW 28A.150.100;**

**(b) "LEAP Document 1A" means the computerized tabulation establishing staff mix factors for ~~((basic education))~~ certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 8, 1991, at 13:35 hours; and**

**(c) "LEAP Document 12C" means the computerized tabulation of 1995-96 and 1996-97 school year salary allocations for basic education certificated administrative staff and basic education classified staff and derived base salaries for basic education certificated instructional staff as developed by the legislative evaluation and accountability program committee on May 21, 1995, at 23:35 hours.**

**(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 20.07 percent for certificated staff and 15.27 percent for classified staff for both years of the biennium.**

**(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:**

**STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR SCHOOL YEARS 1995-96 AND 1996-97**

<b>Years of Service</b>	<b>BA</b>	<b>BA + 15</b>	<b>BA + 30</b>	<b>BA + 45</b>	<b>BA + 90</b>
<b>0</b>	22,282	22,884	23,508	24,131	26,137
<b>1</b>	23,012	23,633	24,277	24,942	27,007
<b>2</b>	23,757	24,398	25,060	25,790	27,889

3	24,539	25,200	25,881	26,651	28,787
4	25,336	26,037	26,738	27,549	29,740
5	26,169	26,889	27,609	28,482	30,709
6	27,037	27,754	28,515	29,450	31,710
7	27,919	28,654	29,434	30,429	32,745
8	28,814	29,590	30,388	31,465	33,813
9		30,559	31,396	32,512	34,915
10			32,417	33,613	36,048
11				34,746	37,235
12				35,843	38,452
13					39,700
14					40,955
15 or more					42,020
<b>Years of Service</b>				<b>MA + 90 or PHD</b>	
0	27,429	26,715	28,720	30,012	
1	28,316	27,526	29,590	30,899	
2	29,238	28,374	30,472	31,820	
3	30,195	29,235	31,370	32,779	
4	31,188	30,133	32,324	33,771	
5	32,214	31,065	33,292	34,797	
6	33,253	32,033	34,294	35,837	
7	34,347	33,013	35,329	36,931	
8	35,473	34,048	36,397	38,057	
9	36,632	35,095	37,499	39,215	
10	37,822	36,196	38,632	40,405	
11	39,044	37,329	39,818	41,627	
12	40,316	38,508	41,036	42,900	
13	41,620	39,726	42,284	44,203	
14	42,972	40,981	43,619	45,556	
15 or more	44,089	42,046	44,753	46,740	

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules used by the superintendent of public instruction for salary allocations in the 1994-95 school year.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 or as hereafter amended.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(7)(a) Credits earned by certificated instructional staff after September 1, 1995, shall be counted only if the content of the course: (i) is consistent with the school district's strategic plan for improving student learning; (ii) is consistent with a school-based plan for improving student learning developed under section 520(2) of this act for the school in which the individual is assigned; (iii) pertains to the individual's current assignment or expected assignment for the following school year; (iv) is necessary for obtaining an endorsement as prescribed by the state board of education; (v) is specifically required for obtaining advanced levels of certification; or (vi) is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certificated instructional staff.

(b) Once credits earned by certificated instructional staff have been determined to meet one or more of the criteria in (a) of this subsection, the credits shall be counted even if the individual transfers to other school districts.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

\*Sec. 503 was vetoed. See message at end of chapter.

Sec. 504. 1995 2nd sp.s. c 18 s 504 (uncodified) is amended to read as follows:

<b>FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS</b>	
General Fund Appropriation (FY 1996) . . . . .	\$ <del>((96,500,000))</del> <u>96,201,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$ <del>((123,377,000))</del> <u>122,763,000</u>
TOTAL APPROPRIATION . . . . .	\$ <del>((219,877,000))</del> <u>218,964,000</u>

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

(1) ~~\$(218,748,000)~~ 217,835,000 is provided for cost of living adjustments of 4.0 percent effective September 1, 1995, for state-formula staff units. The appropriation includes associated incremental fringe benefit allocations for both years at rates 20.07 percent for certificated staff and 15.27 percent for classified staff.

(a) The appropriation in this section includes the increased portion of salaries and incremental fringe benefits for all relevant state funded school programs in PART V of this act. Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in the Special Appropriations sections of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in section 503 of this act.

(b) The appropriation in this section provides salary increase and incremental fringe benefit allocations for the following programs based on formula adjustments as follows:

- (i) For pupil transportation, an increase of \$0.77 per weighted pupil-mile for the 1995-96 school year and maintained for the 1996-97 school year;
- (ii) For learning assistance, an increase of \$11.24 per eligible student for the 1995-96 school year and maintained for the 1996-97 school year;
- (iii) For education of highly capable students, an increase of \$8.76 per formula student for the 1995-96 school year and maintained for the 1996-97 school year; and
- (iv) For transitional bilingual education, an increase of \$22.77 per eligible bilingual student for the 1995-96 school year and maintained for the 1996-97 school year.

(2) The maintenance rate for insurance benefits shall be \$313.95 for the 1995-96 school year and \$314.51 for the 1996-97 school year. Funding for insurance benefits is included within appropriations made in other sections of Part V of this act.

(3) Effective September 1, 1995, a maximum of \$1,129,000 is provided for a 4 percent increase in the state allocation for substitute teachers in the general apportionment programs.

(4) The rates specified in this section are subject to revision each year by the legislature.

Sec. 505. 1995 2nd sp.s. c 18 s 506 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**  
General Fund Appropriation (FY 1996) . . . . . \$ ~~((155,970,000))~~



		<u>154,391,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	(( <del>164,511,000</del> ))
		<u>174,362,000</u>
TOTAL APPROPRIATION . . . . .	\$	(( <del>320,481,000</del> ))
		<u>328,753,000</u>

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

(1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) A maximum of \$1,347,000 may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district. The 1994 travel time to contiguous school district study shall be continued and a report submitted to the fiscal committees of the legislature by December 1, 1995.

(3) A maximum of \$40,000 is provided to complete the computerized state map project containing school bus routing information. This information and available data on school buildings shall be consolidated. Data formats shall be compatible with the geographic information system (GIS) and included insofar as possible in the GIS system.

(4) \$180,000 is provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(5) Beginning with the 1995-96 school year, the superintendent of public instruction shall implement a state bid process for the purchase of school buses pursuant to Engrossed Substitute Senate Bill No. 5408.

(6) Of this appropriation, a maximum of ~~\$(8,807,000))~~ 8,963,000 may be allocated in the 1995-96 school year ~~((and a maximum of \$8,894,000 may be allocated in the 1996-97 school year))~~ for hazardous walking conditions. The superintendent shall ensure that the conditions specified in RCW 28A.160.160(4) for state funding of hazardous walking conditions for any district are fully and strictly adhered to, and that no funds are allocated in any instance in which a district is not actively and to the greatest extent possible engaged in efforts to mitigate hazardous walking conditions.

(7) For the 1996-97 school year, a maximum of \$13,546,000 may be allocated for transportation services in accordance with Senate Bill No. 6684 (student safety to and from school). A district's allocation shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile from their assigned school multiplied by 1.29. "Enrolled students in grades kindergarten through five" for purposes of this section means the number of kindergarten through five students, living within one radius mile, who are enrolled during the week that each district's bus ridership count is taken.

(8) The minimum load factor in the operations formula shall be calculated based on all students transported to and from school.

(9) For the 1996-97 school year, the superintendent of public instruction shall revise the expected bus lifetimes used for determining bus reimbursement payments in the following manner:

(a) The twenty-year bus category shall be reduced to eighteen years; and

(b) The fifteen-year bus category shall be reduced to thirteen years.

Sec. 506. 1995 2nd sp.s. c 18 s 508 (uncodified) is amended to read as follows:

**SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((380,179,000))</del> <u>379,771,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((373,289,000))</del> <u>368,149,000</u>
General Fund—Federal Appropriation . . . . .	\$	98,684,000
TOTAL APPROPRIATION . . . . .	\$	<del>((852,152,000))</del> <u>846,604,000</u>

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

(1) The general fund—state appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) In recognition of the need for increased flexibility at the local district level to facilitate the provision of appropriate education to children (~~with disabilities~~) in need of special education, and the need for substantive educational reform for a significant portion of the school population, the funding formula for special education is modified. These changes result from a 1994 study and recommendations by the institute for public policy and the legislative budget committee, aided by the office of the superintendent of public instruction and the statewide task force for the development of special education funding alternatives. The new formula is for allocation purposes only and is not intended to prescribe or imply any particular pattern of special education service delivery other than that contained in a properly formulated, locally determined, individualized education program.

(3) The superintendent of public instruction shall distribute state funds to school districts based on two categories, the mandatory special education program for special education students ages three to twenty-one and the optional birth through age two program for developmentally delayed infants and toddlers. The superintendent shall review current state eligibility criteria for the fourteen special education categories and consider changes which would reduce assessment time and administrative costs associated with the special education program.

(4) For the 1995-96 and 1996-97 school years, the superintendent shall distribute state funds to each district based on the sum of:

(a) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, times the district's average basic education allocation per full-time equivalent student, times 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment times the enrollment percent, times the district's average basic education allocation per full-time equivalent student times 0.9309.

(5) The definitions in this subsection apply throughout this section.

(a) "Average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 (i.e., 49/1000 certificated instructional staff in grades K-3, and 46/1000 in grades 4-12), and shall not include enhancements for K-3, secondary vocational education, or small schools.

(b) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(c) "Enrollment percent" shall mean the district's resident special education annual average enrollment including those students counted under the special education demonstration projects, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment. For the 1995-96 and the 1996-97 school years, each district's enrollment percent shall be:

(i) For districts whose enrollment percent for 1994-95 was at or below 12.7 percent, the lesser of the district's actual enrollment percent for the school year for which the allocation is being determined or 12.7 percent.

(ii) For districts whose enrollment percent for 1994-95 was above 12.7 percent, the lesser of:

(A) The district's actual enrollment percent for the school year for which the special education allocation is being determined; or

(B) The district's actual enrollment percent for the school year immediately prior to the school year for which the special education allocation is being determined if not less than 12.7 percent; or

(C) For 1995-96, the 1994-95 enrollment percent reduced by 25 percent of the difference between the district's 1994-95 enrollment percent and 12.7. For 1996-97, the 1994-95 enrollment percent reduced by 50 percent of the difference between the district's 1994-95 enrollment percent and 12.7.

(6) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be 12.7, and shall be calculated in the aggregate rather than individual district units. For purposes of subsection (5) of this section, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(7) A minimum of \$4.5 million of the general fund—federal appropriation shall be expended for safety net funding to meet the extraordinary needs of individual special education students.

~~((7))~~ (8) From the general fund—state appropriation, \$14,600,000 is provided for the 1995-96 school year, and ~~\$(19,575,000))~~ 15,850,000 for the 1996-97 school year, for safety net purposes for districts with demonstrable funding needs for special education beyond the combined amounts provided in subsection (4) of this section. The superintendent of public instruction shall, by rule, establish procedures and standards for allocation of safety net funds. In the 1995-96 school year, school districts shall submit their requests for safety net funds to the appropriate regional committee established by the superintendent of public instruction. Regional committees shall make recommendations to the state oversight committee for approval. For the 1996-97 school year, requests for safety net funds under this subsection shall be submitted to the state oversight committee. The following conditions and limitations shall be applicable to school districts requesting safety net funds:

(a) For a school district requesting state safety net funds due to special characteristics of the district and costs of providing services which differ significantly from the assumptions contained in the funding formula, the procedures and standards shall permit relief only if a district can demonstrate at a minimum that:

(i) Individualized education plans are appropriate and are properly and efficiently prepared and formulated;

(ii) The district is making a reasonable effort to provide appropriate program services for special education students utilizing state funds generated by the apportionment and special education funding formulas;

(iii) The district's programs are operated in a reasonably efficient manner and that the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or inefficient practices;

(iv) Indirect costs charged to this program do not exceed the allowable percent for the federal special education program;

(v) Any available federal funds are insufficient to address the additional needs; and

(vi) The costs of any supplemental contracts are not charged to this program for purposes of making these determinations.

(b) For districts requesting safety net funds due to federal maintenance of effort requirements, as a result of changes in the state special education formula, the procedures and standards shall permit relief only if a district can demonstrate at a minimum that:

(i) Individualized education plans are appropriate and are properly and efficiently prepared and formulated; and

(ii) The district is making a reasonable effort to provide appropriate program services for special education students utilizing state funds generated by the apportionment and special education funding formulas(~~—and~~

~~—(iii) Calculations made in accordance with subsection (8) of this section with respect to state fund allocations justify a need for additional funds for compliance with federal maintenance of effort requirements).~~

(c) For districts requesting safety net funds due to federal maintenance of effort requirements as a result in changes in the state special education formula, amounts provided for this purpose shall be calculated by the superintendent of public instruction and adjusted periodically based on the most current information available to the superintendent. The amount provided shall not exceed the lesser of:

(i) The district's 1994-95 state excess cost allocation for resident special education students minus the relevant school year's state special education formula allocation;

(ii) The district's 1994-95 state excess cost allocation per resident special education student times the number of formula funded special education students for the relevant school year minus the relevant school year's special education formula allocation;

(iii) The amount requested by the district; or

(iv) The amount awarded by the state oversight committee.

~~((8))~~ (9)(a) For purposes of making safety net determinations pursuant to subsection ~~((7))~~ (8) of this section, the superintendent shall make available to each school district, from available data, prior to June 1st of each year:

(i) The district's 1994-95 enrollment percent;

(ii) For districts with a 1994-95 enrollment percent over 12.7 percent, the maximum 1995-96 enrollment percent, and prior to 1996-97 the maximum 1996-97 enrollment percent;

(iii) The estimate to be used for purposes of subsection ~~((7))~~ (8) of this section of each district's 1994-95 special education allocation showing the excess cost and the basic education portions; and

(iv) If necessary, a process for each district to estimate the 1995-96 school year excess cost allocation for special education and the portion of the basic education allocation formerly included in the special education allocation. This process may utilize the allocations generated pursuant to subsection (4) of this section, each district's 1994-95 estimated basic education backout percent for the 1994-95 school year, and state compensation increases for 1995-96.

(b) The superintendent, in consultation with the state auditor, shall take all necessary steps to successfully transition to the new formula and minimize paperwork at the district level associated with federal maintenance of effort calculations. The superintendent shall develop such rules and procedures as are necessary to implement this process for the 1995-96 school year, and may use the same process ~~((for the 1996-97 school year if found necessary for federal maintenance of effort calculations)).~~

~~((9))~~ (10) Prior to adopting any standards, procedures, or processes required to implement this section, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

~~((40))~~ (11) Membership of the regional committees, in the 1995-96 school year, may include, but not be limited to:

- (a) A representative of the superintendent of public instruction;
- (b) One or more representatives from school districts including board members, superintendents, special education directors, and business managers; and
- (c) One or more staff from an educational service district.

~~((14))~~ (12) The state oversight committee appointed by the superintendent of public instruction shall consist of:

- (a) Staff of the office of superintendent of public instruction;
- (b) Staff of the office of the state auditor;
- (c) Staff from the office of the financial management; and
- (d) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

~~((12))~~ (13) The institute for public policy, in cooperation with the superintendent of public instruction, the office of financial management, and the fiscal committees of the legislature, shall evaluate the operation of the safety nets under subsections ~~((6))~~ (7) and ~~((7))~~ (8) of this section and shall prepare an interim report by December 15, 1995, and a final report on the first school year of operation by October 15, 1996.

~~((13))~~ (14) A maximum of \$678,000 may be expended from the general fund—state appropriation to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at Children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

~~((14))~~ (15) \$1,000,000 of the general fund—federal appropriation is provided solely for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

~~((15))~~ (16) Not more than \$80,000 of the general fund—federal appropriation shall be expended for development of an inservice training program to identify students with dyslexia who may be in need of special education.

(17) A maximum of \$933,600 of the general fund—state appropriation in fiscal year 1996 and a maximum of \$933,600 of the general fund—state appropriation for fiscal year 1997 may be expended for state special education coordinators housed at each of the educational service districts. Employment and functions of the special education coordinators shall be determined in consultation with the superintendent of public instruction.

Sec. 507. 1995 2nd sp.s. c 18 s 509 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS**

Public Safety and Education Account

Appropriation . . . . .	\$	((17,488,000))
		<u>16,928,000</u>

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

(1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) A maximum of \$507,000 shall be expended for regional traffic safety education coordinators.

(3) The maximum basic state allocation per student completing the program shall be \$137.16 in the 1995-96 and 1996-97 school years.

(4) Additional allocations to provide tuition assistance for students from low-income families who complete the program shall be a maximum of \$66.81 per eligible student in the 1995-96 and 1996-97 school years.

Sec. 508. 1995 2nd sp.s. c 18 s 510 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund Appropriation (FY 1996) . . . . .	\$	((4,411,000))
		<u>4,491,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	4,410,000
TOTAL APPROPRIATION . . . . .	\$	((8,821,000))
		<u>8,901,000</u>

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

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$225,000 of the general fund appropriation is provided solely for student teaching centers as provided in RCW 28A.415.100.

(3) \$360,000 of the general fund appropriation is provided solely to continue implementation of chapter 109, Laws of 1993 (collaborative development school projects).

(4) A maximum of \$350,000 may be expended for centers for improvement of teaching pursuant to RCW 28A.415.010.

(5) \$80,000 is provided solely for allocation to educational service district no. 121 for dyslexia training services provided to teachers in the Tacoma school districts by a nonprofit organization with expertise in this field.

Sec. 509. 1995 2nd sp.s. c 18 s 511 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation (FY 1996) . . . . .	\$	((75,408,000))
		<u>76,871,000</u>

General Fund Appropriation (FY 1997) . . . . .	\$	<del>((79,592,000))</del>
		<u>82,806,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((155,000,000))</del>
		<u>159,677,000</u>

Sec. 510. 1995 2nd sp.s. c 18 s 513 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATION OF INDIAN CHILDREN**

General Fund—Federal Appropriation . . . . .	\$	<del>((370,000))</del>
		<u>55,000</u>

Sec. 511. 1995 2nd sp.s. c 18 s 514 (uncodified) is amended to read as follows:

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

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((15,417,000))</del>
		<u>15,798,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((15,795,000))</del>
		<u>17,928,000</u>
General Fund—Federal Appropriation . . . . .	\$	8,548,000
TOTAL APPROPRIATION . . . . .	\$	<del>((39,760,000))</del>
		<u>42,274,000</u>

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

(1) The general fund—state appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution’s annual average full-time equivalent student enrollment. Staffing ratios for each category of institution and other state funding assumptions shall be those specified in the legislative budget notes.

Sec. 512. 1995 2nd sp.s. c 18 s 515 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((4,254,000))</del>
		<u>4,200,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((4,277,000))</del>
		<u>4,254,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((8,531,000))</del>
		<u>8,454,000</u>



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

- (1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.
- (2) Allocations for school district programs for highly capable students shall be distributed for up to one and one-half percent of each district's full-time equivalent basic education act enrollment.
- (3) \$436,000 of the appropriation is for the Centrum program at Fort Worden state park.

Sec. 513. 1995 2nd sp.s. c 18 s 516 (uncodified) is amended to read as follows:

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

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((17,904,000))</del>
		<u>16,715,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((18,062,000))</del>
		<u>19,251,000</u>
General Fund—Federal Appropriation . . . . .	\$	12,500,000
TOTAL APPROPRIATION . . . . .	\$	48,466,000

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

~~(1) ((3,819,000 of the general fund—state appropriation is provided solely for the operation of the commission on student learning under RCW 28A.630.883 through 28A.630.953. The commission on student learning shall report on a regular basis regarding proposed activities and expenditures of the commission.~~

~~(2) \$4,890,000 of the general fund—state appropriation and \$800,000 of the general fund—federal appropriation are provided solely for development of assessments as required in RCW 28A.630.885 as amended by House Bill No. 1249.~~

~~(3)) \$8,709,000 of the general fund—state appropriation and \$800,000 of the general fund—federal appropriation are provided for the operation of the commission on student learning and development of assessments. The commission shall report on a regular basis regarding proposed activities and ex penditures to the education and fiscal committees of the le islature. The fiscal year splits assumed in calculating the appropriation in this subsection reflect the timelines of Substitute House Bill No. 2695.~~

(2) \$2,190,000 of the general fund—state appropriation is provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

~~((4))~~ (3) \$2,970,000 of the general fund—state appropriation is provided for school-to-work transition projects in the common schools, including state support activities, under RCW 28A.630.861 through 28A.630.880.

~~((5))~~ (4) \$2,970,000 of the general fund—state appropriation is provided for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260. Funds for the teacher assistance program shall be allocated to school districts based on the number of beginning teachers.

~~((6))~~ (5) \$1,620,000 of the general fund—state appropriation is provided for superintendent and principal internships, including state support activities, under RCW 28A.415.270 through 28A.415.300.

~~((7))~~ (6) \$4,050,000 of the general fund—state appropriation is provided for improvement of technology infrastructure, the creation of a student database, and educational technology support centers, including state support activities, under chapter 28A.650 RCW.

~~((8))~~ (7) \$7,200,000 of the general fund—state appropriation is provided for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

~~((9))~~ (8) \$5,000,000 of the general fund—state appropriation is provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155 and shall be distributed as follows:

(a) \$442,000 is provided solely for start-up grants for schools not eligible for federal start-up grants and for summer food service programs; and

(b) \$4,558,000 of the general fund—state appropriation is provided solely to increase the state subsidy for free and reduced-price breakfasts.

~~((10))~~ (9) \$1,260,000 of the general fund—state appropriation is provided for technical assistance related to education reform through the office of the superintendent of public instruction, in consultation with the commission on student learning, as specified in RCW 28A.300.130 (center for the improvement of student learning).

~~((11))~~ (10) \$1,700,000 of the general fund—federal appropriation is provided for professional development grants.

~~((12))~~ (11) \$10,000,000 of the general fund—federal appropriation is provided solely for competitive grants to school districts for implementation of education reform. To the extent that additional federal goals 2000 funds become available, the superintendent shall also allocate such additional funds for the same purpose.

Sec. 514. 1995 2nd sp.s. c 18 s 518 (uncodified) is amended to read as follows:

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

General Fund Appropriation (FY 1996) . . . . . \$ ~~((27,286,000))~~  
26,378,000

General Fund Appropriation (FY 1997) . . . . .	\$	<del>((29,566,000))</del>
		<u>28,432,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((56,852,000))</del>
		<u>54,810,000</u>

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

(1) The appropriation provides such funds as are necessary for the remaining months of the 1994-95 school year.

(2) The superintendent shall distribute a maximum of \$623.21 per eligible bilingual student in the 1995-96 school year and \$623.31 in the 1996-97 school year.

**Sec. 515.** 1995 2nd sp.s. c 18 s 519 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((56,293,000))</del>
		<u>56,417,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((57,807,000))</del>
		<u>58,210,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((114,100,000))</del>
		<u>114,627,000</u>

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

(1) The appropriation provides such funds as are necessary for the remaining months of the 1994-95 school year.

(2) For making the calculation of the percentage of students scoring in the lowest quartile as compared with national norms, beginning with the 1991-92 school year, the superintendent shall multiply each school district's 4th and 8th grade test results by 0.86.

(3) Funding for school district learning assistance programs shall be allocated at a maximum rate of \$366.74 per unit for the 1995-96 school year and a maximum of \$366.81 per unit in the 1996-97 school year. School districts may carryover up to 10 percent of funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(a) A school district's units for the 1995-96 school year shall be the sum of the following:

(i) The 1995-96 full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.96; and

(ii) The 1995-96 full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.96; and

(iii) If the district's percentage of October 1994 headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeds the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's 1995-96 K-12 annual average full-time equivalent enrollment times 11.68 percent.

(b) A school district's units for the 1996-97 school year shall be the sum of the following:

(i) The 1996-97 full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and

(ii) The 1996-97 full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and

(iii) If the district's percentage of October 1995 headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeds the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's 1996-97 K-12 annual average full-time equivalent enrollment times 22.30 percent.

Sec. 516. 1995 2nd sp.s. c 18 s 520 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL ENHANCEMENT FUNDS**

General Fund Appropriation (FY 1996) . . . . .	\$	((57,126,000))
		<u>56,846,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	((58,429,000))
		<u>58,123,000</u>
TOTAL APPROPRIATION . . . . .	\$	((115,555,000))
		<u>114,969,000</u>

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

(1) The appropriation provides such funds as are necessary for the remaining months of the 1994-95 school year.

(2) School districts receiving moneys pursuant to this section shall expend at least fifty-eight percent of such moneys in school buildings for building based planning, staff development, and other activities to improve student learning, consistent with the student learning goals in RCW 28A.150.210 and RCW 28A.630.885. Districts receiving the moneys shall have a policy regarding the involvement of school staff, parents, and community members in instructional decisions. Each school using the moneys shall, by the end of the 1995-96 school year, develop and keep on file a building plan to attain the student learning goals and essential academic learning requirements and to implement the assessment

system as it is developed. The remaining forty-two percent of such moneys may be used to meet other educational needs as identified by the school district. Program enhancements funded pursuant to this section do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder, nor shall such funding constitute levy reduction funds for purposes of RCW 84.52.0531.

(3) Forty-two percent of the allocations to school districts shall be calculated on the basis of full-time enrollment at an annual rate per student of up to \$26.30 for the 1995-96 and 1996-97 school years. For school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Fifty-eight percent of the allocations to school districts shall be calculated on the basis of full-time enrollment at an annual rate per student of up to \$36.69 for the 1995-96 and 1996-97 fiscal years. The state schools for the deaf and the blind may qualify for allocations of funds under this subsection. For school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(5) Beginning with the 1995-96 school year, to provide parents, the local community, and the legislature with information on the student learning improvement block grants, schools receiving funds for such purpose shall include, in the annual performance report required in RCW 28A.320.205, information on how the student learning improvement block grant moneys were spent and what results were achieved. Each school district shall submit the

reports to the superintendent of public instruction and the superintendent shall provide the legislature with an annual report.

(6) Receipt by a school district of one-fourth of the district's allocation of funds under this section, shall be conditioned on a finding by the superintendent that the district is enrolled as a medicaid service provider and is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding).

## PART VI HIGHER EDUCATION

**Sec. 601.** 1995 2nd sp.s. c 18 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2) Operating resources that are not used to meet authorized salary increases and other mandated expenses shall be invested in measures that (a) reduce the time-to-degree, (b) provide additional access to postsecondary education, (c) improve the quality of undergraduate education, (d) provide improved access to courses and programs that meet core program requirements and are consistent with needs of the state labor market, (e) provide up-to-date equipment and facilities for training in current technologies, (f) expand the integration between the K-12 and postsecondary systems and among the higher education institutions, (g) provide additional access to postsecondary education for place-bound and remote students, and (h) improve teaching and research capability through the funding of distinguished professors. ~~((The institutions shall establish, in consultation with the board, measurable goals for increasing the average scheduled course contact hours by type of faculty, and shall report to the appropriate policy and fiscal committees of the legislature each December 1st as to performance on such goals.))~~ The public baccalaureate institutions shall report each academic year to the higher education coordinating board, in a format agreed to by the board, average scheduled course contact hours by type of faculty. The faculties and administrations at the public higher education institutions of the state must take action and share with the legislature the responsibility in meeting the increased demands on higher education. The legislature finds that a focus on educational outcomes provides the most effective means of addressing those demands. Therefore, the institutions shall use a portion of the funds provided in sections 603 through 609 of this act for learning productivity improvements to implement the institutional recommendations to shorten the time-to-degree and improve graduation rates as submitted to the higher education coordinating board in accordance with RCW 28B.10.692. By February 28, 1997, the institutions shall provide the legislature with two-year

goals for improvements in graduation rates and the time-to-degree or time-to-certification.

To reduce the time it takes students to graduate, the institutions shall establish policies and reallocate resources as necessary to increase the number of undergraduate degrees granted per full-time equivalent instructional faculty.

(3) The salary increases provided or referenced in this subsection shall be the maximum allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015.

(a) No more than \$300,000 of the appropriations provided in sections 602 through 608 of this act may be expended for purposes designated in section 911 of this act.

(b) Each institution of higher education shall provide to each classified staff employee as defined by the office of financial management a salary increase of 4.0 percent on July 1, 1995. Each institution of higher education shall provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants as classified by the office of financial management and all other nonclassified staff, including those employees under RCW 28B.16.015, an average salary increase of 4.0 percent on July 1, 1995. For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015, distribution of the salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(c) Funds under section 717 of this act are in addition to any increases provided in (a) and (b) of this subsection. Specific salary increases authorized in sections 603 and 604 of this act are in addition to any salary increase provided in this subsection.

(4) The additional amounts for enrollment increases for the baccalaureate institutions in fiscal year 1997 are intended to fund students in addition to those already actually enrolled or planned for enrollment in that year, and the amounts are not intended to fund students otherwise actually enrolled over the budgeted levels as displayed in chapter 18, Laws of 1995 2nd sp. sess.

(5) The public institutions of higher education shall provide, in a format approved by the higher education coordinating board, data necessary to satisfy the information required by Senate Concurrent Resolution No. 8428 and any other data requirements outlined in this amended act.

Sec. 602. 1995 2nd sp.s. c 18 s 602 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act provide state general fund support or employment and training trust account support for

student full-time equivalent enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institution assumed in this act.

	1995-96 Annual Average FTE	1996-97 Annual Average FTE
University of Washington		
Main campus . . . . .	29,857	((29,888))
		<u>30,455</u>
Evening Degree Program . . . . .	571	617
Tacoma branch . . . . .	588	((687))
		<u>747</u>
Bothell branch . . . . .	533	((617))
		<u>685</u>
Washington State University		
Main campus . . . . .	16,205	((16,419))
		<u>17,403</u>
Spokane branch . . . . .	283	((308))
		<u>352</u>
Tri-Cities branch . . . . .	624	((707))
		<u>724</u>
Vancouver branch . . . . .	723	851
Central Washington University . . . . .	6,903	((6,997))
		<u>7,256</u>
Eastern Washington University . . . . .	7,656	((7,739))
		<u>7,825</u>
The Evergreen State College . . . . .	3,278	((3,298))
		<u>3,406</u>
Western Washington University . . . . .	9,483	((9,606))
		<u>10,038</u>
State Board for Community and Technical Colleges . . . . .	111,986	((113,586))
		<u>114,326</u>
Higher Education Coordinating Board . . . . .	50	50

Sec. 603. 1995 2nd sp.s. c 18 s 603 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	345,763,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	((348,728,000))



		<u>358,240,000</u>
General Fund—Federal Appropriation . . . . .	\$	11,404,000
Employment and Training Trust Account		
Appropriation . . . . .	\$	58,575,000
TOTAL APPROPRIATION . . . . .	\$	((764,470,000))
		<u>773,982,000</u>

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

(1) \$2,883,000 of the general fund appropriation is provided solely for 500 supplemental FTE enrollment slots to implement RCW 28B.50.259 (timber-dependent communities).

(2) \$58,575,000 of the employment and training trust account appropriation is provided solely for training and related support services specified in chapter 226, Laws of 1993 (employment and training for unemployed workers). Of this amount:

(a) \$41,090,000 is to provide enrollment opportunity for 6,100 full-time equivalent students in fiscal year 1996 and 7,200 full-time equivalent students in fiscal year 1997. The state board for community and technical colleges shall submit to the workforce training and education coordinating board for review and approval a plan for the allocation of the full-time equivalents provided in this subsection.

(b) \$8,403,000 is to provide child care assistance, transportation, and financial aid for the student enrollments funded in (a) of this subsection.

(c) \$7,632,000 is to provide financial assistance for student enrollments funded in (a) of this subsection in order to enhance program completion for those enrolled students whose unemployment benefit eligibility will be exhausted or reduced before their training program is completed. The state board for community and technical colleges shall submit to the workforce training and education coordinating board for review and approval a plan for eligibility and disbursement criteria to be used in determining the award of moneys provided in this subsection.

(d) \$750,000 is provided solely for an interagency agreement with the workforce training and education coordinating board for an independently contracted net-impact study to determine the overall effectiveness and outcomes of retraining and other services provided under chapter 226, Laws of 1993, (employment and training for unemployed workers). The net-impact study shall be completed and delivered to the legislature no later than December 31, 1996.

(e) \$700,000 is to provide the operating resources for seven employment security department job service centers located on community and technical college campuses.

(3) \$3,725,000 of the general fund appropriation is provided solely for assessment of student outcomes at community and technical colleges.

(4) \$1,412,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(5) \$3,296,720 of the general fund appropriation is provided solely for instructional equipment.

(6) \$688,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(7) Up to \$4,200,000 of the appropriations in this section may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments.

(8) The technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees authorized in Substitute Senate Bill No. 5325.

~~(9) (Up to \$6,000,000 of general operating funds may be used to address accreditation issues at the technical colleges)~~ \$4,200,000 of the general fund—state appropriation is provided solely for transitional costs and accreditation requirements associated with the transfer of the technical colleges to the community college system. Colleges shall apply funding for distance learning and technology resources to address accreditation requirements in a cost-effective manner. Colleges are encouraged to negotiate with accreditation agencies for the acceptance of new educational technologies to meet accreditation standards.

(10) Up to \$50,000, if matched by an equal amount from private sources, may be used to initiate an international trade education consortium, composed of selected community colleges, to fund and promote international trade education and training services in a variety of locations throughout the state, which services shall include specific business skills needed to develop and sustain international business opportunities that are oriented toward vocational, applied skills. The board shall report to appropriate legislative committees on these efforts at each regular session of the legislature.

(11) \$2,000,000 of the general fund—state appropriation is provided solely for productivity enhancements in student services and instruction that facilitate student progress, and innovation proposals that provide greater student access and learning opportunities. The state board for community and technical colleges shall report to the governor and legislature by October 1, 1997, on implementation of productivity and innovation programs supported by these funds.

(12) \$1,500,000 of the general fund—state appropriation is provided solely for competitive grants to community and technical colleges to assist the colleges in serving disabled students. The state board for community and technical colleges shall award grants to colleges based on severity of need.

(13) \$2,700,000 of the general fund—state appropriation is provided solely for the costs associated with standardizing part-time health benefits per Substitute Senate Bill No. 6583.

(14) By November 15, 1996, the board, in consultation with full- and part-time faculty groups, shall develop a plan and submit recommendations to the legislature to address compensation and staffing issues concerning inter- and intra-institutional salary disparities for full and part-time faculty. The board shall

develop and submit to the governor and the legislature a ten-year implementation plan that: (a) Reflects the shared responsibility of the institutions and the legislature to address these issues; (b) reviews recent trends in the use of part-time faculty and makes recommendations to the legislature for appropriate ratios of part-time to full-time faculty staff; and (c) considers educational quality, long-range cost considerations, flexibility in program delivery, employee working conditions, and differing circumstances pertaining to local situations.

Sec. 604. 1995 2nd sp.s. c 18 s 604 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>(263,981,000)</del>	
			<u>259,062,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((258,321,000))</del>	
			<u>267,933,000</u>
Death Investigations Account Appropriation . . . . .	\$	1,685,000	
Accident Account Appropriation . . . . .	\$	<del>((4,335,000))</del>	
			<u>4,348,000</u>
Medical Aid Account Appropriation . . . . .	\$	<del>((4,330,000))</del>	
			<u>4,343,000</u>
Health Services Account Appropriation . . . . .	\$	<del>((6,244,000))</del>	
			<u>6,247,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((538,896,000))</del>	
			<u>543,678,000</u>

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

(1) ~~\$((9,516,000))~~ 10,501,000 of the general fund—state appropriation is provided solely to operate upper-division and graduate level courses offered at the Tacoma branch campus. Of this amount~~((:))~~: (a) \$237,000 is provided solely for continuation of the two-plus-two program operated jointly with the Olympic Community College; and (b) \$700,000 is provided solely for building maintenance, equipment purchase, and moving costs and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(2) ~~\$((9,438,000))~~ 9,665,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Bothell branch campus.

(3) \$2,300,000 of the health services account appropriation is provided solely for the implementation of chapter 492, Laws of 1993 (health care reform) to increase the supply of primary health care providers.

(4) \$300,000 of the health services account appropriation is provided solely to expand community-based training for physician assistants.

(5) \$300,000 of the health services account appropriation is provided solely for the advanced registered nurse program.

(6) \$2,909,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(7) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(8) \$648,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(9) \$1,471,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(10) \$500,000 of the general fund appropriation is provided solely for enhancements to the mathematics, engineering and science achievement (MESA) program.

(11) \$227,000 of the general fund appropriation is provided solely for implementation of the Puget Sound water quality management plan.

(12) The university shall begin implementation of the professional staff and librarian market gap remedy plan II, which was submitted to the legislature in response to section 603(3), chapter 24, Laws of 1993 sp. sess. and section 603(3), chapter 6, Laws of 1994 sp. sess. As part of the implementation of the plan, an average salary increase of 5.0 percent may be provided to librarians and professional staff on July 1, 1995, to meet salary gaps as described in the plan.

(13) \$184,000 of the health services account appropriation is provided solely for participation of the University of Washington dental school in migrant/community health centers in the Yakima valley.

(14) At least \$50,000 of the general fund appropriation shall be used for research at the Olympic natural resources center.

(15) \$1,718,000 of the general fund appropriation is provided solely for technological improvements to develop an integrated state-wide library system, of which \$409,000 is for system-wide network costs.

Sec. 605. 1995 2nd sp.s. c 18 s 605 (uncodified) is amended to read as follows:

<b>FOR WASHINGTON STATE UNIVERSITY</b>	
General Fund Appropriation (FY 1996) . . . . .	\$ <del>((150,520,000))</del>
	<u>150,272,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$ <del>((153,906,000))</del>
	<u>159,410,000</u>
Industrial Insurance Premium Refund Account	
Appropriation . . . . .	\$ 33,000
<u>Air Pollution Control Account Appropriation</u> . . . . .	<u>\$ 105,000</u>
Health Services Account Appropriation . . . . .	\$ 1,400,000
TOTAL APPROPRIATION . . . . .	\$ <del>((305,859,000))</del>
	<u>311,220,000</u>

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

(1) \$12,008,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses and other educational services offered at the Vancouver branch campus. \$1,198,000 of this amount is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(2) ~~\$(7,534,000)~~ 7,646,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses and other educational services offered at the Tri-Cities branch campus. \$53,000 of this amount is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(3) ~~\$(7,691,000)~~ 8,042,000 of the general fund appropriation is provided solely to operate graduate and professional level courses and other educational services offered at the Spokane branch campus.

(4) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(5) \$280,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(6) \$1,400,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(7) \$2,167,000 of the general fund appropriation is provided for new building operations and maintenance on the main campus and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(8) \$525,000 of the general fund appropriation is provided solely to implement House Bill No. 1741 (wine and wine grape research). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(9) \$1,000,000 of the general fund appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 1009 (pesticide research). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(10) \$314,000 of the general fund appropriation is provided solely for implementation of the Puget Sound water quality management plan.

(11) \$25,000 of the general fund—state appropriation is provided solely for operation of the energy efficiency programs transferred to Washington State University by House Bill No. 2009. If House Bill No. 2009 is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(12) \$450,000 of the general fund—state appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

Sec. 606. 1995 2nd sp.s. c 18 s 606 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((36,741,000))</del>
		<u>37,350,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((37,084,000))</del>
		<u>38,394,000</u>
Health Services Account Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	<del>((74,025,000))</del>
		<u>75,944,000</u>

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

- (1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) \$186,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.
- (3) \$200,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(4) \$166,000 of the general fund—state appropriation is provided solely for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(5) \$454,000 of the general fund—state appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

Sec. 607. 1995 2nd sp.s. c 18 s 607 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	<del>((33,683,000))</del>
		<u>33,636,000</u>
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((34,055,000))</del>
		<u>36,250,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	10,000
Health Services Account Appropriation . . . . .	\$	140,000
TOTAL APPROPRIATION . . . . .	\$	<del>((67,888,000))</del>
		<u>70,036,000</u>

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

- (1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$140,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(3) \$140,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(4) \$1,293,000 of the general fund appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

Sec. 608. 1995 2nd sp.s. c 18 s 608 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation (FY 1996) . . . . .	\$	18,436,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((18,504,000))</del>
		<u>19,325,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((36,940,000))</del>
		<u>37,761,000</u>

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

(1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$94,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(3) \$58,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(4) \$417,000 of the general fund appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

Sec. 609. 1995 2nd sp.s. c 18 s 609 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	42,533,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((43,173,000))</del>
		<u>45,709,000</u>
Health Services Account Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	<del>((85,906,000))</del>
		<u>88,442,000</u>

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

(1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$186,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(3) \$200,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(4) \$275,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(5) \$873,000 of the general fund appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

Sec. 610. 1995 2nd sp.s. c 18 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((1,933,000))</del>
		<u>1,984,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((1,811,000))</del>
		<u>2,365,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,073,000
TOTAL APPROPRIATION . . . . .	\$	<del>((4,817,000))</del>
		<u>5,422,000</u>

(1) The appropriations in this section are provided to carry out the policy coordination, planning, studies, and administrative functions of the board and are subject to the following conditions and limitations: \$560,000 of the general fund—state appropriation is provided solely for enrollment to implement RCW 28B.80.570 through 28B.80.580 (timber dependent communities). The number of students served shall be 50 full-time equivalent students per fiscal year. The higher education coordinating board (HECB) in cooperation with the state board for community and technical college education (SBCTC) shall review the outcomes of the timber program and report to the governor and legislature by November 1, 1995. The review should include programs administered by the HECB and SBCTC. The review should address student satisfaction, academic success, and employment success resulting from expenditure of these funds. The boards should consider a broad range of recommendations, from strengthening the program with existing resources to terminating the program.

(2) \$150,000 of the general fund—state appropriation is provided solely for a study of higher education needs in North Snohomish/Island/Skagit counties. The board is directed to explore and recommend innovative approaches to providing educational programs. The board shall consider the use of technology and distance education as a means of meeting the higher education needs of the area. The study shall be completed and provided to the appropriate committees of the legislature by November 30, 1996.

(3) The higher education coordinating board, in conjunction with the office of financial management and public institutions of higher education, shall study



institutional student enrollment capacity at each four-year university or college. The higher education coordinating board shall report to the governor and the appropriate committees of the legislature the maximum student enrollment that could be accommodated with existing facilities and those under design or construction as of the 1995-97 biennium. The report shall use national standards as a basis for making comparisons, and the report shall include recommendations for increasing student access by maximizing the efficient use of facilities. The report shall also consider ways the state can encourage potential four-year college students to enroll in schools having excess capacity.

(4) \$70,000 of the general fund—state appropriation is provided solely to develop a competency-based admissions system for higher education institutions.

(5) \$50,000 of the general fund—state appropriation is provided solely for attorneys' fees and related expenses needed to defend the equal opportunity grant program.

(6) \$140,000 of the general fund—state appropriation is provided solely for the design and development of recommendations for the creation of a college tuition prepayment program. A recommended program design and draft legislation shall be submitted to the office of financial management by September 30, 1996, for consideration in the 1997 legislative session. The development of the program shall be conducted in consultation with the state investment board, the state treasurer, the state actuary, the office of financial management, private financial institutions, and other qualified parties with experience in the areas of accounting, actuary, risk management, or investment management.

(7) \$100,000 of the general fund—state appropriation is provided solely for the implementation of the assessment of prior learning experience program.

**Sec. 611.** 1995 2nd sp.s. c 18 s 611 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((71,412,000))</del>
		<u>71,272,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((71,613,000))</del>
		<u>76,286,000</u>
General Fund—Federal Appropriation . . . . .	\$	3,579,000
State Educational Grant Account Appropriation . . . . .	\$	40,000
Health Services Account Appropriation . . . . .	\$	2,230,000
TOTAL APPROPRIATION . . . . .	\$	<del>((148,874,000))</del>
		<u>153,407,000</u>

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

(1) \$1,044,000 of the general fund—state appropriation is provided solely for the displaced homemakers program.

(2) \$431,000 of the general fund—state appropriation is provided solely for the western interstate commission for higher education.

(3) \$230,000 of the health services account appropriation is provided solely for the health personnel resources plan.

(4) \$2,000,000 of the health services account appropriation is provided solely for scholarships and loans under chapter 28B.115 RCW, the health professional conditional scholarship program. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(5) ~~\$(140,543,000)~~ 145,076,000 of the general fund—state appropriation is provided solely for student financial aid, including all administrative costs. Of this amount:

(a) ~~\$(110,504,000)~~ 112,487,000 is provided solely for the state need grant program. The board shall, to the best of its ability, rank and serve students eligible for the state need grant in order from the lowest family income to the highest family income;

(b) ~~\$(24,200,000)~~ 26,200,000 is provided solely for the state work study program;

(c) ~~\$(1,000,000)~~ 1,500,000 is provided solely for educational opportunity grants;

(d) A maximum of \$2,650,000 may be expended for financial aid administration, excluding the four percent state work study program administrative allowance provision;

(e) \$633,000 is provided solely for the educator's excellence awards. Any educator's excellence moneys not awarded by April 1st of each year may be transferred by the board to either the Washington scholars program or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(f) \$876,000 is provided solely to implement the Washington scholars program pursuant to Second Substitute House Bill No. 1318 or substantially similar legislation (Washington scholars program). Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence; (and)

(g) \$680,000 is provided solely to implement Substitute House Bill No. 1814 (Washington award for vocational excellence). If the bill is not enacted by June 30, 1995, the amount provided in this subsection (g) shall lapse. Any Washington award for vocational excellence moneys not awarded by April 1st of each year may be transferred by the board, with the consent of the workforce training and education coordinating board, to either the educator's excellence awards or the Washington scholars program; and

(h) \$50,000 is provided solely for community scholarship matching grants of \$2,000 each. To be eligible for the matching grant, a nonprofit community

organization, organized under section 501(c)(3) of the internal revenue code, must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. No organization may receive more than one \$2,000 matching grant.

(6) For the purposes of establishing eligibility for the equal opportunity grant program for placebound students under RCW 28B.101.020, Thurston county lies within the branch campus service area of the Tacoma branch campus of the University of Washington.

Sec. 612. 1995 2nd sp.s. c 18 s 614 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE LIBRARY**

General Fund—State Appropriation (FY 1996) . . . . .	\$	7,069,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((7,071,000))</del>
		<u>7,282,000</u>
General Fund—Federal Appropriation . . . . .	\$	4,799,000
General Fund—Private/Local Appropriation . . . . .	\$	46,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	7,000
TOTAL APPROPRIATION . . . . .	\$	<del>((18,992,000))</del>
		<u>19,203,000</u>

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

(1) \$2,439,516 of the general fund—state appropriation and federal funds are provided for a contract with the Seattle public library for library services for the Washington book and braille library.

(2) \$211,000 of the general fund—state appropriation is provided solely for the state library, with the assistance of the department of information services and the state archives, to establish a pilot government information locator service in accordance with Substitute Senate Bill No. 6556. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

Sec. 613. 1995 2nd sp.s. c 18 s 615 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	2,236,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((1,929,000))</del>
		<u>1,997,000</u>
General Fund—Federal Appropriation . . . . .	\$	934,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	1,000
TOTAL APPROPRIATION . . . . .	\$	<del>((5,100,000))</del>
		<u>5,168,000</u>

Sec. 614. 1995 2nd sp.s. c 18 s 616 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation (FY 1996) . . . . .	\$	1,965,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((2,186,000))</del>
		<u>2,222,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((4,151,000))</del>
		<u>4,187,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$1,731,000 is provided solely for the new Washington state historical society operations and maintenance located in Tacoma.

Sec. 615. 1995 2nd sp.s. c 18 s 617 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation (FY 1996) . . . . .	\$	473,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((473,000))</del>
		<u>718,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((946,000))</del>
		<u>1,191,000</u>

Sec. 616. 1995 2nd sp.s. c 18 s 618 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((3,421,000))</del>
		<u>3,451,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((3,440,000))</del>
		<u>3,559,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	7,000
TOTAL APPROPRIATION . . . . .	\$	<del>((6,868,000))</del>
		<u>7,017,000</u>

Sec. 617. 1995 2nd sp.s. c 18 s 619 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE DEAF**

General Fund—State Appropriation (FY 1996) . . . . .	\$	6,182,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((6,215,000))</del>
		<u>6,365,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	15,000
TOTAL APPROPRIATION . . . . .	\$	<del>((12,412,000))</del>
		<u>12,562,000</u>

**PART VII  
SPECIAL APPROPRIATIONS**

**Sec. 701.** 1995 2nd sp.s. c 18 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL FUND BOND DEBT**

General Fund Appropriation . . . . .	\$	<del>((852,281,000))</del> <u>823,106,003</u>
State Building and Construction Account Appropriation . . . . .	\$	21,500,000
<u>Fisheries Bond Retirement Account 1977</u> <u>Appropriation</u> . . . . .	\$	<u>291,215</u>
<u>Community College Capital Improvement Bond Redemption Fund 1972 Appropriation</u> . . . . .	\$	<u>851,225</u>
<u>Waste Disposal Facility Bond Redemption Fund</u> <u>Appropriation</u> . . . . .	\$	<u>19,592,375</u>
<u>Water Supply Facility Bond Redemption Fund</u> <u>Appropriation</u> . . . . .	\$	<u>1,413,613</u>
<u>Indian Cultural Center Bond Redemption Fund</u> <u>Appropriation</u> . . . . .	\$	<u>126,682</u>
<u>Social and Health Service Bond Redemption Fund</u> <u>1976 Appropriation</u> . . . . .	\$	<u>2,019,427</u>
<u>Higher Education Bond Retirement Fund 1977</u> <u>Appropriation</u> . . . . .	\$	<u>8,272,858</u>
<u>Salmon Enhancement Construction Bond Retirement Fund</u> <u>Fund Appropriation</u> . . . . .	\$	<u>1,071,805</u>
<u>Fire Service Training Center Bond Retirement Fund</u> <u>Appropriation</u> . . . . .	\$	<u>754,844</u>
<u>Higher Education Bond Retirement Account 1988</u> <u>Appropriation</u> . . . . .	\$	<u>4,000,000</u>
<u>State General Obligation Bond Retirement Fund</u> . . . . .	\$	<u>788,886,959</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((873,781,000))</del> <u>1,671,887,006</u>

The general fund appropriation is for deposit into the account listed in section 801 of this act.

**Sec. 702.** 1995 2nd sp.s. c 18 s 702 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE ACTIVITIES**

State Convention and Trade Center Account

Appropriation . . . . .	\$	((24,179,000))
		<u>24,179,295</u>
<u>Higher Education Reimbursement Enterprise Account</u>		
<u>Appropriation</u> . . . . .	\$	633,913
Accident Account Appropriation . . . . .	\$	5,548,000
Medical Account Appropriation . . . . .	\$	5,548,000
<u>State General Obligation Bond Retirement Fund</u> . . . . .	\$	43,940,553
TOTAL APPROPRIATION . . . . .	\$	((35,275,000))
		<u>79,849,761</u>

Sec. 703. 1995 2nd sp.s. c 18 s 703 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

General Fund Appropriation . . . . .	\$	((37,031,000))
	\$	<u>37,031,429</u>
<u>Higher Education Reimbursable Construction Account</u>		
Appropriation . . . . .	\$	197,000
<u>Community College Capital Construction Bond Retirement Fund 1975 Appropriation</u> . . . . .		
	\$	450,000
<u>Higher Education Bond Retirement Fund 1979 Appropriation</u> . . . . .		
	\$	2,887,000
<u>State General Obligation Retirement Fund</u> . . . . .	\$	97,323,580
TOTAL APPROPRIATION . . . . .	\$	((40,565,000))
	\$	<u>137,889,007</u>

Sec. 704. 1995 2nd sp.s. c 18 s 704 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE**

<u>Common School Building Bond Redemption Fund 1967</u>		
Appropriation . . . . .	\$	6,923,000
<u>State Building and Parking Bond Redemption Fund 1969 Appropriation</u> . . . . .		
	\$	((2,453,000))
		<u>2,453,400</u>
TOTAL APPROPRIATION . . . . .	\$	((9,376,000))
		<u>9,376,400</u>

Sec. 705. 1995 2nd sp.s. c 18 s 705 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

General Fund Appropriation . . . . .	\$	1,535,000
State Convention and Trade Center Account		
Appropriation . . . . .	\$	15,000
State Building Construction Account		
Appropriation . . . . .	\$	<del>((364,000))</del>
		<u>1,050,000</u>
Higher Education Reimbursable Construction		
Account Appropriation . . . . .	\$	3,000
TOTAL APPROPRIATION . . . . .	\$	<del>((1,917,000))</del>
		<u>2,603,000</u>

Total Bond Retirement and Interest Appropriations contained in sections 701 through 705 of this act . . . . .	\$	<del>((960,914,000))</del>
		<u>1,901,605,174</u>

*\*Sec. 706. 1995 2nd sp.s. c 18 s 711 (uncodified) is amended to read as follows:*

**FOR THE GOVERNOR—COMPENSATION—INSURANCE BENEFITS**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((2,390,000))</del>
		<u>2,305,000</u>
<del>((General Fund—State Appropriation (FY 1997) . . . . .</del>	<del>\$</del>	<del>2,561,000))</del>
General Fund—Federal Appropriation . . . . .	\$	<del>((1,835,000))</del>
		<u>737,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((136,000))</del>
		<u>108,000</u>
Salary and Insurance Increase Revolving Account		
Appropriation . . . . .	\$	<del>((4,105,000))</del>
		<u>1,559,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((11,027,000))</del>
		<u>4,709,000</u>

The appropriations in this section are subject to the following conditions and limitations, and unless otherwise specified, apply to both state agencies and institutions of higher education:

(1) The office of financial management shall reduce the allotments of appropriations to state agencies in this act, excluding institutions of higher education, to reflect costs of health care benefits, administration, and margin in the self-insured medical and dental plans. In making these allotment revisions, the office of financial management shall reduce fiscal year 1997 general fund—state expenditures by \$363,000.

~~((1))~~ **(2)(a)** *The monthly contribution for insurance benefit premiums shall not exceed \$308.14 per eligible employee for fiscal year 1996, and ~~\$(308.96)~~ 301.95 for fiscal year 1997.*

**(b)** *The monthly contributions for the margin in the self-insured medical and dental plans and for the operating costs of the health care authority shall not exceed \$5.81 per eligible employee for fiscal year 1996 ~~(and \$5.55 for fiscal year 1997)~~. In fiscal year 1997, the monthly contribution for the operating costs of the health care authority shall not exceed \$5.05 per eligible employee; the monthly contribution for the margin in the self-insured medical and dental plans shall be reduced by \$2.69 per eligible employee.*

**(c)** *Surplus moncys accruing to the public employees' and retirees' insurance account due to lower-than-projected insurance costs or due to employee waivers of coverage may not be reallocated by the health care authority to increase the actuarial value of public employee insurance plans. Such funds shall be held in reserve in the public employees' and retirees' insurance account and may not be expended without subsequent legislative authorization.*

**(d)** *In order to achieve the level of funding provided for health benefits, the public employees' benefits board may require employee premium co-payments, increase point-of-service cost sharing, and/or implement managed competition.*

~~((2))~~ **(3)** *To facilitate the transfer of moncys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.*

~~((3))~~ **(4)** *The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From July 1, 1995, through December 31, 1995, the subsidy shall be \$34.20 per month. From January 1, 1996, through December 31, 1996, the subsidy shall be \$36.77 per month. Starting January 1, 1997, the subsidy shall be \$39.52 per month.*

~~((4))~~ **(5)** *Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120:*

**(a)** *For each full-time employec, \$14.79 per month beginning October 1, 1995, and \$14.80 per month beginning September 1, 1996;*

**(b)** *For each part-time employee who, at the time of the remittancc, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$14.79 each month beginning October 1, 1995, and \$14.80 each month beginning September 1, 1996, prorated by the proportion of employer fringe*



*benefit contributions for a full-time employee that the part-time employee receives.*

*The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.*

~~((5))~~ **(6)** *The salary and insurance increase revolving account appropriation includes funds sufficient to fund health benefits for ferry workers at the premium levels specified in subsection ~~((4))~~ **(2)** of this section, consistent with the 1995-97 transportation appropriations act.*

~~((6))~~ **(7)** *Rates charged to school districts voluntarily purchasing employee benefits through the health care authority shall be equivalent to the actual insurance costs of benefits and administration costs for state and higher education employees except:*

*(a) The health care authority is authorized to reduce rates charged to school districts for up to 10,000 new subscribers by applying surplus funds accumulated in the public employees' and retirees' insurance account. Rates may be reduced up to a maximum of \$10.93 per subscriber per month in fiscal year 1996 and a maximum of \$7.36 per subscriber per month in fiscal year 1997; and*

*(b) For employees who first begin receiving benefits through the health care authority after September 1, 1995, districts shall remit the additional costs of health care authority administration resulting from their enrollment. The additional health care authority administration costs shall not exceed \$.30 per month per subscriber.*

\*Sec. 706 was vetoed. See message at end of chapter.

Sec. 707. 1995 2nd sp.s. c 18 s 713 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—  
CONTRIBUTIONS TO RETIREMENT SYSTEMS**

	FY 1996	FY 1997
General Fund—State		
Appropriation . . . . . \$	((1,007,000))	((1,224,000))
	<u>942,000</u>	<u>1,150,000</u>
General Fund—Federal		
Appropriation . . . . . \$	((367,000))	((447,000))
	<u>365,000</u>	<u>437,000</u>
Special Account Retirement Contribution		
Increase Revolving Account		
Appropriation . . . . . \$	((904,000))	((1,007,000))
	<u>830,000</u>	<u>993,000</u>
TOTAL APPROPRIATION . . . . . \$	((5,038,000))	<u>4,717,000</u>

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely to pay the increased retirement contributions resulting from enactment of Substitute Senate Bill No. 5119 (uniform COLA). If the bill is not enacted by June 30, 1995, the amounts provided in this section shall lapse.

Sec. 708. 1995 2nd sp.s. c 18 s 714 (uncodified) is amended to read as follows:

**SALARY COST OF LIVING ADJUSTMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	<del>((36,020,000))</del>
		<u>34,386,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((36,590,000))</del>
		<u>35,100,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((29,603,000))</del>
		<u>25,402,000</u>
Salary and Insurance Increase Revolving Account		
Appropriation . . . . .	\$	60,213,000
TOTAL APPROPRIATION . . . . .	\$	<del>((162,426,000))</del>
		<u>155,101,000</u>

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section.

(1) In addition to the purposes set forth in subsections (2), (3), and (4) of this section, appropriations in this section are provided solely for a 4.0 percent salary increase effective July 1, 1995, for all classified employees (including those employees in the Washington management service) and exempt employees under the jurisdiction of the personnel resources board.

(2) The appropriations in this section are sufficient to fund a 4.0 percent salary increase for general government, legislative, and judicial employees exempt from merit system rules whose salaries are not set by the commission on salaries for elected officials.

(3) The salary and insurance increase revolving account appropriation in this section includes funds sufficient to fund a 4.0 percent cost-of-living adjustment, effective July 1, 1995, for ferry workers consistent with the 1995-97 transportation appropriations act.

(4) The appropriations in this section include funds sufficient to fund the salary increases approved by the commission on salaries for elected officials for legislators and judges.

(5) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the personnel resources board.

NEW SECTION. Sec. 709. A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR SUNDRY CLAIMS.** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of general administration, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

(a) Walter Watson, claim number SCJ-92-11 . . . . .	\$	6,003.00
(b) Carl L. Decker, claim number SCJ-95-02 . . . . .	\$	24,948.48
(c) Bill R. Hood, claim number SCJ-95-08 . . . . .	\$	71,698.72
(d) Rick Sevela, claim number SCJ-95-09 . . . . .	\$	6,937.22
(e) William V. Pearson, claim number SCJ-95-12 . . . . .	\$	5,929.99
(f) Craig T. Thiessen, claim number SCJ-95-13 . . . . .	\$	3,540.24
(g) Douglas Bauer, claim number SCJ-95-15 . . . . .	\$	40,015.86
(h) Walter A. Whyte, claim number SCJ-96-02 . . . . .	\$	2,989.30

(2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.12.280:

(a) Wilson Banner Ranch, claim number SCG-95-01 . . . . .	\$	2,800.00
(b) James Koempel, claim number SCG-95-04 . . . . .	\$	5,291.08
(c) Mark Kayser, claim number SCG-95-06 . . . . .	\$	4,000.00
(d) Peola Farms, Inc., claim number SCG-95-07 . . . . .	\$	1,046.50
(e) Bailey's Nursery, claim number SCG-96-01 . . . . .	\$	125.00
(f) Paul Gibbons, claim number SCG-96-02 . . . . .	\$	2,635.73

**Sec. 710.** 1995 2nd sp.s. c 18 s 718 (uncodified) is amended to read as follows:

<b>FOR THE OFFICE OF FINANCIAL MANAGEMENT—COMPENSATION ACTIONS OF PERSONNEL RESOURCES BOARD</b>		
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((5,000,000))</del>
		<u>9,475,000</u>
Salary and Insurance Increase Revolving		
Account Appropriation (FY 1997) . . . . .	\$	5,000,000
TOTAL APPROPRIATION . . . . .	\$	<del>((10,000,000))</del>
		<u>14,475,000</u>

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

(1) The appropriations in this section shall be expended solely for the purposes designated in section 911 of this act.

(2) In addition to the moneys appropriated in this section, state agencies may expend up to an additional \$2,500,000 from other general fund—state appropriations in this act and \$2,500,000 from appropriations from other funds and accounts for the purposes and under the procedures designated in section 911 of this act.

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 1995 2nd sp.s. c 18 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT SUBJECT TO THE STATUTORY DEBT LIMIT**

State General Obligation Bond Retirement Fund 1979	
Fund Appropriation .....	\$ <del>((852,281,000))</del> <u>784,711,959</u>
<u>Fisheries Bond Retirement Account 1977</u>	
<u>Appropriation</u> .....	\$ <u>291,215</u>
<u>Community College Capital Improvement Bond Redemption Fund 1972 Appropriation</u> .....	
	\$ <u>851,225</u>
<u>Waste Disposal Facility Bond Redemption Fund Appropriation</u> .....	
	\$ <u>19,592,375</u>
<u>Water Supply Facility Bond Redemption Fund Appropriation</u> .....	
	\$ <u>1,413,613</u>
<u>Indian Cultural Center Bond Redemption Fund Appropriation</u> .....	
	\$ <u>126,682</u>
<u>Social and Health Service Bond Redemption Fund 1976 Appropriation</u> .....	
	\$ <u>2,019,427</u>
<u>Higher Education Bond Retirement Fund 1977 Appropriation</u> .....	
	\$ <u>8,272,858</u>
<u>Salmon Enhancement Construction Bond Retirement Fund Appropriation</u> .....	
	\$ <u>1,071,805</u>
<u>Fire Service Training Center Bond Retirement Fund Appropriation</u> .....	
	\$ <u>754,844</u>
<u>Higher Education Bond Retirement Account 1988 Appropriation</u> .....	
	\$ <u>4,000,000</u>
	<u>TOTAL APPROPRIATION</u> .....
	\$ <u>823,106,003</u>

The total expenditures from the state treasury under the appropriation in this section and the general fund appropriation in section 701 of this act shall not exceed the total appropriation in this section.

**Sec. 802.** 1995 2nd sp.s. c 18 s 802 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY AS PRESCRIBED BY STATUTE**

<u>Community College Capital Construction Bond Retirement Account 1975 Appropriation</u> .....	
	\$ <u>450,000</u>

Higher Education Bond Retirement Account 1979

<u>Appropriation</u> . . . . .	\$	<u>2,887,000</u>
State General Obligation Bond Retirement Fund 1979		
Appropriation . . . . .	\$	<u>((37,031,000))</u>
		<u>134,355,007</u>
<u>TOTAL APPROPRIATION</u> . . . . .	\$	<u>137,692,007</u>

The total expenditures from the state treasury under the appropriation in this section and the general fund appropriation in section 703 of this act shall not exceed the total appropriation in this section.

Sec. 803. 1995 2nd sp.s. c 18 s 803 (uncodified) is amended to read as follows:

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

General Fund Appropriation for fire insurance premiums distribution . . . . .	\$	<u>((6,025,000))</u>
		<u>5,641,000</u>
General Fund Appropriation for public utility district excise tax distribution . . . . .	\$	<u>((29,885,000))</u>
		<u>31,242,000</u>
General Fund Appropriation for prosecuting attorneys' salaries . . . . .	\$	2,800,000
General Fund Appropriation for motor vehicle excise tax distribution . . . . .	\$	<u>((72,684,000))</u>
		<u>87,474,000</u>
General Fund Appropriation for local mass transit assistance . . . . .	\$	<u>((335,869,000))</u>
		<u>339,007,000</u>
General Fund Appropriation for camper and travel trailer excise tax distribution . . . . .	\$	<u>((3,554,000))</u>
		<u>3,198,000</u>
General Fund Appropriation for boating safety/education and law enforcement distribution . . . . .	\$	<u>((3,224,000))</u>
		<u>3,365,000</u>
<del>((General Fund Appropriation for public health distribution . . . . .</del>	<del>\$</del>	<del>36,465,000))</del>
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution . . . . .	\$	130,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution . . . . .	\$	<u>((22,185,000))</u>
		<u>21,500,000</u>
Liquor Revolving Fund Appropriation for liquor		

profits distribution . . . . .	\$	<del>((42,778,000))</del> <u>40,160,000</u>
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties . . . . .	\$	<del>((115,950,000))</del> <u>118,750,000</u>
Municipal Sales and Use Tax Equalization Account Appropriation . . . . .	\$	58,181,000
County Sales and Use Tax Equalization Account Appropriation . . . . .	\$	12,940,000
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies . . . . .	\$	1,200,000
County Criminal Justice Account Appropriation . . . . .	\$	69,940,000
Municipal Criminal Justice Account Appropriation . . . . .	\$	27,972,000
County Public Health Account Appropriation . . . . .	\$	<del>((29,709,000))</del> <u>29,250,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((871,491,000))</del> <u>852,750,000</u>

The appropriations in this section are subject to the following conditions and limitations: The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

Sec. 804. 1995 2nd sp.s. c 18 s 805 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

Public Works Assistance Account: For transfer to the Flood Control Assistance Account . . . . .	\$	<del>((4,000,000))</del> <u>10,031,000</u>
<u>General Fund: For transfer to the Flood Control Assistance Account . . . . .</u>	\$	<u>23,181,000</u>
General Fund: For transfer to the Natural Resources Fund—Water Quality Account . . . . .	\$	<del>((18,471,000))</del> <u>20,840,000</u>
New Motor Vehicle Arbitration Account: For transfer to the Public Safety and Education Account . . . . .	\$	3,200,000
Water Quality Account: For transfer to the Water Pollution Revolving Fund. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the revolving fund. The amounts transferred shall not exceed the match required for each federal deposit . . . . .	\$	25,000,000

Water Quality Account: For transfer to the Water Right Permit Processing Account . . . . .	\$	((500,000)) <u>750,000</u>
Trust Land Purchase Account: For transfer to the Parks Renewal and Stewardship Account . . . . .	\$	((1,304,000)) <u>1,308,000</u>
General Government Special Revenue Fund—State Treasurer’s Service Account: For transfer to the general fund on or before June 30, 1997, an amount up to \$((7,361,000)) <u>12,361,000</u> in excess of the cash requirements of the state treasurer’s service account . . . . .	\$	((7,361,000)) <u>12,361,000</u>
Health Services Account: For transfer to the Public Health Services Account . . . . .	\$	26,003,000
Public Health Services Account: For transfer to the County Public Health Account . . . . .	\$	2,250,000
Public Works Assistance Account: For transfer to the Growth Management Planning and Environmental Review Fund . . . . .	\$	3,000,000
Basic Health Plan Trust Account: For transfer to the General Fund—State Account (FY 1996) . . . .	\$	2,664,778
Basic Health Plan Trust Account: For transfer to the General Fund—State Account (FY 1997) . . . .	\$	2,664,778
Oil Spill Response Account: For transfer to the Oil Spill Administration Account . . . . .	\$	1,718,000
<u>State Convention and Trade Center Account: For transfer to the State Convention and Trade Center Operations Account . . . . .</u>	<u>\$</u>	<u>5,400,000</u>

**PART IX  
MISCELLANEOUS**

**Sec. 901.** RCW 43.08.250 and 1995 2nd sp.s. c 18 s 912 are each amended to read as follows:

The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims’ compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, and state game programs. During the fiscal biennium ending June 30, 1997, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense,

the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, sexual assault treatment, operations of the office of administrator for the courts, security in the common schools, programs for alternative dispute resolution of farmworker employment claims, criminal justice data collection, and Washington state patrol criminal justice activities.

Sec. 902. RCW 70.95.520 and 1989 c 431 s 94 are each amended to read as follows:

There is created an account within the state treasury to be known as the vehicle tire recycling account. All assessments and other funds collected or received under this chapter shall be deposited in the vehicle tire recycling account and used by the department of ecology for administration and implementation of this chapter. After October 1, 1989, the department of revenue shall deduct two percent from funds collected pursuant to RCW 70.95.510 for the purpose of administering and collecting the fee from new replacement vehicle tire retailers.

During the 1995-97 biennium, funds in the account may be appropriated to support recycling market development activities by state agencies.

Sec. 903. RCW 86.26.007 and 1995 2nd sp.s. c 18 s 915 are each amended to read as follows:

The flood control assistance account is hereby established in the state treasury. At the beginning of the 1997-99 fiscal biennium and each biennium thereafter the state treasurer shall transfer from the general fund to the flood control assistance account an amount of money which, when combined with money remaining in the account from the previous biennium, will equal four million dollars. Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter or, during the 1995-97 biennium, for state and local response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1079 (November/December 1995 storms), FEMA disaster number 1100 (February 1996 floods), and for prior biennia disaster recovery costs. To the extent that moneys in the flood control assistance account are not appropriated during the 1995-97 fiscal biennium for flood control assistance, the legislature may direct their transfer to the state general fund.

NEW SECTION. Sec. 904. 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. 905. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.



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Passed the Senate March 7, 1996.  
 Passed the House March 7, 1996.  
 Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.  
 Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 109(4); 109(5); 112(1) beginning with the word "Of" on line 12, and ending with "January 1, 1997." on line 26; 112(2); 112(4); 121(25); 132 (lines 19-20); 132(3); 206 (lines 34-35); 213 (lines 24-28); 217(15); 217(16); 218(1)(f); 218(2)(c); 301(11); 503; and 706, Engrossed Substitute Senate Bill No. 6251 entitled:

"AN ACT Relating to fiscal matters;"

My reason for vetoing these sections are as follows:

**Section 109(4) and (5), page 10, Judgeship Proviso Reference (Administrator for the Courts)**

Section 109(4) provides funding for an additional Superior Court judgeship in Thurston County effective July 1, 1996; and section 109(5) provides funding for two additional Superior Court judgeships in Chelan and Douglas Counties effective January 1, 1997. However, both sections lapse funding for these judgeships without enactment of Senate Bill No. 6151 and Senate Bill No. 6495. Although the legislature did not approve either of these two bills, it did approve substantially similar legislation (Substitute House Bill No. 2446) to increase the number of judges in Thurston, Chelan, and Douglas Counties. For this reason, I am vetoing the proviso language that ties the

appropriation to the enactment of the two referenced senate bills, thereby making the funding available to the courts to carry out the intent of the legislature.

**Section 112(1), beginning with the word "Of" on line 12 and ending with "January 1, 1997," on line 26 and Section 112(2), page 12, Management Improvement Project for the Children and Family Services Division of the Department of Social and Health Services (Office of the Governor)**

Section 112(1) provides \$1,100,000 of a \$1,518,000 General Fund-State appropriation solely for allocation to the Public Policy Institute at The Evergreen State College to direct a management improvement project for the Division of Children and Family Services (DCFS). I wholeheartedly support this project and believe the legislature has taken an important step to assure that Washington State's system for delivery of child welfare services is a sound organization of which everyone can be proud. However, this subsection requires that the full \$1.1 million designated for the project be expended on a structural and process examination of DCFS. While such an examination should be the project's primary focus, I believe this amount could be used more effectively if some of the funds are also directed toward an examination of other key issues affecting DCFS and toward making immediate and tangible improvements in children and family services.

Therefore, I am vetoing part of section 112(1) in order to broaden the project's scope and to ensure that the state receives immediate and lasting results from the money designated for this project.

Specifically, I will broaden the scope of the project to include an examination of substance abuse and its impact on families and DCFS' delivery of services. I believe we, as a state, must come to grips with this problem, and I believe it is an important consideration of any review of the role and management of DCFS. In addition, I will direct that a portion of the money designated for the project be used to implement some of the strategies that experts have already identified as essential to improve our child welfare system. The most notable of these improvements is the creation of a separate licensing function with the Department of Social and Health Services to assure the health and safety of children in the department's care.

As intended by the legislature, the examination of DCFS' structure and processes by an objective, impartial expert will remain the central focus of the project. As set forth in section 112(1), this examination will include the study and development of DCFS' strategic plan, mission, goals, and performance-based outcome measures. I fully share the legislature's desire to improve DCFS' performance, strengthen its accountability, and increase public confidence in its work. The comprehensive examination outlined here will help us achieve this mutual goal.

Section 112(2) creates an oversight group for the management improvement project. While I agree with the need for this group, the membership outlined in this subsection is unnecessarily restrictive. I believe the examination of the DCFS' structure and processes would benefit from the inclusion of others, including experts outside state government. Therefore, I am vetoing section 112(2). While I will welcome input from the oversight group members outlined in this subsection, I plan to convene a broader group, including children's services experts from both the public and private sector, to assist in defining the scope of the management examination. I am retaining the requirement in section 112(3) involving a legislative advisory committee in the project and look forward to working with these members. I also believe there should be close collaboration between the project oversight group and the Legislative Budget Committee which was recently directed by the legislature to conduct a performance audit of Child Protective Services.

**Section 112(4), page 13, Office of the Family and Children's Ombudsman (Office of the Governor)**

Section 112(4) provides \$418,000 of the \$1,518,000 General Fund-State appropriation designated for establishing a new Office of the Family and Children's Ombudsman in the Governor's Office. This subsection requires the staff of the Office of Constituent

Relations at the Department of Social and Health Services to be transferred to the Ombudsman's Office. These staff members perform an important function in the department and should remain there. Therefore, I am vetoing section 112(4); however, I will ensure that the Office of the Family and Children's Ombudsman will be established as intended by Second Substitute House Bill No. 2856.

**Section 121(25), page 29, Asian-Pacific Economic Conference (Department of Community, Trade, and Economic Development)**

Section 121(25) requires that \$180,000 from the General Fund-State appropriation be used by the Department of Community, Trade, and Economic Development (CTED) to supplement private funding for the Asian-Pacific Economic Conference (APEC). Because the legislature did not provide additional resources to support this expenditure, CTED would be forced to reduce funding for other valuable economic development programs to implement this budget language. While APEC's budget difficulties are very real, I cannot support a further erosion of CTED's economic development programs. Therefore, I am vetoing section 121(25).

**Section 132, lines 19-20, and Section 132(3), page 38, K-20 Technology Improvements (Department of Information Services)**

Section 132 appropriates \$54.3 million for the K-20 technology plan contained in Engrossed Second Substitute Senate Bill No. 6705. I applaud the legislature for addressing this very important need. Unfortunately, \$12 million of the \$54.3 million is appropriated from the Data Processing Revolving Account, a dedicated internal service fund used by the Department of Information Services (DIS) and other agencies to provide services on a cost-recovery basis. There are two technical problems with the use of this fund for the intended purpose. First, DIS' portion of the cash balance in this account is obligated for purchasing equipment and software needed to provide services to the contributing agencies. These services are not related to the K-20 technology plan. Second, dedicated state and federal revenues are merged in this account and using those outside sources to help finance the K-20 technology plan would be inappropriate. The largest contributors to the balance include funds of the Department of Social and Health Services and dedicated funds from the Departments of Labor and Industries, Licensing, and Transportation. Diverting these specific funds to a project not related to their intended use would ultimately result in having to pay back the original fund source.

As stated in Engrossed Second Substitute Senate Bill No. 6705, there is an initial requirement to prepare a design and implementation plan for K-20 technology improvements. This plan will create a better cost estimate as well as lay out the timing of the project. Although the higher education system is ready to proceed, K-12 is not expected to reach that stage prior to the next legislative session. Furthermore, the appropriation from the Data Processing Revolving Account was to be expended only after the entire K-20 Technology Account appropriation had been obligated. Since these funds are not expected to be needed prior to the 1997 Legislative Session, I will be looking toward making the required investment at that time through proper funding sources.

I commend the legislature for recognizing and addressing this vitally important need for technology improvements in our education system, but I cannot allow the improper use of the Data Processing Revolving Account. Therefore, I am vetoing the \$12 million appropriation, together with subsection (3) that relates to this appropriation.

**Section 206, lines 34-35, page 52, Aging and Adult Services Fiscal Year 1996 Appropriation (Department of Social and Health Services)**

The 1996 Legislative Session ended without passage of a supplemental capital budget. Without other action, the Department of Social and Health Services (DSHS) would have insufficient resources to replace the sewer system at the Maple Lane School or to move ahead with the reconstruction of Green Hill School, which is essential to continue to operate the institution and to meet growing demands for additional beds in

the future. By vetoing the lines referenced above, the original higher appropriation level is restored, providing an additional \$9,917,000 in General Fund-State expenditure authority for DSIS in Fiscal Year 1996. These operating funds will be transferred to the Juvenile Rehabilitation and Mental Health institutional budgets to replace capital expenditures, thereby freeing up \$9.9 million in bond appropriations for capital projects. Of these funds, \$7 million will be allocated for reconstruction of Green Hill School and the remainder will be used to replace the Maple Lane sewer system.

**Section 213, lines 24-28, page 65, Discrimination Dispute Resolution (Human Rights Commission)**

This proviso directs \$100,000 General Fund-State to the Human Rights Commission to implement House Bill No. 2932, regarding discrimination dispute resolution. Since House Bill No. 2932 is not a necessary or appropriate prerequisite to providing alternative dispute resolution, I have vetoed it. I am also vetoing this proviso and directing the commission to use this \$100,000 to reduce its current backlog of discrimination cases.

**Section 217(15), pages 72-73, CHLD Profile (Department of Health)**

Subsection 15 appropriates \$210,000 General Fund-State solely for the purpose of stabilizing the existing CHLD Profile program in four counties and requires the development of a plan to expand the CHLD Profile immunization tracking system statewide by July 1, 1997. This is an extremely important effort, but I am concerned that the proviso appears to assume that the statewide planning effort can be implemented by July 1, 1997. Although the Department of Health is already engaged in determining statewide expansion of the program, implementation within this time frame is not feasible. Therefore, I am vetoing this subsection, but I am directing the Department of Health to expend the \$210,000 on the CHLD Profile program, proceed with its planning effort, and complete a report on its outcomes by July 1, 1997.

**Section 217(16), page 73, Domoic Acid (Department of Health)**

The Department of Health's (DOH) supplemental request to support testing for the presence of domoic acid, a harmful neural toxin in razor clams, blue mussels, and crabs was not funded. This proviso would require DOH to expend \$195,000 from existing general fund appropriations to conduct these tests. While domoic acid represents a public health threat to unsuspecting recreational harvesters of shellfish, the cost of these tests must be balanced against other important work being done by DOH. For this reason, I am vetoing this subsection and directing DOH to continue its testing program, to the degree possible, within existing resources.

**Section 218(1)(f), page 75, Supervision of Sex Offenders (Department of Corrections)**

Section 218(1)(f) provides \$78,000 to implement Substitute Senate Bill No. 6274, regarding the supervision of sex offenders. Substitute Senate Bill No. 6274, however, does not require the appropriation, but Substitute House Bill No. 2545, which was also approved by the legislature, does. For that reason, I am vetoing section 218(1)(f) so that the Department of Corrections can fulfill legislative intent.

**Section 218(2)(c), page 76, Life Skills Program (Department of Corrections)**

Section 218(2)(c) requires that, within the amounts appropriated, the Department of Corrections (DOC) fund the Life Skills program at the Washington State Correctional Center for Women in Fiscal Year 1997 at a level equal to or greater than that funded in Fiscal Year 1995. This directive is inconsistent with the educational requirements of Chapter 19, Laws of 1995, 1st Special Session, which require that DOC give a higher

priority to basic and vocational education than to the Life Skills program. For this reason, I am vetoing Section 218(2)(c).

**Section 301(11), page 83, Water Quality Permit Fee Program (Department of Ecology)**

Section 301(11) requires the Department of Ecology to hire a consultant to develop a fee schedule for the water quality permit fee program. Although the proviso earmarks \$110,000 from the Water Quality Permit Fee Account for this study, the Department of Ecology's appropriation was not increased (and available revenue would not support an increased appropriation). Water quality efforts would need to be reduced to implement this proviso, which would result in fewer permit reviews.

In addition, a number of studies have already been conducted addressing the issues identified in the proviso. Among them are the 1994 Legislative Budget Committee study and the 1990-91 Efficiency Commission study. This new study would be redundant to those efforts. For these reasons, I am vetoing section 301(11).

**Section 503, pages 110-114, Basic Education Salaries (Superintendent of Public Instruction)**

Section 503 determines the level of state support for certificated salaries in basic education. The legislature added new language in 503(1)(b) to base 1996-97 school year allocated salaries on the experience and education (staff mix factor) of both basic education and special education certificated staff. By including special education staff in the calculation, the new language lowers the amount allocated to some school districts for basic education salaries in the 1996-97 school year. Because of state limits on school district salaries (the salary compliance law), some school districts would be required to pay lower salaries in 1996-97 than in 1995-96. Although I favor the concept of including special education staff in the salary allocation formula, I do not favor cutting any teacher's salary. For this reason, I am vetoing section 503. I will consider budget language and accompanying legislation for the 1997-99 Biennium to include special education and other staff in the salary allocation formula. I believe this can be accomplished without forcing salary cuts on certificated staff.

**Section 706, pages 154-157, Health Insurance Benefits**

Section 706 reduces the monthly contribution funding for health benefits for employees of state agencies and higher education institutions in Fiscal Year 1997 from \$314.51 to \$304.31 per month. This reduction would decrease the overall Public Employees Benefits Board funding by approximately \$11 million (all funds), which would have the effect of drawing down the current reserve.

I am vetoing this section because this reserve should be available to address unanticipated expenditures in the current biennium or to defer some of the increased funding which will most likely be required in the 1997-99 Biennium. This action should help protect the current benefits levels in the future for state employees.

I would like to take this opportunity to acknowledge that the 1996 Legislature took responsible action in recognizing some of the funding shortfalls due to congressional budget reductions. It is critical for our state to continue summer youth programs, to maintain the emergency food distribution programs, and to keep a commitment to salmon production. I would also like to remind members of the legislature that we may yet have to address other federal budget problems later this year. Since we no longer have predictable federal funding, it may be necessary to address serious budget shortfalls this fall, possibly even necessitating a special legislative session.

For these reasons, I have vetoed sections 109(4); 109(5); 112(1) beginning with the word "Of" on line 12, and ending with "January 1, 1997." on line 26; 112(2); 112(4); 121(25); 132 (lines 19-20); 132(3); 206 (lines 34-35); 213 (lines 24-28); 217(15);

217(16); 218(1)(f); 218(2)(c); 301(11); 503; and 706 of Engrossed Substitute Senate Bill No. 6251.

With the exception of sections 109(4); 109(5); 112(1) beginning with the word "Of" on line 12, and ending with "January 1, 1997." on line 26; 112(2); 112(4); 121(25); 132 (lines 19-20); 132(3); 206 (lines 34-35); 213 (lines 24-28); 217(15); 217(16); 218(1)(f); 218(2)(c); 301(11); 503; and 706, Engrossed Substitute Senate Bill No. 6251 is approved."

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## CHAPTER 284

[House Bill 1339]

### JUVENILE PROBATION AND DETENTION SERVICES

AN ACT Relating to juvenile services; and amending RCW 13.04.035.

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

**Sec. I.** RCW 13.04.035 and 1991 c 363 s 10 are each amended to read as follows:

Juvenile court(~~(, probation counselor, and detention services)~~) shall be administered by the superior court, except that by local court rule and agreement with the legislative authority of the county ((~~they~~)) this service may be administered by the legislative authority of the county ((in the manner prescribed by RCW 13.20.060: PROVIDED, That)). Juvenile probation counselor and detention services shall be administered by the superior court, except that (1) by local court rule and agreement with the county legislative authority, these services may be administered by the county legislative authority; (2) if a consortium of three or more counties, located east of the Cascade mountains and whose combined population exceeds five hundred thirty thousand, jointly operates a juvenile correctional facility, the county legislative authorities may prescribe for alternative administration of the juvenile correctional facility by ordinance; and (3) in any county with a population of one million or more, ((such)) probation and detention services shall be administered in accordance with chapter 13.20 RCW. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor. One person may, pursuant to the agreement of more than one administrative body, serve as administrator of more than one juvenile court.

Passed the House March 6, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 285

[Second Substitute House Bill 2031]

### STORM WATER FACILITIES CHARGES FOR HIGHWAY RIGHTS OF WAY



AN ACT Relating to storm water facility charges for highway rights of way; amending RCW 90.03.525; adding a new section to chapter 90.03 RCW; adding a new chapter to Title 90 RCW; creating a new section; and providing an expiration date.

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

**Sec. 1.** RCW 90.03.525 and 1986 c 278 s 54 are each amended to read as follows:

(1) The rate charged by a local government utility to the department of transportation with respect to state highway right of way or any section of state highway right of way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 56.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway right of way or any section of state highway right of way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right of way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights of way.

(2) Charges paid under subsection (1) of this section by the department of transportation must be used solely for storm water control facilities that directly reduce state highway runoff impacts or implementation of best management practices that will reduce the need for such facilities. By January 1st of each year, beginning with calendar year 1997, the local government utility, in coordination with the department, shall develop a plan for the expenditure of the charges for that calendar year. The plan must be consistent with the objectives identified in section 3 of this act. In addition, beginning with the submittal for 1998, the utility shall provide a progress report on the use of charges assessed for the prior year. No charges may be paid until the plan and report have been submitted to the department.

(3) The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the ~~((extent and adequacy of storm water control facilities constructed by the department and upon the actual benefits to state highway rights of way from the storm water control facilities constructed by the local government utility))~~ annual plan prescribed in subsection (2) of this section. If a different rate is agreed to, a report so stating shall be submitted to the legislative transportation committee. If, after mediation, the local government utility and the department of transportation cannot agree upon the proper rate, and after a report has been submitted to the legislative transportation committee and after ninety days from submission of such report, either may commence an action in the superior court for the county in which the state highway right of

way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights of way from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights of way shall be deemed an actual benefit to the state highway rights of way. The rate for sections of state highway right of way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right of way within the same jurisdiction.

(4) The legislature finds that the federal Clean Water Act (national pollution discharge elimination system, 40 C.F.R. parts 122-124), the state water pollution control act, chapter 90.48 RCW, and the highway runoff program under chapter 90.70 RCW, mandate the treatment and control of storm water runoff from state highway rights of way owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of storm water control facilities are intended to address applicable federal and state mandates related to storm water control and treatment. This section is not intended to limit opportunities for sharing the costs of storm water improvements between cities, counties, and the state.

NEW SECTION. Sec. 2. The legislature finds that the increasing population and continued development throughout the state have increased the need for storm water control. Storm water impacts have resulted in increased public health risks related to drinking water and agricultural and seafood products; increased disruption of economic activity, transportation facilities, and other public and private land and facilities due to the lack of adequate flood control measures; adverse affects on state fish populations; and contamination of sediments.

In addition, current storm water control and management efforts related to transportation projects lack necessary coordination on a watershed, regional, and state-wide basis; have inadequate funding; and fail to maximize use of available resources.

More stringent regulatory requirements have increased the costs that state and local governments must incur to deal with significant sources of pollution such as storm water. The costs estimated to properly maintain and construct storm water facilities far exceed available revenues.

Therefore, it is the intent of the legislature to establish a program to develop a state-wide coordination mechanism for the funding of state highway-related storm water management and control projects that will facilitate the completion of the state's most urgently needed storm water projects in the most cost-effective manner.

**NEW SECTION.** Sec. 3. The department of transportation, in cooperation with the department of ecology, cities, towns, counties, environmental organizations, business organizations, Indian tribes, and port districts, shall develop a storm water management funding and implementation program to address state highway-related problems. As part of the program, the department may provide grants to facilitate the construction of the highest priority state and local storm water management projects based on cost-effectiveness and contribution toward improved water quality and reduced flooding in a watershed.

The program shall address, but is not limited to, the following objectives: (1) Greater state-wide coordination of the construction of storm water treatment facilities; (2) encouraging multijurisdictional projects; (3) developing priorities and approaches for implementing activities within watersheds; (4) identification and prioritization of storm water retrofit programs; (5) evaluating methods to determine cost benefits of proposed projects; (6) identifying ways to facilitate the sharing of technical resources; (7) developing methods for monitoring and evaluating activities carried out under the program; and (8) identifying potential funding sources for continuation of the program.

**NEW SECTION.** Sec. 4. The department of transportation may provide grants to implement state highway-related storm water control measures. Cities, towns, counties, port districts, Indian tribes, and the department of transportation are eligible to receive grants, on a matching basis. A committee consisting of two representatives each from the department of transportation, with one as chair, the department of ecology, cities, and counties, and one representative each from an environmental organization and a business organization, shall oversee the grant program. The committee may add representatives of other agencies, organizations, or interest groups to serve as members of the committee or in an advisory capacity. In developing project criteria, the committee shall identify the most urgent state highway-related storm water management and control problems; develop methods for applying priorities across watersheds; give added weight to projects based on local contribution, multijurisdictional involvement, and whether the project is a priority for a local storm water utility; and determine the benefits of, and, if appropriate, provide incentives for off-site placement of storm water facilities and out-of-kind mitigation for storm water impact.

**NEW SECTION.** Sec. 5. This chapter expires July 1, 2003.

**NEW SECTION.** Sec. 6. A new section is added to chapter 90.03 RCW to read as follows:

In the development of highway construction improvement projects, the department of transportation shall coordinate with adjacent local governments, ports, and other public and private organizations to determine opportunities for cost effective joint storm water treatment facilities for both new and existing impervious surfaces.

**NEW SECTION.** Sec. 7. By December 1, 1996, the department of transportation shall submit to the legislative transportation committee and the

office of financial management a report on the implementation of the storm water management funding and implementation program. The report must include proposed criteria for project selection, procedures for managing the program, and recommendations for achieving program objectives identified in section 3 of this act. The report must make recommendations for ongoing funding of the program after evaluating potential sources including, but not limited to, the federal transportation enhancements program, the motor vehicle fund, the transportation fund, local and private contributions, user fees, and other grant sources. The report will also make recommendations for improving coordination of joint applications between the department of transportation and local governments for funds administered by the department of ecology and other sources.

**NEW SECTION. Sec. 8.** Sections 2 through 5 of this act constitute a new chapter in Title 90 RCW.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 286

[Substitute House Bill 2140]

### ELECTIONS IN CITIES AND TOWNS—PROCEDURES

AN ACT Relating to elections in cities and towns; amending RCW 35.13.090, 35.13.100, 35.16.050, 35.17.260, 35.17.270, 35A.01.040, and 35A.29.170; adding a new section to chapter 35.21 RCW; and repealing RCW 35.16.020.

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

**Sec. 1.** RCW 35.13.090 and 1973 1st ex.s. c 164 s 8 are each amended to read as follows:

~~((On the Monday next succeeding the annexation election, the county canvassing board shall proceed to canvass the returns thereof and shall submit the statement of canvass to the board of county commissioners.))~~

(1) The proposition for or against annexation or for or against annexation and adoption of the comprehensive plan, or for or against creation of a community municipal corporation, or any combination thereof, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the comprehensive plan, or for creation of the community municipal corporation, or any combination thereof, as the case may be.

(2) If a proposition for or against assumption of all or any portion of indebtedness was submitted to the ~~((electorate))~~ registered voters, it shall be deemed approved if a majority of at least three-fifths of the ~~((electors))~~ registered voters of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of ~~((persons))~~ registered voters voting on such

proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election.

(3) If either or both propositions were approved by the ~~((electors))~~ registered voters, the ~~((board shall enter a finding to that effect on its minutes, a certified copy of which))~~ county auditor shall ~~((be forthwith transmitted to and filed with))~~ on completion of the canvassing of the returns transmit to the county legislative authority and to the clerk of the city or town to which annexation is proposed a certificate of the election results, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the comprehensive plan and the number cast against annexation and adoption of the comprehensive plan or for creation of a community municipal corporation and the number cast against creation of a community municipal corporation, or any combination thereof, as the case may be~~((, and))~~.

(4) If a proposition for assumption of all or of any portion of indebtedness was submitted to the ~~((electorate))~~ registered voters, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election.

(5) If the proposition for creation of a community municipal corporation was submitted and approved, the abstract shall include the number of votes cast for the candidates for community council positions and certificates of election shall be issued pursuant to RCW 29.27.100 to the successful candidates who shall assume office ~~((within ten days after the election))~~ as soon as qualified.

Sec. 2. RCW 35.13.100 and 1973 1st ex.s. c 164 s 9 are each amended to read as follows:

~~((Upon filing of the certified copy of the finding of the board of county commissioners, the clerk shall transmit it to the legislative body of the city or town at the next regular meeting or as soon thereafter as practicable.))~~ If a proposition relating to annexation or annexation and adoption of the comprehensive plan or creation of a community municipal corporation, or both, as the case may be was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan, or adopt an ordinance providing for the annexation and creation of a community municipal corporation, as the case may be. If a proposition for annexation or annexation and adoption of the comprehensive plan or creation of a community municipal corporation, as the case may be, and a proposition for assumption of all or of any portion of indebtedness were both submitted, and were approved, the legislative body shall adopt an ordinance providing for the annexation or annexation and adoption of the comprehensive plan or annexation and creation of a community municipal corporation including the assumption of all or of any portion of indebtedness. If the propositions were

submitted and only the annexation or annexation and adoption of the comprehensive plan or annexation and creation of a community municipal corporation proposition was approved, the legislative body may, if it deems it wise or expedient, adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan, or adopt ordinances providing for the annexation and creation of a community municipal corporation, as the case may be.

**Sec. 3.** RCW 35.16.050 and 1994 c 273 s 5 are each amended to read as follows:

A certified copy of the ordinance defining the reduced city or town limits together with a map showing the corporate limits as altered shall be filed in accordance with RCW 29.15.026 and recorded in the office of the county auditor of the county in which the city or town is situated, upon the effective date of the ordinance. The new boundaries of the city or town shall take effect immediately after they are filed and recorded with the county auditor.

**Sec. 4.** RCW 35.17.260 and 1965 c 7 s 35.17.260 are each amended to read as follows:

Ordinances may be initiated by petition of ~~((electors))~~ registered voters of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it contains a request that, unless passed by the commission, the ordinance be submitted to a vote of the ~~((people))~~ registered voters of the city, the commission shall either:

(1) Pass the proposed ordinance without alteration within twenty days after the ~~((city clerk's))~~ county auditor's certificate ~~((that the number of signatures on the petition are sufficient))~~ of sufficiency has been received by the commission;  
or

(2) Immediately after the ~~((clerk's))~~ county auditor's certificate of sufficiency ~~((is attached to))~~ for the petition is received, cause to be called a special election to be held ~~((not less than thirty nor more than sixty))~~ on the next election date, as provided in RCW 29.13.020, that occurs not less than forty-five days thereafter, for submission of the proposed ordinance without alteration, to a vote of the people unless a general election will occur within ninety days, in which event submission must be made ~~((thereat))~~ on the general election ballot.

**Sec. 5.** RCW 35.17.270 and 1965 c 7 s 35.17.270 are each amended to read as follows:

~~((Every signer to a petition submitting a proposed ordinance to the commission shall add to his signature his place of residence giving street and number. The signatures need not all be appended to one paper, but one of the signers on each paper must attach thereto an affidavit stating the number of signatures thereon, that each signature thereon is a genuine signature of the person whose name it purports to be and that the statements therein made are~~

~~true as he believes.))~~ The petitioner preparing an initiative petition for submission to the commission shall follow the procedures established in section 6 of this act.

**NEW SECTION.** Sec. 6. A new section is added to chapter 35.21 RCW to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

#### WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of

sufficiency. The officer whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property.



(10) The officer who is responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

Sec. 7. RCW 35A.01.040 and 1985 c 281 s 26 are each amended to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in ~~((subdivisions))~~ (d) and (e) ~~((hereof))~~ of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing ~~((and the address of the signer))~~;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

#### WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing ~~((and the address of the signer))~~.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified ~~((electors))~~ registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working

days after the filing of a petition, the officer (~~or officers~~) with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor,

administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property.

(10) The officer who is responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

**Sec. 8.** RCW 35A.29.170 and 1967 ex.s. c 119 s 35A.29.170 are each amended to read as follows:

Initiative and referendum petitions authorized to be filed under provisions of this title, or authorized by charter, or authorized for code cities having the commission form of government as provided by chapter 35.17 RCW, shall be in substantial compliance with the provisions of RCW 35A.01.040 as to form and content of the petition, insofar as such provisions are applicable; shall contain a true copy of a resolution or ordinance sought to be referred to the voters; and must contain valid signatures of ~~((qualified electors))~~ registered voters of the code city in the number required by the applicable provision of this title. Except when otherwise provided by statute, referendum petitions must be filed with the clerk of the legislative body of the code city within ninety days after the passage of the resolution or ordinance sought to be referred to the voters, or within such lesser number of days as may be authorized by statute or charter in order to precede the effective date of an ordinance: PROVIDED, That nothing herein shall be construed to abrogate or affect an exemption from initiative and/or referendum provided by a code city charter. The clerk shall transmit the petition to the county auditor who shall determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. When a referendum petition is filed with the clerk, the legislative action sought to be referred to the voters shall be suspended from taking effect. Such suspension shall terminate when: (1) There is a final determination of insufficiency or untimeliness of the referendum petition; or (2) the legislative action so referred is approved by the voters at a referendum election.

NEW SECTION. **Sec. 9.** RCW 35.16.020 and 1994 c 273 s 2, 1985 c 469 s 19, & 1965 c 7 s 35.16.020 are each repealed.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 287

[Engrossed Substitute House Bill 2150]

### DRIVERS' LICENSES AND IDENTICARDS—REQUIREMENTS

AN ACT Relating to identification requirements for drivers' licenses and identicards; amending RCW 46.20.035, 46.20.055, 46.20.091, and 46.20.118; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.20 RCW; creating new sections; and prescribing penalties.

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

**\*NEW SECTION.** *Sec. 1. This act, authorizing investigation of documents submitted with a driver's license application, is the second stage of a three-part effort to increase the reliability and security of the Washington driver's license document.*

*The first stage, accomplished with the enactment of chapter 452, Laws of 1993, established procedures for identification documentation screening and acceptance in the department of licensing field offices. That act established a list of acceptable documents to be used as primary identification documents, and provided for departmental review of secondary identification documents commonly used to establish identity.*

*This act enhances the procedures established in chapter 452, Laws of 1993, by directing the department of licensing to retain secondary identification documentation where necessary to verify the validity of the documents. It further requires a license applicant to sign a statement that identifying documentation is valid. Making a false statement regarding the validity of any identifying information constitutes false swearing, a gross misdemeanor.*

*The third stage in the effort to improve the reliability and security of the driver's license is the eventual adoption of a new document with minimal potential for forgery. Such a document would potentially include available antifraud safeguards, such as biometric identifiers, and other technological advances as described in section 8 of this act. Development of a proposal for the new driver's license document will follow the release of a recommendation on technology currently being formulated by the department of licensing's driver's document advisory committee. The committee's recommendation is currently scheduled for release on November 15, 1996.*

*\*Sec. 1 was vetoed. See message at end of chapter.*

**\*NEW SECTION.** *Sec. 2. A new section is added to chapter 46.20 RCW to read as follows:*

*Every application for an identicard or a Washington state driver's license must contain a statement of implied consent, notifying the applicant that information contained in the application and any documents submitted in support of the application may be made available to law enforcement agencies, or federal, state, and local governmental agencies for official purposes.*

*\*Sec. 2 was vetoed. See message at end of chapter.*

**\*Sec. 3.** *RCW 46.20.035 and 1993 c 452 s 1 are each amended to read as follows:*

*(1) The department may not issue an identicard or a Washington state driver's license, except as provided in RCW 46.20.116, unless the applicant has satisfied the department regarding his or her identity. Except as provided in subsection (2) of this section, an applicant has not satisfied the identity requirements of this section unless he or she displays or provides the department with at least one of the following pieces of valid identifying documentation:*

(a) A valid or recently expired driver's license or instruction permit that contains the signature, date of birth, and a photograph of the applicant;

(b) A Washington state identicard or an identification card issued by another state that contains the signature and a photograph of the applicant;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members of employees of the government agency, that contains the signature and a photograph of the applicant;

(d) A United States military identification card that contains the signature and a photograph of the applicant;

(e) A United States passport that contains the signature and a photograph of the applicant;

(f) An immigration and naturalization service form that contains the signature and photograph of the applicant; or

(g) If the applicant is a minor, an affidavit of the applicant's parent or guardian where the parent or guardian displays or provides at least one piece of identifying documentation as specified in this subsection along with additional documentation establishing the relationship between the parent or guardian and the applicant.

(2) A person unable to provide identifying satisfactory documentation as specified in subsection (1) of this section may request that the department review other available documentation in order to ascertain identity. The department may retain documentation submitted for review under this subsection, in order to investigate its validity, except as provided in subsection (3) of this section. The department may waive the requirement for specific identifying documentation under subsection (1) of this section if it finds that other documentation clearly establishes the identity of the applicant. The department may issue a temporary driver's permit as provided in RCW 46.20.055(4), pending the investigation of documentation submitted by an applicant for review.

(3) The department may not retain originals of green cards or other documents issued by the immigration and naturalization service, or documents of foreign origin. The department may make photocopies of these documents in order to determine validity. The department may issue to the applicant a temporary driver's permit or temporary identicard as provided in RCW 46.20.055(4) and 46.20.117, pending an investigation of documentation submitted under this subsection.

(4) The department may not accept photocopied documents unless they are certified by the issuing authority. The department may not accept original documents transmitted by facsimile unless the documents are transmitted directly to the department from the issuing authority.

\*Sec. 3 was vetoed. See message at end of chapter.

\*Sec. 4. RCW 46.20.055 and 1990 c 250 s 34 are each amended to read as follows:

*(1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person sixteen years of age or older, holding a valid driver's license, may apply for an instruction permit for the operation of a motorcycle. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant a driver's or motorcyclist's instruction permit.*

*(a) A driver's instruction permit entitles the permittee while having the permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver. Except as provided in subsection (c) of this subsection, only one additional permit, valid for one year, may be issued.*

*(b) A motorcyclist's instruction permit entitles the permittee while having the permit in immediate possession to drive a motorcycle upon the public highways for a period of ninety days as provided in RCW 46.20.510(~~(3)~~) (2). Except as provided in subsection (c) of this subsection, only one additional permit, valid for ninety days, may be issued.*

*(c) The department after investigation may issue a third driver's or motorcyclist's instruction permit when it finds that the permittee is diligently seeking to improve driving proficiency.*

*(2) The department may waive the examination, except as to eyesight and other potential physical restrictions, for any applicant who is enrolled in either a traffic safety education course as defined by RCW 28A.220.020(2) or a course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1) at the time the application is being considered by the department. The department may require proof of registration in such a course as it deems necessary.*

*(3) The department upon receiving proper application may in its discretion issue a driver's instruction permit to an applicant who is at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.*

*(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to drive a motor vehicle for a period not to exceed sixty days while the department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license, including any necessary investigation into the validity of identification documentation submitted by the applicant. In the case of investigation of identification documents under RCW 46.20.035(3), the department may issue a temporary license pending the investigation of*

***documentation submitted by an applicant for review. Such permit must be in the permittee's immediate possession while driving a motor vehicle, and it shall be invalid when the permittee's license has been issued or for good cause has been refused.***

***\*Sec. 4 was vetoed. See message at end of chapter.***

**Sec. 5.** RCW 46.20.091 and 1990 c 250 s 35 are each amended to read as follows:

(1) Every application for an instruction permit or for an original driver's license shall be made upon a form prescribed and furnished by the department which shall be sworn to and signed by the applicant before a person authorized to administer oaths. **An applicant making a false statement under this subsection is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040.** Every application for an instruction permit containing a photograph shall be accompanied by a fee of five dollars. The department shall forthwith transmit the fees collected for instruction permits and temporary drivers' permits to the state treasurer.

(2) Every such application shall state the full name, date of birth, sex, and Washington residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver or chauffeur, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal, and shall state such additional information as the department shall require, **including a statement that identifying documentation presented by the applicant is valid.**

(3) Whenever application is received from a person previously licensed in another jurisdiction, the department shall request a copy of such driver's record from such other jurisdiction. When received, the driving record shall become a part of the driver's record in this state.

(4) Whenever the department receives request for a driving record from another licensing jurisdiction, the record shall be forwarded without charge if the other licensing jurisdiction extends the same privilege to the state of Washington. Otherwise there shall be a reasonable charge for transmittal of the record, the amount to be fixed by the director of the department.

***\*Sec. 6. RCW 46.20.118 and 1990 c 250 s 37 are each amended to read as follows:***

***The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by RCW 46.20.070 through 46.20.119. Negatives in the file shall not be available for public inspection and copying under chapter 42.17 RCW. The department (~~may~~) shall make the file available to official governmental enforcement agencies to assist in the investigation by the agencies of suspected criminal activity. The department may also provide a print to the driver's next of kin in the event the driver is deceased.***

\*Sec. 6 was vetoed. See message at end of chapter.

Sec. 7. RCW 46.63.020 and 1995 1st sp.s. c 16 s 1, 1995 c 332 s 16, and 1995 c 256 s 25 are each reenacted and 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 and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381 (6) or (9) relating to unauthorized use or acquisition of a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.021 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

~~((12))~~ (13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

~~((13))~~ (14) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

~~((14))~~ (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

~~((15))~~ (16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

~~((16))~~ (17) RCW 46.25.170 relating to commercial driver's licenses;

~~((17))~~ (18) Chapter 46.29 RCW relating to financial responsibility;

~~((18))~~ (19) RCW 46.30.040 relating to providing false evidence of financial responsibility;

~~((19))~~ (20) RCW 46.37.435 relating to wrongful installation of sunscreening material;



~~((20))~~ (21) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((21))~~ (22) RCW 46.48.175 relating to the transportation of dangerous articles;

~~((22))~~ (23) RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((23))~~ (24) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((24))~~ (25) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

~~((25))~~ (26) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

~~((26))~~ (27) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((27))~~ (28) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((28))~~ (29) RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((29))~~ (30) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

~~((30))~~ (31) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((31))~~ (32) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((32))~~ (33) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((33))~~ (34) RCW 46.61.500 relating to reckless driving;

~~((34))~~ (35) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((35))~~ (36) RCW ~~((46.61.5055 (section 5, chapter 332 (Substitute Senate Bill No. 5141), Laws of 1995))~~ 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((36))~~ (37) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((37))~~ (38) RCW 46.61.522 relating to vehicular assault;

~~((38))~~ (39) RCW 46.61.525 relating to negligent driving;

~~((39))~~ (40) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((40))~~ (41) RCW 46.61.530 relating to racing of vehicles on highways;

~~((41))~~ (42) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((42))~~ (43) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((43))~~ (44) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((44))~~ (45) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((45))~~ (46) 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;

~~((46))~~ (47) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((47))~~ (48) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((48))~~ (49) Chapter 46.82 RCW relating to driver's training schools;

~~((49))~~ (50) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((50))~~ (51) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. **Sec. 8.** (1) The legislative transportation committee is directed to appoint a consultant to assist the committee in undertaking a study of the methods and technology currently available to create a driver's license and identicard that cannot be fraudulently obtained from the department of licensing, thereby providing the public, businesses, and agencies with a more secure driver's license. The scope of the study shall be determined by the legislative transportation committee, but at a minimum, shall include an examination of:

(a) Improving identity verification with the use of biometric systems; determining the type of biometric system to be utilized; and examining system costs. A "biometric system" refers to the use of identification technology to verify the identity of individuals through comparison of unique physical characteristics;

(b) Digitized facial photography, and associated system costs;

(c) Coded information, such as a bar code, and associated system costs; and

(d) Available technology to prevent alterations of the license and identification cards, and associated costs.

(2) The consultant and the legislative transportation committee shall work closely with the department of licensing in developing recommendations.

(3) The legislative transportation committee shall deliver a final report and recommendations to the legislature by December 15, 1996.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1, 2, 3, 4, and 6, Engrossed Substitute House Bill No. 2150 entitled:

"AN ACT Relating to identification requirements for driver's licenses and identicards;"

Engrossed Substitute House Bill No. 2150 represents an effort to improve the integrity of the Washington State driver's license as a universally accepted method of identification. Much of the amendatory language included in this bill contemplates using procedures to validate identities that raise serious civil liberty and due process rights concerns. This is especially true of the new policy established in this bill that permits the Department of Licensing to confiscate a person's documents and turn them over to law enforcement agencies for criminal investigations.

Some testimony during legislative hearings raised the possibility that the physical safety of driver's license examiners would be jeopardized if they confiscated identity documents. While this surely is only an extreme possibility, confiscating a person's documents at a government window against the will of the applicant alters significantly the cooperative nature of the licensing process.

The legislature, working with the Department of Licensing, needs to reexamine this approach in the hope that better ways to secure the identity of citizens in this state can be found.

Section 3 of the bill permits the Department of Licensing to retain certain documents that are submitted by applicants who are trying to validate their identities prior to receiving an "identocard" or a driver's license that can be used for identification purposes. This is the heart of the problem with this bill, and I have vetoed this section. The amendatory language added by section 4 is tied to the confiscation process established in section 3 and is without purpose if section 3 does not become law.

Sections 2 and 6 relate the power to confiscate documents to criminal investigations. Section 2 requires applicants to give "implied consent" that their documents may be made available "to law enforcement agencies, or federal, state, and local government agencies for official purposes." Section 6 requires that the Department of Licensing shall turn over its files to "government enforcement agencies" to assist in criminal investigations. Present law makes such referrals permissive rather than mandatory. Requiring documents confiscated under the provisions of this bill to be made available for other law enforcement purposes raises serious civil liberty issues and may violate a person's right to due process. We do not need to make our citizens fearful of the driver's license office by granting these extraordinary and unusual powers to license examiners.

Section 1, while appearing to be merely an intent section, refers to the implied consent portions of the bill and specifically directs the Department of Licensing to retain documents. I have vetoed this section also.

Accordingly, I cannot approve sections 1, 2, 3, 4, and 6 of Engrossed Substitute House Bill No. 2150.

Sections 5 and 7 make "false swearing" when applying for a driver's license or identocard a gross misdemeanor under the perjury statutes. This is an appropriate penalty for those who provide false information in an attempt to establish their identities, and I am approving these sections of the bill.

I also have approved section 8 which provides for an expert study, under the auspices of the Legislative Transportation Committee, of the scientific and technological methods available for improving the validity of the driver's licenses and identicards issued by the state. In conjunction with this study, I will ask the Department of Licensing to reexamine its procedures associated with the validation of driver's licenses. If there are procedures or administrative changes that can be made to improve the process of identifying those who seek licenses and identicards, we will make reasonable efforts to improve this process using alternatives that are available without having to resort to the extreme of document confiscation.

The broad issue of whether or not the driver's license should be made into a universally valid identification card needs substantial public debate. The matter of having the state go to considerable expense and trouble to change the nature of our driver's

license may be obviated by federal efforts to utilize the Social Security card for similar purposes. Therefore, while I have not vetoed section 8 of Engrossed Substitute House Bill No. 2150, I urge both the Legislative Transportation Committee and the general public to be very circumspect regarding excessive grants of power to government bureaus that may become threats to general liberty.

For these reasons, I have vetoed sections 1, 2, 3, 4, and 6 of Engrossed Substitute House Bill No. 2150.

With the exception of sections 1, 2, 3, 4, and 6, Engrossed Substitute House Bill No. 2150 is approved."

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## CHAPTER 288

[Engrossed Second Substitute House Bill 2222]

### LEGISLATIVE OVERSIGHT OF GOVERNMENT PROGRAMS

AN ACT Relating to legislative oversight of state and local government programs; amending RCW 44.28.010, 44.28.020, 44.28.030, 44.28.040, 44.28.060, 44.28.140, 44.28.080, 44.28.180, 44.28.087, 44.28.100, 44.28.120, 44.28.130, 44.28.150, 43.88.020, 43.88.090, 43.88.160, 28A.630.830, 28B.20.382, 39.19.060, 39.29.016, 39.29.018, 39.29.025, 39.29.055, 41.06.070, 42.48.060, 43.09.310, 43.211.800, 43.79.270, 43.79.280, 43.88.205, 43.88.230, 43.88.310, 43.88.510, 43.131.050, 43.131.060, 43.131.070, 43.131.080, 43.131.110, 43.250.080, 44.40.025, 67.70.310, 79.01.006, 44.— (1996 c . . . (ESSB 6680) s 4), and 43.88.030; adding new sections to chapter 44.28 RCW; creating new sections; recodifying RCW 44.28.140, 44.28.180, and 44.28.087; and repealing RCW 44.28.085 and 44.28.086.

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

**NEW SECTION.** **Sec. 1.** The public expects the legislature to address citizens' increasing demand for the basic services of state government, while limiting the growth in spending. The public demands that public officials and state employees be accountable to provide maximum value for every dollar entrusted to state government. The public believes that it is possible to improve the responsiveness of state government and to save the taxpayers' money, and that efficiency and effectiveness should result in savings.

The legislature, public officials, state employees, and citizens need to know the extent to which state agencies, programs, and activities are achieving the purposes for which they were created. It is essential to compare the conditions, problems, and priorities that led to the creation of government programs with current conditions, problems, and priorities, and to examine the need for and performance of those programs in the current environment.

Along with examining the performance of state agencies and programs, the legislature, public officials, state employees, and citizens must also consider the effect that state government programs can reasonably expect to have on citizens' lives, how the level of programs and services of Washington state government compares with that of other states, and alternatives for service delivery, including other levels of government and the private sector including not-for-profit organizations. It is essential that the legislature, public officials, state employees, and citizens share a common understanding of the role of state government. The performance and relative priority of state agency programs and activities must be the basis for managing and allocating resources within Washington state government.

It is the intent of the legislature to strengthen the role of the current legislative budget committee so that it may more effectively examine how efficiently state agencies perform their responsibilities and whether the agencies are achieving their goals, and whether units of local government are using state funds for their intended purpose in an efficient and effective manner. It is also the intent of the legislature to enact a clear set of definitions for different types of audits in order to eliminate confusion with regard to government reviews.

**NEW SECTION. Sec. 2.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Legislative auditor" means the executive officer of the joint legislative audit and review committee.

(2) "Economy and efficiency audits" means performance audits that establish: (a) Whether a state agency or unit of local government receiving state funds is acquiring, protecting, and using its resources such as personnel, property, and space economically and efficiently; (b) the causes of inefficiencies or uneconomical practices; and (c) whether the state agency or local government has complied with significant laws and rules in acquiring, protecting, and using its resources.

(3) "Final compliance report" means a written document, as approved by the joint committee, that states the specific actions a state agency or unit of local government receiving state funds has taken to implement recommendations contained in the final performance audit report and the preliminary compliance report. Any recommendations, including proposed legislation and changes in the agency's rules and practices or the local government's practices, based on testimony received, must be included in the final compliance report.

(4) "Final performance audit report" means a written document adopted by the joint legislative audit and review committee that contains the findings and proposed recommendations made in the preliminary performance audit report, the final recommendations adopted by the joint committee, any comments to the preliminary performance audit report by the joint committee, and any comments to the preliminary performance audit report by the state agency or local government that was audited.

(5) "Joint committee" means the joint legislative audit and review committee.

(6) "Local government" means a city, town, county, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including a public corporation created by such an entity.

(7) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities, or a unit of local government receiving state funds, by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits. A performance audit of a local government may only be made to determine

whether the local government is using state funds for their intended purpose in an efficient and effective manner.

(8) "Performance measures" are a composite of key indicators of a program's or activity's inputs, outputs, outcomes, productivity, timeliness, and/or quality. They are means of evaluating policies and programs by measuring results against agreed upon program goals or standards.

(9) "Preliminary compliance report" means a written document that states the specific actions a state agency or unit of local government receiving state funds has taken to implement any recommendations contained in the final performance audit report.

(10) "Preliminary performance audit report" means a written document prepared for review and comment by the joint legislative audit and review committee after the completion of a performance audit. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency or local government audited.

(11) "Program audits" means performance audits that determine: (a) The extent to which desired outcomes or results are being achieved; (b) the causes for not achieving intended outcomes or results; and (c) compliance with significant laws and rules applicable to the program.

(12) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all elective offices in the executive branch of state government.

Sec. 3. RCW 44.28.010 and 1983 c 52 s 1 are each amended to read as follows:

~~((There is hereby created a))~~ The joint legislative ((budget)) audit and review committee is created, which shall consist of eight senators and eight representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than four members from each house shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year ~~((: PROVIDED, That if prior to))~~. If before the close of a regular session during an odd-numbered year, the governor issues a proclamation convening the legislature into special session, or the legislature by resolution convenes the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. In the event of a failure to appoint or confirm joint committee members, ~~((either on the part of the president of the senate or on the part of the speaker of the house, or in the event of a refusal by either the senate or the house to confirm appointments on the committee, then))~~ the members of the joint committee from either house in

which there is a failure to appoint or confirm shall be elected (~~forthwith~~) by the members of such house.

**Sec. 4.** RCW 44.28.020 and 1980 c 87 s 31 are each amended to read as follows:

The term of office of the members of the joint committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as provided in RCW 44.28.010 until the close of the next regular session during an odd-numbered year or special session following such regular session, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year during which successors are appointed or elected. The term of office of ~~((such))~~ joint committee members ~~((as shall))~~ who do not continue to be members of the senate and house ~~((shall))~~ ceases upon the convening of the next regular session of the legislature during an odd-numbered year after their confirmation, election or appointment. Vacancies on the joint committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

**Sec. 5.** RCW 44.28.030 and 1955 c 206 s 6 are each amended to read as follows:

On and after the commencement of a succeeding general session of the legislature, those members of the joint committee who continue to be members of the senate and house, respectively, shall continue as members of the joint committee as indicated in RCW 44.28.020 and the joint committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use.

**Sec. 6.** RCW 44.28.040 and 1975-'76 2nd ex.s. c 34 s 134 are each amended to read as follows:

The members of the joint committee shall serve without additional compensation, but shall be reimbursed for their travel expenses~~((,))~~ in accordance with RCW 44.04.120 ~~((as now existing or hereafter amended, incurred while))~~ for attending ~~((sessions))~~ meetings of the joint committee or ~~((meetings of any))~~ a subcommittee of the joint committee, or while engaged on other ~~((committee))~~ business authorized by the joint committee~~((, and while going to and coming from committee sessions or committee meetings))~~.

**Sec. 7.** RCW 44.28.060 and 1975 1st ex.s. c 293 s 13 are each amended to read as follows:

~~The members of the joint committee shall ((have the power and duty to appoint its own chairman, vice chairman, and other officers; to make rules and regulations for orderly procedure; to perform, either through the legislative budget committee or through subcommittees of the legislative budget committee, all duties and functions relating to improving the economy, efficiency, and effectiveness of state agency management by performance audits and other staff~~

studies of state government, its officers, boards, committees, commissions, institutions, and other state agencies)) form an executive committee consisting of one member from each of the four major political caucuses, which shall include a chair and a vice-chair. The chair and vice-chair shall serve for a period not to exceed two years. The chair and the vice-chair may not be members of the same political party. The chair shall alternate between the members of the majority parties in the senate and the house of representatives.

The executive committee is responsible for performing all general administrative and personnel duties assigned to it in the rules and procedures adopted by the joint committee, as well as other duties delegated to it by the joint committee. The executive committee shall recommend applicants for the position of the legislative auditor to the membership of the joint committee. The legislative auditor shall be hired with the approval of a majority of the membership of the joint committee. The executive committee shall set the salary of the legislative auditor.

The joint committee shall adopt rules and procedures for its orderly operation. The joint committee may create subcommittees to perform duties under this chapter.

Sec. 8. RCW 44.28.140 and 1975 1st ex.s. c 293 s 17 are each amended to read as follows:

~~((The committee is hereby authorized and empowered to appoint an officer to be known as the legislative auditor, and to fix his compensation, who shall be the executive officer of the committee and assist in its duties and shall compile information for the committee. The committee is hereby authorized and empowered to select and employ other clerical, legal, accounting, research and other personnel that it may deem desirable in the performance of its duties, and the compensation and salaries shall be fixed by the legislative budget committee.))~~

The ~~((duties of the))~~ legislative auditor shall ~~((be as follows))~~:

~~(1) ((To ascertain the facts and make recommendations to the committee and under their direction to the committees of the state legislature concerning~~

~~— (a) revenues and expenditures of the state; and~~

~~— (b) the organization and functions of the state, its departments, subdivisions and agencies.~~

~~— (2) To)) Establish and manage the office of the joint legislative audit and review committee to carry out the functions of this chapter;~~

(2) Direct the audit and review functions described in this chapter and ensure that performance audits are performed in accordance with the "Government Auditing Standards" published by the comptroller general of the United States as applicable to the scope of the audit;

(3) Make findings and recommendations to the joint committee and under its direction to the committees of the state legislature concerning the organization and operation of state agencies and the expenditure of state funds by units of local government;



(4) In consultation with and with the approval of the executive committee, hire staff necessary to carry out the purposes of this chapter. Employee salaries, other than the legislative auditor, shall be set by the legislative auditor with the approval of the executive committee;

(5) Assist the several standing committees of the house and senate in consideration of legislation affecting state departments and their efficiency; ~~((tø))~~ appear before other legislative committees; and ~~((tø))~~ assist any other legislative committee upon instruction by the joint legislative ~~((budget))~~ audit and review committee.

~~((3-Tø))~~ (6) Provide the legislature with information obtained under the direction of the joint legislative ~~((budget))~~ audit and review committee~~((r))~~;

~~((4-Tø))~~ (7) Maintain a record of all work performed by the legislative auditor under the direction of the joint legislative ~~((budget))~~ audit and review committee and ~~((tø))~~ keep and make available all documents, data, and reports submitted to ~~((him))~~ the legislative auditor by any legislative committee.

NEW SECTION. Sec. 9. (1) In conducting performance audits and other reviews, the legislative auditor shall work closely with the chairs and staff of standing committees of the senate and house of representatives, and may work in consultation with the state auditor and the director of financial management.

(2) The legislative auditor may contract with and consult with public and private independent professional and technical experts as necessary in conducting the performance audits. The legislative auditor should also involve front-line employees and internal auditors in the performance audit process to the highest possible degree.

(3) The legislative auditor shall work with the legislative evaluation and accountability program committee and the office of financial management to develop information system capabilities necessary for the performance audit requirements of this chapter.

(4) The legislative auditor shall work with the legislative office of performance review and the office of financial management to facilitate the implementation of effective performance measures throughout state government. In agencies and programs where effective systems for performance measurement exist, the measurements incorporated into those systems should be a basis for performance audits conducted under this chapter.

NEW SECTION. Sec. 10. (1) Subject to the requirements of the performance audit work plan approved by the joint committee under RCW 44.28.180, as recodified by this act, performance audits may, in addition to the determinations that may be made in such an audit as specified in section 2 of this act, include the following:

(a) An examination of the costs and benefits of agency programs, functions, and activities;

(b) Identification of viable alternatives for reducing costs or improving service delivery;

(c) Identification of gaps and overlaps in service delivery, along with corrective action; and

(d) Comparison with other states whose agencies perform similar functions, as well as their relative funding levels and performance.

(2) As part of a performance audit, the legislative auditor may review the costs of programs recently implemented by the legislature to compare actual agency costs with the appropriations provided and the cost estimates that were included in the fiscal note for the program at the time the program was enacted.

**Sec. 11.** RCW 44.28.080 and 1975 1st ex.s. c 293 s 14 are each amended to read as follows:

The joint committee (~~(shall have)~~) has the following powers:

(1) To make examinations and reports concerning whether or not appropriations are being expended for the purposes and within the statutory restrictions provided by the legislature; (~~(concerning the economic outlook and estimates of revenue to meet expenditures;)~~) and concerning the organization and operation of procedures necessary or desirable to promote economy, efficiency, and effectiveness in state government, its officers, boards, committees, commissions, institutions, and other state agencies, and to make recommendations and reports to the legislature.

(2) To make such other studies and examinations of economy, efficiency, and effectiveness of state government and its state agencies as it may find advisable, and to hear complaints, hold hearings, gather information, and make findings of fact with respect thereto.

(3) (~~(The committee shall have the power)~~) To conduct program and fiscal reviews of any state agency or program scheduled for termination under the process provided under chapter 43.131 RCW.

(4) To perform other legislative staff studies of state government or the use of state funds.

(5) To conduct performance audits in accordance with the work plan adopted by the joint committee under RCW 44.28.180.

(6) To receive a copy of each report of examination or audit issued by the state auditor for examinations or audits that were conducted at the request of the joint committee and to make recommendations as it deems appropriate as a separate addendum to the report or audit.

(7) To develop internal tracking procedures that will allow the legislature to measure the effectiveness of performance audits conducted by the joint committee including, where appropriate, measurements of cost-savings and increases in efficiency and effectiveness in how state agencies deliver their services.

(8) To receive messages and reports in person or in writing from the governor or any other state officials and to study generally any and all business relating to economy, efficiency, and effectiveness in state government and state agencies.

**Sec. 12.** RCW 44.28.180 and 1993 c 406 s 5 are each amended to read as follows:

(1) ~~((In conducting program evaluations as defined in RCW 43.88.020, the legislative budget committee may establish a biennial work plan))~~ During the regular legislative session of each odd-numbered year, beginning with 1997, the joint legislative audit and review committee shall develop and approve a performance audit work plan for the subsequent sixteen to twenty-four-month period and an overall work plan that identifies state agency programs for which formal evaluation appears necessary. Among the factors to be considered in preparing the work plans are:

(a) Whether a program newly created or significantly altered by the legislature warrants continued oversight because (i) the fiscal impact of the program is significant, or (ii) the program represents a relatively high degree of risk in terms of reaching the stated goals and objectives for that program;

(b) Whether implementation of an existing program has failed to meet its goals and objectives by any significant degree; and

(c) Whether a follow-up audit would help ensure that previously identified recommendations for improvements were being implemented.

(2) The project description for each ((program evaluation shall)) performance audit must include start and completion dates, the proposed ((research)) approach, and cost estimates.

(3) The legislative auditor may consult with the chairs and staff of appropriate legislative committees, the state auditor, and the director of financial management in developing the performance audit work plan.

(4) The performance audit work plan and the overall work plan may include proposals to employ contract ((evaluators)) resources. As conditions warrant, the ((program evaluation)) performance audit work plan and the overall work plan may be amended from time to time. All ((biennial)) performance audit work plans shall be transmitted to the appropriate fiscal and policy committees of the senate and the house of representatives no later than the sixtieth day of the regular legislative session of each odd-numbered year, beginning with 1997. All overall work plans shall be transmitted to the appropriate fiscal and policy committees of the senate and the house of representatives.

**NEW SECTION.** **Sec. 13.** (1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report.

(2) Before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives.

**NEW SECTION. Sec. 14.** (1) No later than nine months after the final performance audit has been transmitted by the joint committee to the appropriate standing committees of the house of representatives and the senate, the joint committee in consultation with the standing committees may produce a preliminary compliance report on the agency's or local government's compliance with the final performance audit recommendations. The agency or local government may attach its comments to the joint committee's preliminary compliance report as a separate addendum.

(2) Within three months after the issuance of the preliminary compliance report, the joint committee may hold at least one public hearing and receive public testimony regarding the findings and recommendations contained in the preliminary compliance report. The joint committee may waive the public hearing requirement if the preliminary compliance report demonstrates that the agency or local government is in compliance with the audit recommendations. The joint committee shall issue any final compliance report within four weeks after the public hearing or hearings. The legislative auditor shall transmit the final compliance report in the same manner as a final performance audit is transmitted under section 13 of this act.

**NEW SECTION. Sec. 15.** Subject to the joint committee's approval, the office of the joint committee shall undergo an external quality control review within three years of the effective date of this act and at regular intervals thereafter. The review must be conducted by an independent organization that has experience in conducting performance audits. The quality control review must include, at a minimum, an evaluation of the quality of the audits conducted by the joint committee, an assessment of the audit procedures used by the joint

committee, and an assessment of the qualifications of the joint committee staff to conduct performance audits.

***\*NEW SECTION. Sec. 16. (1) The performance audit revolving fund is established in the state treasury. Expenditures from the fund may only be used for payment of the costs of performance audits performed pursuant to the performance audit work plan approved by the joint legislative audit and review committee under RCW 44.28.180. The costs of a performance audit shall include all direct and indirect costs. Moneys in the fund may only be spent after appropriation.***

***(2) The legislative auditor shall assess state agencies all or a portion of the costs of a performance audit from funds appropriated to the agencies for administrative expenses. Agencies operating in whole or in part from nonappropriated funds must pay into the revolving fund such funds as will fully reimburse for the costs of a performance audit.***

***(3) The costs of performance audits may also be paid from appropriations made for that purpose.***

\*Sec. 16 was vetoed. See message at end of chapter.

***\*NEW SECTION. Sec. 17. To ensure the accuracy and timeliness of information used as the basis for performance audits and other responsibilities of the legislature, the legislative auditor or the legislative auditor's staff must be provided direct access to information held by any state agency. Agencies shall submit directly to the joint legislative audit and review committee all data and other information requested, including tax records and client data. Any confidential data or information provided to the committee must be kept confidential by the joint committee.***

\*Sec. 17 was vetoed. See message at end of chapter.

**Sec. 18.** RCW 44.28.087 and 1973 1st ex.s. c 197 s 2 are each amended to read as follows:

All agency reports concerning program performance, including administrative review, quality control, and other internal audit or performance reports, as requested by the (~~legislative budget~~) joint committee, shall be furnished by the agency requested to provide such report.

**Sec. 19.** RCW 44.28.100 and 1987 c 505 s 45 are each amended to read as follows:

The joint committee (~~shall have the power to~~) may make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The joint committee shall keep complete minutes of its meetings.

**Sec. 20.** RCW 44.28.120 and 1951 c 43 s 9 are each amended to read as follows:

In case of the failure on the part of any person to comply with any subpoena issued in behalf of the joint committee, or on the refusal of any witness to testify to any matters regarding which he or she 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 joint committee, 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.

**Sec. 21.** RCW 44.28.130 and 1951 c 43 s 10 are each amended to read as follows:

Each witness who appears before the joint committee by its order, other than a state official or employee, shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness, verified by the legislative auditor, and approved by the (~~secretary and chairman~~) chair and the vice-chair of the joint committee.

**Sec. 22.** RCW 44.28.150 and 1975 1st ex.s. c 293 s 18 are each amended to read as follows:

The joint committee shall cooperate, act, and function with legislative committees and with the councils or committees of other states similar to this joint committee and with other interstate research organizations.

**Sec. 23.** RCW 43.88.020 and 1995 c 155 s 1 are each amended to read as follows:

(1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-

numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative ~~((budget))~~ audit and review committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

~~((17)) ("Stabilization account" means the budget stabilization account created under RCW 43.88.525 as an account in the general fund of the state treasury.~~

~~((18))~~ (18) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

~~((19))~~ (18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

~~((20))~~ (19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

~~((21))~~ (20) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts,

and sources for which the office of the economic and revenue forecast council does not prepare an official forecast including estimates of revenues to support financial plans under RCW 44.40.070, that are prepared by the office of financial management in consultation with the interagency task force.

~~((22))~~ (21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

~~((23))~~ (22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

~~((24))~~ (23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

~~((25))~~ (24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

~~((26))~~ (25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

~~((27))~~ (26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

~~((28))~~ (27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

~~((29) "Program evaluation" means the use of a variety of policy and fiscal research methods to (a) determine the extent to which a program is achieving its legislative intent in terms of producing the effects expected, and (b) make an objective judgment of the implementation, outcomes, and net cost or benefit impact of programs in the context of their goals and objectives. It includes the application of systematic methods to measure the results, intended or unintended, of program activities.)~~

(28) "Performance audit" has the same meaning as it is defined in section 2 of this act.



**\*Sec. 24.** *RCW 43.88.090 and 1994 c 184 s 10 are each amended to read as follows:*

*(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.*

*The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must include consideration of findings made by the legislative auditor of the office of the joint legislative audit and review committee under a performance audit of the agency.*

*(2) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.*

*\*Sec. 24 was vetoed. See message at end of chapter.*

**Sec. 25.** *RCW 43.88.160 and 1994 c 184 s 11 are each amended to read as follows:*

*This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.*

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) The director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed

by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

~~(g) ((Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and RCW 43.88.525 through 43.88.540;~~

~~—(h))~~ Adopt rules to effectuate provisions contained in (a) through ~~((g))~~ (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications ~~((only))~~ and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative ~~((budget))~~ audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative ~~((budget))~~ audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(7) The joint legislative ~~((budget))~~ audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW ~~((44.28.085))~~ as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

**Sec. 26.** RCW 28A.630.830 and 1994 c 13 s 5 are each amended to read as follows:

(1) The selection advisory committee is created. The committee shall be composed of up to three members from the house of representatives, up to three members from the senate, up to two members from the office of the superintendent of public instruction, and one member from each of the following: The office of financial management, Washington state special education coalition, transitional bilingual instruction educators, and Washington education association.

(2) The joint legislative ((budget)) audit and review committee and the superintendent of public instruction shall provide staff for the selection advisory committee.

(3) The selection advisory committee shall:

(a) Develop appropriate criteria for selecting demonstration projects;

(b) Issue requests for proposals in accordance with RCW 28A.630.820 through 28A.630.845 for demonstration projects;

(c) Review proposals and recommend demonstration projects for approval by the superintendent of public instruction; and

(d) Advise the superintendent of public instruction on the evaluation design.

**Sec. 27.** RCW 28B.20.382 and 1987 c 505 s 13 are each amended to read as follows:

Until authorized and empowered to do so by statute of the legislature, the board of regents of the university, with respect to that certain tract of land in the city of Seattle originally known as the "old university grounds" and more recently known as the "Metropolitan Tract" and any land contiguous thereto, shall not sell ((said)) the land or any part thereof or any improvement thereon, or lease ((said)) the land or any part thereof or any improvement thereon or renew or extend any lease thereof for a term ending more than sixty years beyond midnight, December 31, 1980. Any sale of ((said)) the land or any part thereof or any improvement thereon, or any lease or renewal or extension of any lease of ((said)) the land or any part thereof or any improvement thereon for a term ending more than sixty years after midnight, December 31, 1980, made or

attempted to be made by the board of regents shall be null and void unless and until the same has been approved or ratified and confirmed by legislative act.

The board of regents shall have power from time to time to lease ~~((said))~~ the land, or any part thereof or any improvement thereon for a term ending not more than sixty years beyond midnight, December 31, 1980: PROVIDED, That the board of regents shall make a full, detailed report of all leases and transactions pertaining to ~~((said))~~ the land or any part thereof or any improvement thereon to the joint legislative ~~((budget))~~ audit and review committee, including one copy to the staff of the committee, during an odd-numbered year: PROVIDED FURTHER, That any and all records, books, accounts ~~((and/or))~~, and agreements of any lessee or sublessee under this section, pertaining to compliance with the terms and conditions of such lease or sublease, shall be open to inspection by the board of regents ~~((and/or))~~, the ways and means committee~~((s))~~ of the senate ~~((or))~~, the appropriations committee of the house of representatives ~~((or))~~, and the joint legislative ~~((budget))~~ audit and review committee or any successor committees. It is not intended by this proviso that unrelated records, books, accounts ~~((and/or))~~, and agreements of lessees, sublessees, or related companies be open to such inspection.

Sec. 28. RCW 39.19.060 and 1993 c 512 s 9 are each amended to read as follows:

Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to insure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses. The office shall annually notify the governor, the state auditor, and the joint legislative ~~((budget))~~ audit and review committee of all agencies and educational institutions not in compliance with this chapter.

Sec. 29. RCW 39.29.016 and 1987 c 414 s 4 are each amended to read as follows:

Emergency contracts shall be filed with the office of financial management and the joint legislative ~~((budget))~~ audit and review committee and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the office of financial management and the joint legislative ~~((budget))~~ audit and review committee when the contract is filed.

**Sec. 30.** RCW 39.29.018 and 1993 c 433 s 5 are each amended to read as follows:

(1) Sole source contracts shall be filed with the office of financial management and the joint legislative ((~~budget~~)) audit and review committee and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the office of financial management and the joint legislative ((~~budget~~)) audit and review committee when the contract is filed. For sole source contract: of ten thousand dollars or more that are state funded, documented justification shall include evidence that the agency attempted to identify potential consultants by advertising through state-wide or regional newspapers.

(2) The office of financial management shall approve sole source contracts of ten thousand dollars or more that are state funded, before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than ten thousand dollars if the total amount of such contracts between an agency and the same consultant is ten thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of ten thousand dollars or more are reasonable.

**Sec. 31.** RCW 39.29.025 and 1993 c 433 s 3 are each amended to read as follows:

(1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the office of financial management and the joint legislative ((~~budget~~)) audit and review committee, and are subject to approval by the office of financial management.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the office of financial management and the joint legislative ((~~budget~~)) audit and review committee.

(3) The office of financial management shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The office of financial management shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the office of financial management.



**Sec. 32.** RCW 39.29.055 and 1993 c 433 s 7 are each amended to read as follows:

(1) State-funded personal service contracts subject to competitive solicitation shall be filed with the office of financial management and the joint legislative ((budget)) audit and review committee and made available for public inspection at least ten working days before the proposed starting date of the contract.

(2) The office of financial management shall review and approve state-funded personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

**Sec. 33.** RCW 41.06.070 and 1995 c 163 s 1 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative ((budget)) audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected

public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1)(w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (2) of this section, shall be determined by the Washington personnel resources board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**Sec. 34.** RCW 42.48.060 and 1985 c 334 s 6 are each amended to read as follows:

Nothing in this chapter is applicable to, or in any way affects, the powers and duties of the state auditor or the joint legislative ((budget)) audit and review committee.

**Sec. 35.** RCW 43.09.310 and 1995 c 301 s 22 are each amended to read as follows:

The state auditor shall annually audit the state-wide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative ((budget)) audit and review committee, one each to the standing committees on ways and means of

the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general.

**Sec. 36.** RCW 43.21J.800 and 1993 c 516 s 11 are each amended to read as follows:

On or before June 30, 1998, the joint legislative ((budget)) audit and review committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993.

**Sec. 37.** RCW 43.79.270 and 1973 c 144 s 2 are each amended to read as follows:

Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative ((budget)) audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

**Sec. 38.** RCW 43.79.280 and 1973 c 144 s 3 are each amended to read as follows:

If the governor approves such estimate in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative ((budget)) audit and review committee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law.

**Sec. 39.** RCW 43.88.205 and 1979 c 151 s 141 are each amended to read as follows:

(1) Whenever an agency makes application, enters into a contract or agreement, or submits state plans for participation in, and for grants of federal

funds under any federal law, the agency making such application shall at the time of such action, give notice in such form and manner as the director of financial management may prescribe, or the ~~((chairman))~~ chair of the joint legislative ~~((budget))~~ audit and review committee, standing committees on ways and means of the house and senate, the chief clerk of the house, or the secretary of the senate may request.

(2) Whenever any such application, contract, agreement, or state plan is amended, such agency shall notify each such officer of such action in the same manner as prescribed or requested pursuant to subsection (1) of this section.

(3) Such agency shall promptly furnish such progress reports in relation to each such application, contract, agreement, or state plan as may be requested following the date of the filing of the application, contract, agreement, or state plan; and shall also file with each such officer a final report as to the final disposition of each such application, contract, agreement, or state plan if such is requested.

**Sec. 40.** RCW 43.88.230 and 1981 c 270 s 12 are each amended to read as follows:

For the purposes of this chapter, the statute law committee, the joint legislative ~~((budget))~~ audit and review committee, the legislative transportation committee, the legislative evaluation and accountability program committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government.

**Sec. 41.** RCW 43.88.310 and 1993 c 157 s 1 are each amended to read as follows:

(1) The legislative auditor of the office of the joint legislative audit and review committee, with the concurrence of the joint legislative ~~((budget))~~ audit and review committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the joint legislative ~~((budget))~~ audit and review committee, any standing or special committees of the house or senate, or the entire legislature which indicate a violation of RCW 43.88.290, or any other act of malfeasance, misfeasance, or nonfeasance on the part of any state officer or employee.

(2) The attorney general shall promptly review each filing received from the legislative auditor and may act thereon as provided in RCW 43.88.300, or any other applicable statute authorizing enforcement proceedings by the attorney general. The attorney general shall advise the joint legislative ~~((budget))~~ audit and review committee of the status of exceptions or findings referred under this section.

**Sec. 42.** RCW 43.88.510 and 1987 c 505 s 37 are each amended to read as follows:

Not later than ninety days after the beginning of each biennium, the director of financial management shall submit the compiled list of boards, commissions,

councils, and committees, together with the information on each such group, that is required by RCW 43.88.505 to:

(1) The speaker of the house and the president of the senate for distribution to the appropriate standing committees, including one copy to the staff of each of the committees;

(2) The chair of the joint legislative ((budget)) audit and review committee, including a copy to the staff of the committee;

(3) The chairs of the committees on ways and means of the senate and house of representatives; and

(4) Members of the state government committee of the house of representatives and of the governmental operations committee of the senate, including one copy to the staff of each of the committees.

**Sec. 43.** RCW 43.131.050 and 1990 c 297 s 2 are each amended to read as follows:

The joint legislative ((budget)) audit and review committee shall cause to be conducted a program and fiscal review of any state agency or program scheduled for termination by the processes provided in this chapter. Such program and fiscal review shall be completed and a preliminary report prepared on or before June 30th of the year prior to the date established for termination. Upon completion of its preliminary report, the joint legislative ((budget)) audit and review committee shall transmit copies of the report to the office of financial management. The office of financial management may then conduct its own program and fiscal review of the agency scheduled for termination and shall prepare a report on or before September 30th of the year prior to the date established for termination. Upon completion of its report the office of financial management shall transmit copies of its report to the joint legislative ((budget)) audit and review committee. The joint legislative ((budget)) audit and review committee shall prepare a final report that includes the reports of both the office of financial management and the joint legislative ((budget)) audit and review committee. The joint legislative ((budget)) audit and review committee and the office of financial management shall, upon request, make available to each other all working papers, studies, and other documents which relate to reports required under this section. The joint legislative ((budget)) audit and review committee shall transmit the final report to the legislature, to the state agency concerned, to the governor, and to the state library.

**Sec. 44.** RCW 43.131.060 and 1988 c 17 s 1 are each amended to read as follows:

In conducting the review of a regulatory entity, the joint legislative ((budget)) audit and review committee shall consider, but not be limited to, the following factors where applicable:

(1) The extent to which the regulatory entity has operated in the public interest and fulfilled its statutory obligations;

(2) The duties of the regulatory entity and the costs incurred in carrying out those duties;

(3) The extent to which the regulatory entity is operating in an efficient, effective, and economical manner;

(4) The extent to which the regulatory entity inhibits competition or otherwise adversely affects the state's economic climate;

(5) The extent to which the regulatory entity duplicates the activities of other regulatory entities or of the private sector, where appropriate; and

(6) The extent to which the absence or modification of regulation would adversely affect, maintain, or improve the public health, safety, or welfare.

**Sec. 45.** RCW 43.131.070 and 1977 ex.s. c 289 s 7 are each amended to read as follows:

In conducting the review of a state agency other than a regulatory entity, the joint legislative ((budget)) audit and review committee shall consider, but not be limited to, the following factors where applicable:

(1) The extent to which the state agency has complied with legislative intent;

(2) The extent to which the state agency is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the state agency is operating in the public interest by effectively providing a needed service that should be continued rather than modified, consolidated, or eliminated;

(4) The extent to which the state agency duplicates the activities of other state agencies or of the private sector, where appropriate; and

(5) The extent to which the termination or modification of the state agency would adversely affect the public health, safety, or welfare.

**Sec. 46.** RCW 43.131.080 and 1989 c 175 s 109 are each amended to read as follows:

(1) Following receipt of the final report from the joint legislative ((budget)) audit and review committee, the appropriate committees of reference in the senate and the house of representatives shall each hold a public hearing, unless a joint hearing is held, to consider the final report and any related data. The committees shall also receive testimony from representatives of the state agency or agencies involved, which shall have the burden of demonstrating a public need for its continued existence; and from the governor or the governor's designee, and other interested parties, including the general public.

(2) When requested by either of the presiding members of the appropriate senate and house committees of reference, a regulatory entity under review shall mail an announcement of any hearing to the persons it regulates who have requested notice of agency rule-making proceedings as provided in RCW 34.05.320, or who have requested notice of hearings held pursuant to the provisions of this section. On request of either presiding member, such mailing shall include an explanatory statement not exceeding one page in length prepared and supplied by the member's committee.



(3) The presiding members of the senate committee on ways and means and the house committee on appropriations may designate one or more liaison members to each committee of reference in their respective chambers for purposes of participating in any hearing and in subsequent committee of reference discussions and to seek a coordinated approach between the committee of reference and the committee they represent in a liaison capacity.

(4) Following any hearing under subsection (1) of this section by the committees of reference, such committees may hold additional meetings or hearings to come to a final determination as to whether a state agency has demonstrated a public need for its continued existence or whether modifications in existing procedures are needed. In the event that a committee of reference concludes that a state agency shall be reestablished or modified or its functions transferred elsewhere, it shall make such determination as a bill. No more than one state agency shall be reestablished or modified in any one bill.

**Sec. 47.** RCW 43.131.110 and 1977 ex.s. c 289 s 11 are each amended to read as follows:

Any reference in this chapter to a committee of the legislature including the joint legislative ((budget)) audit and review committee shall also refer to the successor of that committee.

**Sec. 48.** RCW 43.250.080 and 1986 c 294 s 8 are each amended to read as follows:

At the end of each fiscal year, the state treasurer shall submit to the governor, the state auditor, and the joint legislative ((budget)) audit and review committee a summary of the activity of the investment pool. The summary shall indicate the quantity of funds deposited; the earnings of the pool; the investments purchased, sold, or exchanged; the administrative expenses of the investment pool; and such other information as the state treasurer deems relevant.

**Sec. 49.** RCW 44.40.025 and 1981 c 270 s 15 are each amended to read as follows:

In addition to the powers and duties authorized in RCW 44.40.020, the committee and the standing committees on transportation of the house and senate shall, in coordination with the joint legislative ((budget)) audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, and/or analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The joint legislative ((budget)) audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the legislative transportation committee in carrying out the

committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state.

**Sec. 50.** RCW 67.70.310 and 1982 2nd ex.s. c 7 s 31 are each amended to read as follows:

The director of financial management may conduct a management review of the commission's lottery operations to assure that:

(1) The manner and time of payment of prizes to the holder of winning tickets or shares is consistent with this chapter and the rules adopted under this chapter;

(2) The apportionment of total revenues accruing from the sale of lottery tickets or shares and from all other sources is consistent with this chapter;

(3) The manner and type of lottery being conducted, and the expenses incidental thereto, are the most efficient and cost-effective; and

(4) The commission is not unnecessarily incurring operating and administrative costs.

In conducting a management review, the director of financial management may inspect the books, documents, and records of the commission. Upon completion of a management review, all irregularities shall be reported to the attorney general, the joint legislative ((budget)) audit and review committee, and the state auditor. The director of financial management shall make such recommendations as may be necessary for the most efficient and cost-effective operation of the lottery.

**Sec. 51.** RCW 79.01.006 and 1991 c 204 s 1 are each amended to read as follows:

(1) Every five years the department of social and health services and other state agencies that operate institutions shall conduct an inventory of all real property subject to the charitable, educational, penal, and reformatory institution account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled. The inventory shall identify which of those real properties are not needed for state-provided residential care, custody, or treatment. By December 1, 1992, and every five years thereafter the department shall report the results of the inventory to the house of representatives committee on capital facilities and financing, the senate committee on ways and means, and the joint legislative ((budget)) audit and review committee.

(2) Real property identified as not needed for state-provided residential care, custody, or treatment shall be transferred to the corpus of the charitable, educational, penal, and reformatory institution account. This subsection shall not apply to real property subject to binding conditions that conflict with the other provisions of this subsection.

(3) The department of natural resources shall manage all property subject to the charitable, educational, penal, and reformatory institution account and, in consultation with the department of social and health services and other affected

agencies, shall adopt a plan for the management of real property subject to the account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled.

(a) The plan shall be consistent with state trust land policies and shall be compatible with the needs of institutions adjacent to real property subject to the plan.

(b) The plan may be modified as necessary to ensure the quality of future management and to address the acquisition of additional real property.

**Sec. 52.** RCW 44.—.— and 1996 c . . . (ESSB 6680) s 4 are each amended to read as follows:

(1) Performance reviews under this chapter shall include a rethinking of the programs and functions of state agencies to assess whether or not they have a vital purpose or valid mission. The director shall work to involve frontline employees, agency and program managers, customers of the program or service, other taxpayers, legislators, legislative staff, office of financial management staff, and other external public and private sector experts as deemed appropriate in conducting performance reviews. The director shall, as necessary, contract with experts from either the private or public sector to assist in performance reviews.

(2) In preparation for a performance review, a state agency shall identify each of its discrete functions or activities, along with associated costs and full-time equivalent staff, as requested by the director. In reviewing the agency or program, the director shall identify those activities and programs that should be strengthened, those that should be abandoned, and those that need to be redirected or other alternatives explored. The review should consider: (a) Whether or not the purpose for which the agency or program was created is still valid based on the circumstances under which the program was created versus those that exist at the time of the review; (b) the extent to which the particular activity or function is specifically authorized in statute or is consistent with statutory direction and intent; (c) whether or not the agency or program is achieving the results for which it was established; (d) alternatives for delivering the program or service, either in the public or private sector; (e) duplication of services with other government programs or private enterprises or gaps in services; (f) the relative priority of the program among the agency's functions; ((e)) (g) costs or implications of not performing the function; ((f)) (h) citizen's individual responsibilities and freedoms; ((e)) (i) whether or not the mission of the agency or program is attainable considering the effect of factors and circumstances beyond the control of the agency; and ((f)) (j) in the event of inadequate performance by the program, the potential for a workable, affordable plan to improve performance.

(3) Performance reviews must also determine the existence and utility of an agency or program strategic plan that includes a concise statement of the agency's or program's mission, a vision for future direction, measurable goals and objectives, and clear strategies and specific timelines to achieve them. The

director shall determine the extent to which the plan: (a) Forms the basis of agency management practices and continuous process reevaluation and improvement; (b) can be used to clearly identify and prioritize agency functions; (c) provides a valuable basis for legislative policy and budget deliberations; (d) is used to ensure accountability of employees, particularly managers, for achieving program goals, and is a primary consideration in retention and promotion of staff; (e) is used to assess the quality and effectiveness of the agency's programs and activities; (f) appropriately balances cost objectives, quality objectives, and performance objectives; and (g) is useful in demonstrating public accountability. The agency strategic plan shall provide for periodic self-assessment by the agency to determine whether the agency is achieving the goals and objectives of its programs. Where self-assessments have been completed by an agency, the assessments must be incorporated into a performance review conducted under this chapter.

(4) If the state agency or program being reviewed has not identified acceptable organizations or programs in the public or private sector to be used as benchmarks against which to measure its performance, the director shall conduct a review sufficient to recommend such benchmarks to the agency, the governor, and the legislature.

(5) As a part of each performance review and in consultation with the director of the agency being reviewed and the director of financial management, the director of the legislative office of performance review shall develop recommendations regarding statutes that inhibit or do not contribute to the agency's ability to perform its functions effectively and efficiently.

(6) Based on the information and conclusions compiled from the work required in subsections (1) through (5) of this section, the director shall develop an advisory recommendation for the governor and the legislature regarding whether an agency, programs of an agency, or activities within an agency should be continued, abandoned, or restructured.

**Sec. 53.** RCW 43.88.030 and 1996 c . . . (ESSB 6680) s 9 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient

changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues as approved by the economic and revenue forecast council or upon the estimated revenues of the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the interagency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.70 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods;

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation; and

(k) For each agency, a description of the findings and recommendations of any applicable review by the legislative office of performance review conducted during the prior fiscal period. The budget document must describe the potential

costs and savings associated with implementing the findings and recommendations, including any recommendations for program eliminations and alternative delivery methods.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A statement of the reason or purpose for a project;

(e) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(f) A statement about the proposed site, size, and estimated life of the project, if applicable;

(g) Estimated total project cost;

(h) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(i) Estimated total project cost for each phase of the project as defined by the office of financial management;

(j) Estimated ensuing biennium costs;

(k) Estimated costs beyond the ensuing biennium;

(l) Estimated construction start and completion dates;

(m) Source and type of funds proposed;

(n) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(o) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The

document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(p) Such other information bearing upon capital projects as the governor deems to be useful;

(q) Standard terms, including a standard and uniform definition of maintenance for all capital projects;

(r) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

NEW SECTION. Sec. 54. Sections 2, 9, 10, and 13 through 17 of this act are each added to chapter 44.28 RCW.

NEW SECTION. Sec. 55. RCW 44.28.140, 44.28.180, and 44.28.087, as amended by this act, are each recodified within chapter 44.28 RCW in the order in which they appear in this act.

NEW SECTION. Sec. 56. If sections 4 and 9 of chapter . . . , Laws of 1996 (ESSB 6680) do not become law, sections 52 and 53 of this act are null and void.

NEW SECTION. Sec. 57. The following acts or parts of acts are each repealed:

(1) RCW 44.28.085 and 1993 c 406 s 6, 1975 1st ex.s. c 293 s 15, & 1971 ex.s. c 170 s 3; and

(2) RCW 44.28.086 and 1973 1st ex.s. c 197 s 1.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.



Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 16, 17, and 24, Engrossed Second Substitute House Bill No. 2222 entitled:

"AN ACT Relating to legislative oversight of state and local government programs;"

Engrossed Second Substitute House Bill No. 2222 changes the name of the Legislative Budget Committee to the Joint Legislative Audit and Review Committee. It also reorients the activities of that legislative oversight body to performance audits and state agency accountability issues, which I strongly support.

However, I do not believe that sections 16, 17, and 24 of the bill are either necessary or appropriate. Section 16 creates a revolving fund and gives the Legislative Auditor unilateral authority to assess an agency for the cost of performance audits without the assurance that the agency has funds set aside for this purpose. It is not clear whether the revolving fund is intended to cover some or all of the costs of operating the committee, and the potential cost to agencies is thus uncertain but potentially significant. The risk is much greater for smaller agencies that may lack the budgetary flexibility to cover costs of an unanticipated audit. It is preferable for the legislature to simply appropriate sufficient funds to the committee to conduct the audits that are planned.

Section 17 provides the Legislative Auditor access to any agency records or information that are related to performance audits and other responsibilities of the legislature. Existing law (RCW 44.28.110) already gives the Legislative Auditor authority to examine all files and records of agencies and provides subpoena power. The powers granted in section 17 are, therefore, redundant and unnecessary.

Section 24 requires performance audit findings to be given consideration in agency budget estimates which are part of the governor's budget proposal. I am not convinced that the governor's budget document is the appropriate vehicle for publishing legislative audit findings.

For these reasons, I have vetoed sections 16, 17, and 24 of Engrossed Second Substitute House Bill No. 2222.

With the exception of sections 16, 17, and 24, Engrossed Second Substitute House Bill No. 2222 is approved."

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## CHAPTER 289

[Substitute House Bill 2320]

### PERSISTENT OFFENDERS

AN ACT Relating to persistent offenders; reenacting and amending RCW 9.94A.030; adding a new section to chapter 72.09 RCW; and prescribing penalties.

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

**Sec. I.** RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and 1995 c 101 s 2 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "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.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120(6) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). 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.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "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.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "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.

(12)(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" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (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 or serious traffic offenses, 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.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "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 legal financial obligation. 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.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) 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);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, 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 except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(24) "Nonviolent offense" means an offense which is not a violent offense.

(25) "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.

(26) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

~~((b))~~ (ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

(28) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(29) "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.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(31) "Serious violent offense" is a subcategory of violent offense and means:

(a) 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, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(32) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(33) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

(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 sex offense under (a) of this subsection.

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "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.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "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, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(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 (a) of this subsection; 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 (a) or (b) of this subsection.

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement

tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

***\*NEW SECTION. Sec. 2. A new section is added to chapter 72.09 RCW to read as follows:***

***The department shall not provide sex offender treatment or sex offender counseling services to a sex offender convicted as a persistent offender as defined in RCW 9.94A.030.***

***\*Sec. 2 was vetoed. See message at end of chapter.***

Passed the House February 7, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 2320 entitled:

"AN ACT Relating to persistent offenders;"

Substitute House Bill No. 2320 mandates life imprisonment upon an individual's second conviction for a number of sex offenses or for certain other offenses if specifically found to be sexually motivated. This legislation reaffirms our unconditional intolerance of persistent sex offenders and our commitment to keeping public safety paramount in our dealings with those who leave such devastating impacts on their victims — and on all of us.

Substitute House Bill No. 2320 lists the various offenses that are subject to this mandatory sentencing. This roster of offenses prompts my concern and comment. When we make our choices and draw the line on whom we will automatically send to prison



for life, we seldom have problems with the top of the list — the most serious and reprehensible crimes — which cry out for harsh penalties. No one disagrees that the sexually motivated murderer, the violent rapist, and even those who attempt such heinous crimes, deserve life-long exile from society. The difficulty arises when we try to decide where to end our list and distinguish those offenses that may not warrant life behind bars.

Substitute House Bill No. 2320 specifies that a second conviction of indecent liberties results in a mandatory life sentence. Under current law, an offender convicted of indecent liberties with one prior sex conviction normally faces a four to five year sentence. This overwhelming increase in punishment for this particular offense may very well be appropriate for each and every offender covered by this new law. I worry that, at least on occasion, it will not. Because life imprisonment follows immediately upon the second conviction of the enumerated offenses, there is no opportunity for consideration, no room for judgment, and no mechanism for later review. It is my hope that the legislature will consider the possibility of adding future review by a sentencing court to this model of life imprisonment.

I entreat the legislature, and all who share concern and interest with our system of criminal justice, to look closely at our changing mix of mandatory and discretionary sentencing. We should contemplate the wisdom of moving ever further from letting judges judge.

Section 2 of Substitute House Bill No. 2320 prohibits the Department of Corrections (DOC) from providing sex offender treatment or sex offender counseling to those individuals convicted under this law. Current DOC policy already bars offenders serving life terms from receiving treatment due to the limited available space in treatment programs. While I agree that the offender who will eventually be released back into society should receive priority in treatment, I am concerned about how this blanket prohibition might impact DOC's population.

Our sentencing laws, including this legislation, are increasing the number of sex offenders who will spend their lives or most of their lives incarcerated. We should not forget the danger these offenders pose to other inmates, particularly younger offenders who will be released at some point. The influence and effects that these "lifers" may have on the more vulnerable members of the prison population is obvious. While many may argue that we must throw away the key on the former group, none can disagree that we should minimize the chance that the latter group will follow in their path.

Maintaining DOC's flexibility in dealing with lifetime inmates through treatment or counseling is prudent. It stands to be a cost effective tool and recognizes the changing reality we are imposing on the lives of those we incarcerate. I cannot approve a blanket prohibition against counseling or treatment for individuals sentenced under this law.

For this reason, I have vetoed section 2 of Substitute House Bill No. 2320.

With the exception of section 2, Substitute House Bill No. 2320 is approved."

## CHAPTER 290

[House Bill 2337]

### DISTRESSED COUNTY DESIGNATION

AN ACT Relating to distressed county designation; amending RCW 43.160.210, 43.165.010, 43.168.020, 82.60.020, 82.62.010, and 82.08.02565; creating a new section; providing an effective date; and declaring an emergency.

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

**Sec. I.** RCW 43.160.210 and 1991 c 314 s 25 are each amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for loans and grants, the board shall spend at least twenty percent for grants and loans for projects in distressed counties.

For purposes of this section, the term "distressed counties" includes any county, in which: (a) The average level of unemployment for the three years before the year in which an application for a loan or grant is filed, exceeds the average state employment for those years by twenty percent; or (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties are clearly insufficient to use up the twenty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for loans and grants for projects not located in distressed counties.

**Sec. 2.** RCW 43.165.010 and 1995 c 399 s 91 are each amended to read as follows:

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

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department.

(3) "Distressed area" means: (a) A county that has an unemployment rate that is twenty percent above the state-wide average for the previous three years; ~~((e))~~ (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a community or area that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base due to decline of its dominant industries; or ~~((e))~~ (d) an area within a county which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Economic development revolving loan funds" means a local, not-for-profit or governmentally sponsored business loan program.

(5) "Team" means the community revitalization team.

(6) "Technical assistance" includes, but is not limited to, assistance with strategic planning, market research, business plan development review, organization and management development, accounting and legal services, grant and loan packaging, and other assistance which may be expected to contribute to the redevelopment and economic well-being of a distressed area.

Sec. 3. RCW 43.168.020 and 1995 c 226 s 27 are each amended to read as follows:

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

(1) "Committee" means the Washington state development loan fund committee.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent(~~(—Applications under this subsection (4)(b) shall be filed by April 30, 1989; (e))~~); (d) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate; or ~~((d))~~ (e) a county designated as a rural natural resources impact area under RCW 43.31.601 if an application is filed by July 1, ~~((1993))~~ 1997. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(7) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities.

Sec. 4. RCW 82.60.020 and 1995 1st sp.s. c 3 s 5 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means: (a) A county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; ~~((e))~~ (d) a designated community empowerment zone approved under RCW 43.63A.700 or a county containing such a community empowerment zone; ~~((d))~~ (e) a town with a population of less than twelve hundred persons in those counties that are not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601; ~~((e))~~ (f) a county designated by the governor as an eligible area under RCW 82.60.047; or ~~((f))~~ (g) a county that is contiguous to a county that qualifies as an eligible area under (a) or ~~((e))~~ (f) of this subsection.

(4)(a) "Eligible investment project" means:

(i) An investment project in an eligible area as defined in subsection (3)(a), (b), ~~((d), (e))~~ (c), (e), or (f) of this section; or

(ii) That portion of an investment project in an eligible area as defined in subsection (3)~~((e))~~(d) or ~~((f))~~ (g) of this section which is directly utilized to create at least one new full-time qualified employment position for each three hundred thousand dollars of investment on which a deferral is requested in an application approved before July 1, 1994, and for each seven hundred fifty thousand dollars of investment on which a deferral is requested in an application approved after June 30, 1994.

(b) The lessor/owner of a qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.

(c) For purposes of (a)(ii) of this subsection:

(i) The department shall consider the entire investment project, including any investment in machinery and equipment that otherwise qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for purposes of determining the portion of the investment project that qualifies for deferral as an eligible investment project; and

(ii) The number of new full-time qualified employment positions created by an investment project shall be deemed to be reduced by the number of full-time employment positions maintained by the recipient in any other community in this state that are displaced as a result of the investment project.

(d) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

**Sec. 5.** RCW 82.62.010 and 1994 sp.s. c 7's 705 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means: (a) A county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; ~~((d))~~ (d) a designated community empowerment zone approved under RCW 43.63A.700; or ~~((d))~~ (e) subcounty areas in those counties that are not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average full-time qualified employment positions at the specific facility will be at least fifteen percent greater in the year for which the credit is being sought than the applicant's average full-time qualified employment positions at the same facility in the immediately preceding year.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(5) or that portion of a business project creating qualified full-time employment positions outside an eligible area or those recipients of a sales tax deferral under chapter 82.61 RCW.

(5) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities

performed by research and development laboratories and commercial testing laboratories.

(6) "Person" has the meaning given in RCW 82.04.030.

(7) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during the entire tax year.

(8) "Tax year" means the calendar year in which taxes are due.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

*\*Sec. 6. RCW 82.08.02565 and 1995 1st sp.s. c 3 s 2 are each amended to read as follows:*

*(1) The tax levied by RCW 82.08.020 shall not apply to sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation, or to sales of or charges made for labor and services rendered in respect to installing the machinery and equipment, but only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department by rule, and the purchaser provides the department with a duplicate of the certificate or a summary of exempt sales as the department may require. The seller shall retain a copy of the certificate for the seller's files.*

*(2) For purposes of this section and RCW 82.12.02565:*

*(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities. "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation.*

*(b) "Machinery and equipment" does not include:*

*(i) Hand tools;*

*(ii) Property with a useful life of less than one year;*

*(iii) Repair parts required to restore machinery and equipment to normal working order;*

*(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment; or*

*(v) Building fixtures that are not integral to the manufacturing operation that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical.*

*(c) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment:*

*(i) Acts upon or interacts with an item of tangible personal property;*

(ii) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site;

(iii) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property;

(iv) Provides physical support for or access to tangible personal property;

(v) Produces power for, or lubricates machinery and equipment;

(vi) Produces another item of tangible personal property for use in the manufacturing operation; or

(vii) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported.

(d) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. The manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the finished product leaves the manufacturing site. In the case of the manufacturing of building trusses in eligible areas, as defined in RCW 82.60.020(3)(e), the manufacturing operation ends at the point where the finished product is delivered to the building site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include research and development, the production of electricity by a light and power business as defined in RCW 82.16.010, or the preparation of food products on the premises of a person selling food products at retail.

(e) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel.

\*Sec. 6 was vetoed. See message at end of chapter.

**\*NEW SECTION.** Sec. 7. Section 6 of this act applies to manufacturing machinery and equipment acquired after June 30, 1995.

\*Sec. 7 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 8. (1) Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 1 of this act shall take effect June 30, 1997.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.



Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 6 and 7, House Bill No. 2337 entitled:

"AN ACT Relating to distressed county designation;"

House Bill No. 2337 changes the definition of "eligible area" for purposes of the distressed area sales and use tax deferral program and other state programs and amends the definition of "manufacturing operation" for purposes of the manufacturer's sales and use tax exemption for purchases of machinery and equipment.

Section 6 of House Bill No. 2337 changes the definition of "manufacturing operation" so as to extend the manufacturer's sales and use tax exemption to purchases of vehicles used in timber impact areas to deliver trusses to a construction site. This legislation would establish a disturbing precedent. For purposes of a tax exemption, it would extend the concept of a manufacturing facility beyond the physical plant at which machinery and equipment are used to make a product to include the equipment used to deliver the product to the customer. This is contrary to the aim of the exemption enacted in the 1995 session.

Section 7 indicates that the change in section 6 applies retroactively to purchases made after June 30, 1995. The retroactive nature of this section does not represent sound tax policy. It rewards taxpayers who choose not to pay a lawful tax and encourages others to take similar action and to seek narrow legislative exemptions.

For these reasons, I have vetoed sections 6 and 7 of House Bill No. 2337.

With the exception of sections 6 and 7, House Bill No. 2337 is approved."

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## CHAPTER 291

[House Bill 2341]

### LIQUOR STORES—CREDIT CARD USE STUDY AND TEST

AN ACT Relating to studying and testing the use of credit cards in state liquor stores; amending RCW 66.16.040 and 66.08.026; and creating a new section.

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

**Sec. 1.** RCW 66.16.040 and 1995 c 16 s 1 are each amended to read as follows:

Except as otherwise provided by law, an employee in a state liquor store or agency may sell liquor to any person of legal age to purchase alcoholic beverages and may also sell to holders of permits such liquor as may be purchased under such permits.

Where there may be a question of a person's right to purchase liquor by reason of age, such person shall be required to present any one of the following officially issued cards of identification which shows his/her correct age and bears his/her signature and photograph:

(1) Liquor control authority card of identification of any state or province of Canada.

(2) Driver's license, instruction permit or identification card of any state or province of Canada, or "identocard" issued by the Washington state department of licensing pursuant to RCW 46.20.117.

(3) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(4) Passport.

(5) Merchant Marine identification card issued by the United States Coast Guard.

The board may adopt such regulations as it deems proper covering the acceptance of such cards of identification.

No liquor sold under this section shall be delivered until the purchaser has paid for the liquor in cash, except as allowed under section 2 of this act. The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

NEW SECTION. Sec. 2. (1) The state liquor control board shall allow credit card purchases in a pilot project to study and test the use of credit cards in state liquor stores. In order to conduct the pilot project, the board shall, by rule:

- (a) Establish the criteria for selecting store test sites;
- (b) Limit the pilot project to eighteen months in duration;
- (c) Include no more than twenty stores;
- (d) Include the use of debit cards; and
- (e) Allow only nonlicensees to make credit card purchases.

(2) The board shall provide a report of the results to the legislature by January 1, 1998.

Sec. 3. RCW 66.08.026 and 1983 c 160 s 2 are each amended to read as follows:

All administrative expenses of the board incurred on and after April 1, 1963 shall be appropriated and paid from the liquor revolving fund. These administrative expenses shall include, but not be limited to: The salaries and expenses of the board and its employees, the cost of establishing, leasing, maintaining, and operating state liquor stores and warehouses, legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses shall not, however, be deemed to include costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, other costs pertaining to the acquisition and receipt of liquor and lottery tickets, packaging and repackaging of liquor, sales tax, and those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, 66.08.210 and 66.08.220.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 292

[House Bill 2365]

### ROAD AND BRIDGE SERVICE DISTRICTS—REVISIONS

AN ACT Relating to road and bridge service districts; amending RCW 36.83.010 and 36.83.020; and adding new sections to chapter 36.83 RCW.

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

**Sec. 1.** RCW 36.83.010 and 1985 c 400 s 2 are each amended to read as follows:

The legislative authority of a county may establish one or more service districts within the county for the purpose of providing and funding capital and maintenance costs for any bridge or road improvement or for providing and funding capital costs for any state highway improvement a county or a road district has the authority to provide. A service district may not include any area within the corporate limits of a city or town unless the city or town governing body adopts a resolution approving inclusion of the area within its limits. A service 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 service district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. All projects constructed by a service district pursuant to the provisions of this chapter shall be competitively bid and contracted.

A board of three commissioners appointed by the county legislative authority or county executive pursuant to this chapter shall be the governing body of a service district. The county treasurer shall act as the ex officio treasurer of the service district. The electors of a service district are all registered voters residing within the district.

**Sec. 2.** RCW 36.83.020 and 1983 c 130 s 2 are each amended to read as follows:

(1) ~~A county legislative authority proposing to establish a service district, or to modify the boundaries of an existing service district, or to dissolve an existing service 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 proposed service district. 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 service district. Additional notice of the hearing may be given by mail, posting within the proposed service 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 service district.

(2) Following the hearing held pursuant to subsection (1) of this section, the county legislative authority may establish a service district ~~((, modify the boundaries or functions of an existing service district, or dissolve an existing service district,))~~ if the county legislative authority finds the action to be in the public interest and adopts an ordinance or resolution providing for the ~~((action))~~ establishment of the service district. The ~~((ordinance))~~ legislation establishing a service district shall specify the functions or activities to be exercised or funded and establish the boundaries of the service district. Functions or activities proposed to be provided or funded by the service 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))~~ except as provided in subsection (4) of this section.

(3) At any time prior to the county legislative authority establishing a service 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))~~ a majority of the registered voters of the proposed service district.

(4) With the approval of the county legislative authority, the governing body of a service district may modify the boundaries of, expand or otherwise modify the functions of, or dissolve the service district after providing notice and conducting a public hearing or hearings in the manner provided in subsection (1) of this section. The governing body must make a determination that the proposed action is in the public interest and adopt a resolution providing for the action.

NEW SECTION. Sec. 3. A new section is added to chapter 36.83 RCW to read as follows:

If the county legislative authority establishes a road and bridge service district, it shall promptly appoint three persons who are residents of the territory included in that service district to serve as the commissioners of the service district. For counties having an elected executive, the executive shall appoint those commissioners subject to confirmation by the legislative authority of the county. The commissioners first appointed shall be designated to serve for terms of one, two, and three years, respectively, from the date of their appointment. Thereafter, service district commissioners shall be appointed for a term of office of five years. Vacancies must be filled for any unexpired term in the same manner as the original appointment. No member of the legislative authority of the county in which a service district is created may be a commissioner of that service district, except that, if the boundaries of the service district are included within or coterminous with the boundaries of a county commissioner or council district, the county commissioner or councilmember elected from that commissioner or council district may be appointed to serve as a commissioner of the service district. A commissioner shall hold office until his or her successor has

been appointed and qualified, unless sooner removed from office for cause in accordance with this chapter or removed by referendum in accordance with section 4 of this act. A certificate of the appointment or reappointment of any commissioner must be filed with the county auditor, and such certificate is conclusive evidence of the due and proper appointment of the commissioner. The commissioners of the service district shall receive no compensation for their services, in any capacity, but are entitled to reimbursement for reasonable and necessary expenses, including travel expenses, incurred in the discharge of their duties.

The powers of each service district are vested in the commissioners of the service district. Two commissioners constitute a quorum of the service district for the purpose of conducting its business and exercising its powers and for all other purposes. The commissioners of the service district shall organize itself and select its chair, vice-chair, and secretary, who shall serve one-year terms but may be selected for additional terms. When the office of any officer becomes vacant, the commissioners of the service district shall select a new officer from among the commissioners for the balance of the term of office.

NEW SECTION. Sec. 4. A new section is added to chapter 36.83 RCW to read as follows:

Any registered voter residing within the boundaries of the road and bridge service district may file a referendum petition to call an election to retain any or all commissioners. Any referendum petition to call such election shall be filed with the county auditor no later than one year before the end of a commissioner's term. Within ten days of the filing of a petition, the county auditor shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question: "Shall (name of commissioner) be retained as a road and bridge service district commissioner?" and the question shall be posed separately for each commissioner. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than twenty-five percent of the registered voters residing within the boundaries of the service district and file the signed petitions with the county auditor. Each petition form shall contain the ballot title. The county auditor shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the county auditor shall submit the referendum measure to the registered voters residing in the service district in a special election no later than one hundred twenty days after the signed petition has been filed with the county auditor. The special election may be conducted by mail ballot as provided for in chapter 29.36 RCW.

The office of any commissioner for whom there is not a majority vote to retain shall be declared vacant.

**NEW SECTION.** Sec. 5. A new section is added to chapter 36.83 RCW to read as follows:

For neglect of duty or misconduct in office, a commissioner of a service district may be removed by the county legislative authority after conducting a hearing. The commissioner must be given a copy of the charges at least ten days prior to the hearing and must have an opportunity to be heard in person or by counsel. If a commissioner is removed, a record of the proceedings, together with the charges and findings, must be filed in the office of the county auditor.

**NEW SECTION.** Sec. 6. A new section is added to chapter 36.83 RCW to read as follows:

Any road or bridge improvements financed in whole by funds of a service district, including but not limited to proceeds of bonds issued by a service district, shall be owned by that service district. Improvements financed jointly by a service district and the county or city within which the improvements are located may be owned jointly by the service district and that county or city pursuant to an interlocal agreement.

**NEW SECTION.** Sec. 7. A new section is added to chapter 36.83 RCW to read as follows:

If a service district is formed, there shall be created in the office of the county treasurer, as ex officio treasurer of the service district, a local service district fund with such accounts as the treasurer may find convenient or as the state auditor or the governing body of the service district may direct, into which shall be deposited all revenues received by or on behalf of the service district from tax levies, gifts, donations and any other source. The fund shall be designated "(name of county) (road/bridge) service district No. . . . fund."

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 293

[Substitute House Bill 2371]

### STUDENT LOANS—SUSPENSION OF LICENSES FOR FAILURE TO REPAY

AN ACT Relating to repayment of student loans; adding a new section to chapter 2.48 RCW; adding a new section to chapter 18.04 RCW; adding a new section to chapter 18.08 RCW; adding a new section to chapter 18.11 RCW; adding a new section to chapter 18.16 RCW; adding a new section to chapter 18.20 RCW; adding a new section to chapter 18.27 RCW; adding a new section to chapter 18.28 RCW; adding a new section to chapter 18.39 RCW; adding a new section to chapter 18.43 RCW; adding a new section to chapter 18.44 RCW; adding a new section to chapter 18.46 RCW; adding a new section to chapter 18.76 RCW; adding a new section to chapter 18.85 RCW; adding a new section to chapter 18.96 RCW; adding a new section to chapter 18.104 RCW; adding a new section to chapter 18.106 RCW; adding a new section to chapter 18.130 RCW; adding a new section to chapter 18.140 RCW; adding a new section to chapter 18.145 RCW; adding a new section to chapter 18.160 RCW; adding a new section to chapter 18.165 RCW; adding a new section to chapter 18.170 RCW; adding a new section to chapter 18.175 RCW; adding a new section to chapter

18.180 RCW; adding a new section to chapter 18.185 RCW; adding a new section to chapter 28A.410 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 2.48 RCW to read as follows:

The Washington state supreme court may provide by court rule that nonpayment or default on a federally or state-guaranteed educational loan shall result in disbarment or license suspension of the license of any person who has been certified by a lending agency and reported to the court for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The supreme court may reinstate the person when provided with a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency.

**NEW SECTION.** Sec. 2. A new section is added to chapter 18.04 RCW to read as follows:

The board shall suspend the license or certificate of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license or certificate shall not be reissued until the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the board may impose.

**NEW SECTION.** Sec. 3. A new section is added to chapter 18.08 RCW to read as follows:

The board shall suspend the certificate or registration of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or registration shall not be reissued until the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for

certification or registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the board may impose.

**NEW SECTION.** Sec. 4. A new section is added to chapter 18.11 RCW to read as follows:

The director shall suspend the license, certificate, or registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license, certificate, or registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure, certification, or registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 5. A new section is added to chapter 18.16 RCW to read as follows:

The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 6. A new section is added to chapter 18.20 RCW to read as follows:

The secretary shall suspend the license of any person who has been certified by a lending agency and reported to the secretary for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall



not be reissued until the person provides the secretary a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the secretary may impose.

**NEW SECTION.** Sec. 7. A new section is added to chapter 18.27 RCW to read as follows:

The director shall suspend the certificate of registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification of registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 8. A new section is added to chapter 18.28 RCW to read as follows:

The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 9. A new section is added to chapter 18.39 RCW to read as follows:

The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for

a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 10. A new section is added to chapter 18.43 RCW to read as follows:

The board shall suspend the certificate of registration or license of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration or license shall not be reissued until the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for registration or licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the board may impose.

**NEW SECTION.** Sec. 11. A new section is added to chapter 18.44 RCW to read as follows:

The director shall suspend the certificate of registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 12. A new section is added to chapter 18.46 RCW to read as follows:

The department shall suspend the license of any person who has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the department may impose.

NEW SECTION. Sec. 13. A new section is added to chapter 18.76 RCW to read as follows:

The secretary shall suspend the certificate of any person who has been certified by a lending agency and reported to the secretary for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate shall not be reissued until the person provides the secretary a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the secretary may impose.

NEW SECTION. Sec. 14. A new section is added to chapter 18.85 RCW to read as follows:

The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION. Sec. 15.** A new section is added to chapter 18.96 RCW to read as follows:

The director shall suspend the certificate of registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION. Sec. 16.** A new section is added to chapter 18.104 RCW to read as follows:

The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION. Sec. 17.** A new section is added to chapter 18.106 RCW to read as follows:

The director shall suspend the certificate or permit of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or permit shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement

approved by the lending agency. If the person has continued to meet all other requirements for certification or permits during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 18. A new section is added to chapter 18.130 RCW to read as follows:

The department shall suspend the license of any person who has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the department may impose.

**NEW SECTION.** Sec. 19. A new section is added to chapter 18.140 RCW to read as follows:

The director shall suspend the certificate or license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 20. A new section is added to chapter 18.145 RCW to read as follows:

The director shall suspend the certificate of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-

guaranteed educational loan or service-conditional scholarship. The person's certificate shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 21. A new section is added to chapter 18.160 RCW to read as follows:

The state director of fire protection shall suspend the certificate of any person who has been certified by a lending agency and reported to the state director of fire protection for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate shall not be reissued until the person provides the state director of fire protection a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the state director of fire protection may impose.

**NEW SECTION.** Sec. 22. A new section is added to chapter 18.165 RCW to read as follows:

The director shall suspend the license or certificate of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license or certificate shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 23. A new section is added to chapter 18.170 RCW to read as follows:

The director shall suspend the license or certificate of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license or certificate shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 24. A new section is added to chapter 18.175 RCW to read as follows:

The director shall suspend the certificate of registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification of registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 25. A new section is added to chapter 18.180 RCW to read as follows:

The auditor of the county shall suspend the registration of any person who has been certified by a lending agency and reported to the auditor of the county for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's registration shall not be reissued until the person provides the auditor of the county a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet

all other requirements for registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the auditor of the county may impose.

**NEW SECTION.** Sec. 26. A new section is added to chapter 18.185 RCW to read as follows:

The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose.

**NEW SECTION.** Sec. 27. A new section is added to chapter 28A.410 RCW to read as follows:

The authorizing authority shall suspend the certificate or permit of any person who has been certified by a lending agency and reported to the authorizing authority for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or permit shall not be reissued until the person provides the authorizing authority a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or permit during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the authorizing authority may impose.

**NEW SECTION.** Sec. 28. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 2, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.



**CHAPTER 294**

[Substitute House Bill 2376]

**GASOLINE VAPOR RECOVERY**

AN ACT Relating to gasoline vapor recovery at service stations and other dispensing facilities; adding a new section to chapter 70.94 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 70.94 RCW to read as follows:

(1) A gasoline vapor recovery device that captures vapors during vehicle fueling may only be required at a service station, or any other gasoline dispensing facility supplying fuel to the general public, in any of the following circumstances:

(a) The facility sells in excess of six hundred thousand gallons of gasoline per year and is located in a county, any part of which is designated as nonattainment for ozone under the federal clean air act, 42 U.S.C. Sec. 7407; or

(b) The facility sells in excess of six hundred thousand gallons of gasoline per year and is located in a county where a maintenance plan has been adopted by a local air pollution control authority or the department of ecology that includes gasoline vapor recovery devices as a control strategy; or

(c) From the effective date of this section until December 31, 1998, in any facility that sells in excess of one million two hundred thousand gallons of gasoline per year and is located in an ozone-contributing county. For purposes of this section, an ozone-contributing county means a county in which the emissions have contributed to the formation of ozone in any county where violations of federal ozone standards have been measured, and includes: Cowlitz, Island, Kitsap, Lewis, Skagit, Thurston, Wahkiakum, and Whatcom counties; or

(d) After December 31, 1998, in any facility that sells in excess of eight hundred forty thousand gallons of gasoline per year and is located in any county, no part of which is designated as nonattainment for ozone under the federal clean air act, 42 U.S.C. Sec. 7407, provided that the department of ecology determines by December 31, 1997, that the use of gasoline vapor control devices in the county is important to achieving or maintaining attainment status in any other county.

(2) This section does not preclude the department of ecology or any local air pollution authority from requiring a gasoline vapor recovery device that captures vapors during vehicle refueling as part of the regulation of sources as provided in RCW 70.94.152, 70.94.331, or 70.94.141 or where required under 42 U.S.C. Sec. 7412.

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

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 295

[Substitute House Bill 2420]

### FIREARMS POSSESSION—REVISIONS

AN ACT Relating to possession of firearms; amending RCW 9.41.050, 9.41.060, 9.41.070, 9.41.075, 9.41.0975, 9.41.098, 9.41.098, 9.41.170, 9.41.190, 9.41.280, and 9.41.800; reenacting and amending RCW 9.41.010, 9.41.040, 9.41.047, and 9.41.090; and prescribing penalties.

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

**Sec. 1.** RCW 9.41.010 and 1994 sp.s. c 7 s 401 and 1994 c 121 s 1 are each reenacted and amended to read as follows:

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

(1) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

(2) "Pistol" means any firearm with a barrel less than (~~twelve~~) sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(3) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(4) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(5) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(7) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(8) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(9) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) ~~((Bullets))~~ Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; ~~((or))~~

(d) There is a cartridge in the tube ~~((;))~~ or magazine ~~((; or other compartment of the firearm))~~ that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(10) "Dealer" means a person engaged in the business of selling firearms ~~((or ammunition))~~ at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(11) "Crime of violence" 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, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to ~~((July 1, 1976))~~ the effective date of this act, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(12) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

~~((e) Controlled substance homicide;))~~

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Reckless endangerment in the first degree;

(j) Sexual exploitation;

~~((j))~~ (k) Vehicular assault;

~~((k))~~ (l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

~~((h))~~ (m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

~~((m))~~ (n) Any other felony with a deadly weapon verdict under RCW 9.94A.125; or

~~((n))~~ (o) Any felony offense in effect at any time prior to ~~((July 1, 1994))~~ the effective date of this act that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense.

(13) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(14) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(15) "Sell" refers to the actual approval of the delivery of a firearm in consideration of payment or promise of payment of a certain price in money.

(16) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(17) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

Sec. 2. RCW 9.41.040 and 1995 c 129 s 16 (Initiative Measure No. 159) are each reenacted and amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted in this state or elsewhere of any serious offense as defined in this chapter (~~(, residential burglary, reckless endangerment in the first degree, any felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW, classified as a class A or class B felony, or with a maximum sentence of at least ten years, or both, or equivalent statutes of another jurisdiction, except as otherwise provided in subsection (3) or (4) of this section)~~).

(b) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under (a) of this subsection for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted in this state or elsewhere of any (~~remaining~~) felony (~~violation of the Uniform Controlled Substances Act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction~~) not specifically listed as prohibiting firearm possession under (a) of this subsection, (~~any remaining felony in which a firearm was used or displayed and the felony is not specifically listed as prohibiting firearm possession under (a) of this subsection,~~) or any (domestic violence offense enumerated in RCW 10.99.020(2), or any harassment offense enumerated in RCW 9A.46.060, except as otherwise provided in subsection (3) or (4) of this section) of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment in the second degree, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) (~~After having previously been convicted on three occasions within five years of driving a motor vehicle or operating a vessel while under the influence of intoxicating liquor or any drug, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;~~

~~(iii))~~ After having previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047; (~~and/or~~

~~(iv))~~ (iii) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(2)(a) Unlawful possession of a firearm in the first degree is a class B felony, punishable under chapter 9A.20 RCW.

(b) Unlawful possession of a firearm in the second degree is a class C felony, punishable under chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this ((section)) chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-factfinding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4) Notwithstanding subsection (1) of this section, a person convicted of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) of this section and has not previously been convicted of a sex offense prohibiting firearm ownership under subsection (1) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(a) Under RCW 9.41.047; and/or

(b)(i) If the conviction was for a felony offense, after five or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360; or

(ii) If the conviction was for a nonfelony offense, after three or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360 and the individual has completed all conditions of the sentence.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

Sec. 3. RCW 9.41.047 and 1994 sp.s. c 7 s 404 are each reenacted and amended to read as follows:

(1)((a)) At the time a person is convicted of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment, the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

The convicting or committing court also shall forward a copy of the person's driver's license or identicard, or comparable information, to the department of licensing, along with the date of conviction or commitment.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

~~(3) ((A person who is prohibited from possessing a firearm by reason of having previously been convicted on three occasions of driving a motor vehicle or operating a vessel while under the influence of intoxicating liquor or any drug may, after five continuous years without further conviction for any alcohol-related offense, petition a court of record to have his or her right to possess a firearm restored.~~

~~—(4))~~(a) A person who is prohibited from possessing a firearm, by reason of having been ~~((either;~~

~~—(ii))~~ involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction~~((;))~~ may, upon discharge, petition a court of record to have his or her right to possess a firearm restored.

~~((b) At a minimum, a petition under this subsection (4) shall include the following:~~

~~—(i) The fact, date, and place of commitment;~~

~~—(ii) The place of treatment;~~

~~—(iii) The fact and date of release from commitment;~~

~~—(iv) A certified copy of the most recent order, if one exists, of commitment, with the findings of fact and conclusions of law; and~~

~~—(v) A statement by the person that he or she is no longer required to participate in an inpatient or outpatient treatment program, is no longer required to take medication to treat any condition related to the commitment, and does not present a substantial danger to himself or herself, to others, or to the public safety.)~~ At the time of commitment, the court shall specifically state to the person that he or she is barred from possession of firearms.

(b) The secretary of social and health services shall develop appropriate rules to create an approval process under this subsection. The rules must provide for the restoration of the right to possess a firearm upon a showing in a court of competent jurisdiction that the person is no longer required to participate in an inpatient or outpatient treatment program, is no longer required to take medication to treat any condition related to the commitment, and does not present a substantial danger to himself or herself, others, or the public. Unlawful possession of a firearm under this subsection shall be punished as a class C felony under chapter 9A.20 RCW.

(c) A person petitioning the court under this subsection ~~((4))~~ (3) shall bear the burden of proving by a preponderance of the evidence that the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur.

Sec. 4. RCW 9.41.050 and 1994 sp.s. c 7 s 405 are each amended to read as follows:

(1)(a) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol.

(b) Every licensee shall have his or her concealed pistol license in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this subsection (1)(b) shall be a class 1 civil infraction under chapter 7.84 RCW and shall be punished accordingly pursuant to chapter 7.84 RCW and the infraction rules for courts of limited jurisdiction.



(2) A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and: (a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3) A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

(4) Except as otherwise provided in this chapter, no person may carry a firearm unless it is unloaded and enclosed in an opaque case or secure wrapper or the person is:

(a) Licensed under RCW 9.41.070 to carry a concealed pistol;  
 (b) In attendance at a hunter's safety course or a firearms safety course;  
 (c) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;

(d) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

(e) ~~((Hunting or trapping under a valid license issued to the person under Title 77 RCW))~~ Engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

(f) In an area where the discharge of a firearm is permitted, and is not trespassing;

(g) Traveling with any unloaded firearm in the person's possession to or from any activity described in (b), (c), (d), (e), or (f) of this subsection, except as provided in (h) of this subsection;

(h) Traveling in a motor vehicle with a firearm, other than a pistol, that is unloaded and locked in the trunk or other compartment of the vehicle, ((secured)) placed in a gun rack, or otherwise secured in place in a vehicle, provided that this subsection (4)(h) does not apply to motor homes if the firearms are not within the driver's compartment of the motor home while the vehicle is in operation. Notwithstanding (a) of this subsection, and subject to federal and state park regulations regarding firearm possession therein, a motor home shall be considered a residence when parked at a recreational park, campground, or other temporary residential setting for the purposes of enforcement of this chapter;

(i) On real property under the control of the person or a relative of the person;

(j) At his or her residence;

(k) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty;

(l) Is a law enforcement officer; ~~((e))~~

(m) Carrying a firearm from or to a vehicle for the purpose of taking or removing the firearm to or from a place of business for repair; or

(n) An armed private security guard or armed private detective licensed by the department of licensing, while on duty or enroute to and from employment.

(5) Violation of any of the prohibitions of subsections (2) through (4) of this section is a misdemeanor.

(6) Nothing in this section permits the possession of firearms illegal to possess under state or federal law.

~~((6))~~ (7) Any city, town, or county may enact an ordinance to exempt itself from the prohibition of subsection (4) of this section.

**Sec. 5.** RCW 9.41.060 and 1995 c 392 s 1 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers;

(2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;

(6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

~~(8) ((Individual hunters when on a hunting, camping, or fishing trip))~~ Any person engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; or

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not been convicted of a crime making him or her ineligible for a concealed pistol license.

Sec. 6. RCW 9.41.070 and 1995 c 351 s 1 are each amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a ~~((serious))~~ felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person ~~((; or~~

~~— (h)(i) He or she has been convicted of any crime against a child or other person listed in RCW 43.43.830(5).~~

~~— (ii) Except as provided in (h)(iii) of this subsection, any person who becomes ineligible for a concealed pistol license as a result of a conviction for a crime listed in (h)(i) of this subsection and then successfully completes all terms of his or her sentence, as evidenced by a certificate of discharge issued under RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has not again been convicted of any crime and is not under indictment for any~~

~~crime, may, one year or longer after such successful sentence completion, petition a court of record for a declaration that the person is no longer ineligible for a concealed pistol license under (h)(i) of this subsection)).~~

~~((iii))~~ No person convicted of a ~~((serious offense as defined in RCW 9.41.010))~~ felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2) The issuing authority shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm and therefore ineligible for a concealed pistol license. This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

**CAUTION:** Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, and whether the

applicant is a United States citizen. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall meet the additional requirements of RCW 9.41.170 and produce proof of compliance with RCW 9.41.170 upon application. The license shall be in triplicate and in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent (~~by registered mail~~) to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

(c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(d) Three dollars to the firearms range account in the general fund.

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(c) Three dollars to the firearms range account in the general fund.

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

*\*Sec. 7. RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to read as follows:*

*(1) ~~((The))~~ A concealed pistol license shall be revoked by the license-issuing authority immediately upon:*

*(a) ~~Discovery by the issuing authority that the person ~~((was))~~ is ineligible under RCW 9.41.070 for a concealed pistol license when applying for the license or license renewal;~~*

*(b) ~~Conviction of the licensee of an offense, or commitment of the licensee for mental health treatment, that makes a person ineligible under RCW 9.41.040 to possess a firearm;~~*

*(c) ~~Conviction of the licensee for a third violation of this chapter within five calendar years; or~~*

*(d) ~~An order that the licensee forfeit a firearm under RCW 9.41.098(1)~~((d))~~ (e).~~*

*~~(2)~~((a))~~ Unless the person may lawfully possess a pistol without a concealed pistol license, an ineligible person to whom a concealed pistol~~*

~~license was issued shall, within fourteen days of license revocation, lawfully transfer ownership of any pistol acquired while the person was in possession of the license.~~

~~(b) Upon discovering a person issued a concealed pistol license was ineligible for the license, the issuing authority shall contact the department of licensing to determine whether the person purchased a pistol while in possession of the license. If the person did purchase a pistol while in possession of the concealed pistol license, if the person may not lawfully possess a pistol without a concealed pistol license, the issuing authority shall require the person to present satisfactory evidence of having lawfully transferred ownership of the pistol. The issuing authority shall require the person to produce the evidence within fifteen days of the revocation of the license.~~

~~(3)) When a licensee is ordered to forfeit a firearm under RCW 9.41.098(1)((d)) (e), the issuing authority shall:~~

~~(a) On the first forfeiture, revoke the license for one year;~~

~~(b) On the second forfeiture, revoke the license for two years; or~~

~~(c) On the third or subsequent forfeiture, revoke the license for five years.~~

~~Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098((1)(d)) may not reapply for a new license until the end of the revocation period.~~

~~((4)) (3) The issuing authority shall notify, in writing, the department of licensing of the revocation or denial of a license. The department of licensing shall record the revocation or denial. Denial information shall be maintained by the department of licensing for the purposes of background checks and statistical research.~~

~~(4) Unless otherwise provided, revocation periods for concealed pistol licenses shall be consistent with restoration periods set forth in RCW 9.41.047, or three years, whichever is the longer.~~

~~(5) Any person whose license is revoked may not reapply for a new license until the end of the revocation period.~~

~~(6) Notice of revocation of a license shall additionally require the license holder to surrender the license to the issuing authority. Refusal to comply with this requirement within thirty days is a misdemeanor and shall be punished accordingly.~~

\*Sec. 7 was vetoed. See message at end of chapter.

Sec. 8. RCW 9.41.090 and 1994 sp.s. c 7 s 410 and 1994 c 264 s 1 are each reenacted and amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (5) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license"

does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

(b) The dealer is notified in writing by the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or

(c) Five business days, meaning days on which state offices are open, have elapsed from the time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection (5) of this section, and, when delivered, the pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days.

(2)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) Once the system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady Handgun ((Control)) Violence Prevention Act (((H.R. 1025, 103rd Cong., 1st Sess. (1993)))) (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms. However, a chief of police or sheriff, or a designee of either, shall continue to check the department of social and health services' electronic data base and with other agencies or resources as appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.

(3) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a pistol.

(4) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings,



(d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. ~~((An applicant))~~ A dealer shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(5) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the dealer an application containing his or her full name, ~~((street))~~ residential address, date and place of birth, race, and gender; the date and hour of the application; the applicant's driver's license number or state identification card number; a description of the pistol including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol. If the manufacturer's number is not available, the application may be processed, but delivery of the pistol to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides; and a statement that the purchaser is eligible to possess a pistol under RCW 9.41.040.

The application shall contain a warning substantially as follows:

**CAUTION:** Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The dealer shall, by the end of the business day, sign and attach his or her address and deliver ~~((the original))~~ a copy of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol to the purchaser following the period of time specified in this section unless the dealer is notified of an investigative hold under subsection (4) of this section in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the

purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to possess a pistol under RCW 9.41.040 or 9.41.045, or federal law.

The chief of police of the municipality or the sheriff of the county shall retain or destroy applications to purchase a pistol in accordance with the requirements of 18 U.S.C. Sec. 922.

(6) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a pistol is guilty of false swearing under RCW 9A.72.040.

(7) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

**Sec. 9.** RCW 9.41.0975 and 1994 sp.s. c 7 s 413 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license;  
~~((e))~~

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license;

(g) For issuing a dealer's license to a person ineligible for such a license;  
or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase wrongfully denied; ~~((b))~~

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or in the wrongful denial of a purchase application be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or to purchase a pistol was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**Sec. 10.** RCW 9.41.098 and 1994 sp.s. c 7 s 414 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 of a person prohibited from possessing the firearm under RCW 9.41.040 or 9.41.045;

(d) ~~((Found))~~ In the possession or under the control of a person at the time the person committed or was arrested for committing a ~~((serious offense))~~ felony or committing a nonfelony crime in which a firearm was used or displayed ~~((or a felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW));~~

(e) ~~((Found concealed on))~~ In the possession of 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, as defined in chapter 46.61 RCW;

(f) ~~((Found))~~ In the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a ~~((serious offense))~~ felony or for a nonfelony 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 ~~((serious offense))~~ felony or of a nonfelony crime in which a firearm was used or displayed ~~((or a felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW)).~~

(2) Upon order of forfeiture, the court in its discretion may order destruction of any forfeited firearm. A court may temporarily retain forfeited firearms needed for evidence.

(a) Except as provided in (b), (c), and (d) of this subsection, firearms that are: (i) Judicially forfeited and no longer needed for evidence; or (ii) forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010; may be disposed of in any manner determined by the local legislative authority. Any proceeds of an auction or trade may be retained by the legislative authority. This subsection (2)(a) applies only to firearms that come into the possession of the law enforcement agency after June 30, 1993, ~~(and applies only if the law enforcement agency has complied with (b) of this subsection))~~.

By midnight, June 30, 1993, every law enforcement agency shall prepare an inventory, under oath, of every firearm that has been judicially forfeited, has been seized and may be subject to judicial forfeiture, or that has been, or may be, forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010.

(b) Except as provided in (c) of this subsection, of the inventoried firearms a law enforcement agency shall destroy illegal firearms, may retain a maximum of ten percent of legal forfeited firearms for agency use, and shall either:

(i) Comply with the provisions for the auction of firearms in RCW 9.41.098 that were in effect immediately preceding May 7, 1993; or

(ii) Trade, auction, or arrange for the auction of, rifles and shotguns. In addition, the law enforcement agency shall either trade, auction, or arrange for the auction of, short firearms, or shall pay a fee of twenty-five dollars to the state treasurer for every short firearm neither auctioned nor traded, to a maximum of fifty thousand dollars. The fees shall be accompanied by an inventory, under oath, of every short firearm listed in the inventory required by (a) of this subsection, that has been neither traded nor auctioned. The state treasurer shall credit the fees to the firearms range account established in RCW 77.12.720. All trades or auctions of firearms under this subsection shall be to licensed dealers. Proceeds of any auction less costs, including actual costs of storage and sale, shall be forwarded to the firearms range account established in RCW 77.12.720.

(c) Antique firearms and firearms recognized as curios, relics, and firearms of particular historical significance by the United States treasury department bureau of alcohol, tobacco, and firearms are exempt from destruction and shall be disposed of by auction or trade to licensed dealers.

(d) Firearms in the possession of the Washington state patrol on or after May 7, 1993, that are judicially forfeited and no longer needed for evidence, or forfeited due to a failure to make a claim under RCW 63.35.020, must be disposed of as follows: (i) Firearms illegal for any person to possess must be destroyed; (ii) the Washington state patrol may retain a maximum of ten percent of legal firearms for agency use; and (iii) all other legal firearms must be

auctioned or traded to licensed dealers. The Washington state patrol may retain any proceeds of an auction or trade.

(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.

**Sec. 11.** RCW 9.41.170 and 1994 c 190 s 1 are each amended to read as follows:

(1) It is a class C felony for any person who is not a citizen of the United States to carry or possess any firearm, without first having obtained an alien firearm license from the director of licensing. In order to be eligible for a license, an alien must provide proof that he or she is lawfully present in the United States, which the director of licensing shall verify through the appropriate authorities. Except as provided in subsection (2)(a) of this section, and subject to the additional requirements of subsection (2)(b) of this section, the director of licensing may issue an alien firearm license only upon receiving from the consul domiciled in this state representing the country of the alien, a certified copy of the alien's criminal history in the alien's country indicating the alien is not ineligible under RCW 9.41.040 to own, possess, or control a firearm, and the consul's attestation that the alien is a responsible person.

(2)(a) Subject to the additional requirements of (b) of this subsection, the director of licensing may issue an alien firearm license without a certified copy of the alien's criminal history or the consul's attestation required by subsection (1) of this section, if the alien has been a resident of this state for at least two years and: (i) The alien is from a country without a consul domiciled within this state, or (ii) the consul has failed to provide, within ninety days after a request by the alien, the criminal history or attestation required by subsection (1) of this section.

(b) Before issuing an alien firearm license under subsection (1) of this section or this subsection (2), the director of licensing shall ask the local law enforcement agency of the jurisdiction in which the alien resides to complete a background and fingerprint check to determine the alien's eligibility under RCW 9.41.040 to own, possess, or control a firearm. The law enforcement agency shall complete a background check within thirty days after the request, unless the alien does not have a valid Washington driver's license or Washington state

identification card. In the latter case, the law enforcement agency shall complete the background check within sixty days after the request.

A signed application for an alien firearm license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for an alien firearm license to an inquiring law enforcement agency.

(3) The ~~((fee for an))~~ alien firearm license shall be ~~((twenty-five dollars, and the license shall be))~~ valid for ~~((four))~~ five years from the date of issue so long as the alien is lawfully present in the United States. The nonrefundable fee, paid upon application, for the five-year license shall be fifty-five dollars plus additional charges imposed by the federal bureau of investigation that are passed on to the applicant. The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the department of licensing;

(b) Twenty-five dollars shall be paid to the Washington state patrol; and

(c) Fifteen dollars shall be paid to the local law enforcement agency conducting the background check.

(4) This section shall not apply to Canadian citizens resident in a province which has an enactment or public policy providing substantially similar privilege to residents of the state of Washington and who are carrying or possessing weapons for the purpose of using them in the hunting of game while such persons are in the act of hunting, or while on a hunting trip, or while such persons are competing in a bona fide trap or skeet shoot or any other organized contest where rifles, pistols, or shotguns are used. Nothing in this section shall be construed to allow aliens to hunt or fish in this state without first having obtained a regular hunting or fishing license.

*\*Sec. 12. RCW 9.41.190 and 1994 sp.s. c 7 s 420 are each amended to read as follows:*

*(1) It is unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, short-barreled shotgun, or short-barreled rifle; or any part designed and intended solely and exclusively for use in a machine gun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle; or to assemble or repair any machine gun, short-barreled shotgun, or short-barreled rifle.*

*(2) This section shall not apply to:*

*(a) Any peace officer in the discharge of official duty or traveling to or from official duty, or to any officer or member of the armed forces of the United States or the state of Washington in the discharge of official duty or traveling to or from official duty; or*

*(b) A person, including an employee of such person if the employee has undergone fingerprinting and a background check under RCW 9.41.110(3)(b), who or which is exempt from or licensed under federal law, and engaged in*

*the production, manufacture, repair, or testing of machine guns, short-barreled shotguns, or short-barreled rifles:*

- (i) To be used or purchased by the armed forces of the United States;*
- (ii) To be used or purchased by federal, state, county, or municipal law enforcement agencies or their employees; or*
- (iii) For exportation in compliance with all applicable federal laws and regulations.*

*(3) It shall be an affirmative defense to a prosecution brought under this section that the machine gun, short-barreled shotgun, or short-barreled rifle was acquired prior to July 1, 1994, and is possessed in compliance with federal law.*

*(4) Any person violating this section is guilty of a class C felony.*

\*Sec. 12 was vetoed. See message at end of chapter.

Sec. 13. RCW 9.41.280 and 1995 c 87 s 1 are each amended to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

- (a) Any firearm;
- (b) Any other dangerous weapon as defined in RCW 9.41.250;
- (c) Any device commonly known as "nun-chu-ka sticks", consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;
- (d) Any device, commonly known as "throwing stars", which are multi-pointed, metal objects designed to embed upon impact from any aspect; or
- (e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall ~~((lose))~~ have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

(3) Subsection (1) of this section does not apply to:

- (a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a student;

(f) Any nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1)(c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Except as provided in subsection (3)(b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

(6) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

**Sec. 14.** RCW 9.41.800 and 1994 sp.s. c 7 s 430 are each amended to read as follows:

(1) Any court when entering an order authorized under RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070 shall, upon a showing by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a (~~serious offense~~) felony, or previously committed any offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender any concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(2) Any court when entering an order authorized under RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115,



26.26.130, 26.26.137, 26.50.060, or 26.50.070 may, upon a showing by a preponderance of the evidence but not by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a (~~serious offense~~) felony, or previously committed any offense that makes him or her ineligible to possess a pistol under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;  
 (b) Require the party to surrender a concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) The court may order temporary surrender of a firearm or other dangerous weapon without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for response has elapsed.

(4) In addition to the provisions of subsections (1), (2), and (3) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(5) The requirements of subsections (1), (2), and (4) of this section may be for a period of time less than the duration of the order.

(6) The court may require the party to surrender any firearm or other dangerous weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the sheriff of the county having jurisdiction of the proceeding, the chief of police of the municipality having jurisdiction, or to the restrained or enjoined party's counsel or to any person designated by the court.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 7 and 12, Substitute House Bill No. 2420 entitled:

"AN ACT Relating to possession of firearms;"

Substitute House Bill No. 2420 makes a number of substantive and technical changes to state law relating to the sale, transfer, and possession of firearms. This legislation is the result of a great deal of hard work by legislators and others concerned with this important issue. I commend their efforts.

Under current law, if a person is issued a concealed pistol license and it is later determined that the person was ineligible, the person is required to lawfully transfer any pistols purchased during the period he or she possessed the license. These requirements

are based on good public policy aimed at reducing firearms' possession by people with a criminal history. Section 7 of this bill removes these requirements. This is a step backward in protecting the public against potentially dangerous people.

Section 12 of Substitute House Bill No. 2420 amends the prohibition against the possession, ownership, sale, purchase, and manufacture of machine guns, short-barreled shotguns, short-barreled rifles, and the parts for these weapons. Current law exempts federal, state, county, or municipal law enforcement agencies from this prohibition. Section 12 expands this exemption to include employees of these agencies. As drafted, this section would allow private individuals to own machine guns in their homes. This is totally unacceptable. Public safety demands stringent control over these dangerous weapons, with few and carefully tailored exceptions.

For these reasons, I have vetoed sections 7 and 12 of Substitute House Bill No. 2420.

With the exception of sections 7 and 12, Substitute House Bill No. 2420 is approved."

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## CHAPTER 296

[Engrossed Substitute House Bill 2485]

### PROPERTY TAX ASSESSMENTS—REDUCTION IN RESPONSE TO GOVERNMENT RESTRICTIONS

AN ACT Relating to reducing property tax assessments in response to government restrictions; and amending RCW 84.48.065 and 84.69.020.

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

**Sec. 1.** RCW 84.48.065 and 1992 c 206 s 12 are each amended to read as follows:

(1) The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property, ~~((such as))~~ except in the case that a taxpayer produces proof that an authorized land use authority has made a definitive change in the property's land use designation. In such a case, correction of the assessment or tax rolls may be made notwithstanding the fact that the action involves a revaluation of property. Manifest errors that do not involve a revaluation of property include the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer in accordance with RCW 84.40.045, advising the taxpayer that the action has been taken and notifying the taxpayer of the right to appeal the cancellation or correction to the county board of equalization, in accordance with RCW 84.40.038. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared, setting forth therein the facts relating to the error. The record shall also set forth by legal description all property belonging exclusively to the state, any county, or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes. No manifest error cancellation or correction, including a cancellation or correction made due to a definitive change

of land use designation, shall be made for any period more than three years preceding the year in which the error is discovered.

(2)(a) In the case of a definitive change of land use designation, an assessor shall make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The assessment roll has previously been certified in accordance with RCW 84.40.320.

(b) In all other cases, an assessor shall make corrections that involve a revaluation of property to the assessment roll when:

((a)) (i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

((b)) (ii) The following conditions are met:

((i)) (A) The assessment roll has previously been certified in accordance with RCW 84.40.320;

((ii)) (B) The taxpayer has timely filed a petition with the county board of equalization pursuant to RCW 84.40.038 for the current assessment year;

((iii)) (C) The county board of equalization has not yet held a hearing on the merits of the taxpayer's petition.

(3) The assessor shall issue a supplementary roll or rolls including such cancellations and corrections, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

**Sec. 2.** RCW 84.69.020 and 1994 c 301 s 55 are each amended to read as follows:

On the order of the county treasurer, ad valorem taxes paid before or after delinquency shall be refunded if they were:

(1) Paid more than once; or

(2) Paid as a result of manifest error in description; or

(3) Paid as a result of a clerical error in extending the tax rolls; or

(4) Paid as a result of other clerical errors in listing property; or

(5) Paid with respect to improvements which did not exist on assessment date; or

(6) Paid under levies or statutes adjudicated to be illegal or unconstitutional;

or

(7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended; or

(8) Paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person with respect to real property in which the person paying the same has no legal interest; or

(9) Paid on the basis of an assessed valuation which was appealed to the county board of equalization and ordered reduced by the board; or

(10) Paid on the basis of an assessed valuation which was appealed to the state board of tax appeals and ordered reduced by the board: PROVIDED, That the amount refunded under subsections (9) and (10) of this section shall only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the board's order; or

(11) Paid as a state property tax levied upon property, the assessed value of which has been established by the state board of tax appeals for the year of such levy: PROVIDED, HOWEVER, That the amount refunded shall only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 of the state Constitution equal one percent of the assessed value established by the board;

(12) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive: PROVIDED, That the amount refunded shall be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding; or

(13) Paid on property acquired under RCW 84.60.050, and canceled under RCW 84.60.050(2); or

(14) Paid on the basis of an assessed valuation that was reduced under section 1 of this act.

No refunds under the provisions of this section shall be made because of any error in determining the valuation of property, except as authorized in subsections (9), (10), (11), and (12) of this section nor may any refunds be made if a bona fide purchaser has acquired rights that would preclude the assessment and collection of the refunded tax from the property that should properly have been charged with the tax. Any refunds made on delinquent taxes shall include the proportionate amount of interest and penalties paid. The county treasurer may deduct from moneys collected for the benefit of the state's levy, refunds of the state levy including interest on the levy as provided by this section and chapter 84.68 RCW.

The county treasurer of each county shall make all refunds determined to be authorized by this section, and by the first Monday in January of each year, report to the county legislative authority a list of all refunds made under this section during the previous year. The list is to include the name of the person receiving the refund, the amount of the refund, and the reason for the refund.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 297

[House Bill 2490]

## REINSURED CEDED RISKS—CREDIT

AN ACT Relating to credit for reinsured ceded risks; amending RCW 48.12.160; creating new sections; making an appropriation; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 48.12.160 and 1994 c 86 s 1 are each amended to read as follows:

(1) Any insurance company organized under the laws of this state may take credit as an asset or as a deduction from loss or claim, unearned premium, or life policy or contract reserves on risks ceded to a reinsurer to the extent reinsured by an insurer or insurers holding a certificate of authority to transact that kind of business in this state. The credit on ceded risks reinsured by any insurer which is not authorized to transact business in this state may be taken:

(a) Where the reinsurer is a group including incorporated and unincorporated underwriters, and the group maintains a trust fund in a United States bank that is determined by the national association of insurance commissioners to meet credit standards for issuing letters of credit in connection with reinsurance, which trust fund must be in an amount equal to the group's liabilities attributable to business written in the United States, and in addition, the group shall maintain a trustee surplus of which one hundred million dollars shall be held jointly and exclusively for the benefit of United States ceding insurers of any member of the group; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants;

((eF))

(b) Where the reinsurer does not meet the definition of (a) of this subsection, the reinsurer maintains a trust fund in a United States bank that is determined by the national association of insurance commissioners to meet credit standards for issuing letters of credit in connection with reinsurance which trust fund must be in an amount equal to the reinsurer's liabilities attributable to reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars; or

(c) In an amount not exceeding:

(i) The amount of deposits by and funds withheld from the assuming insurer pursuant to express provision therefor in the reinsurance contract, as security for the payment of the obligations thereunder, if the deposits or funds are assets of the types and amounts that are authorized under chapter 48.13 RCW and are held subject to withdrawal by and under the control of the ceding insurer or if the

deposits or funds are placed in trust for these purposes in a bank which is a member of the federal reserve system and withdrawals from the trust cannot be made without the consent of the ceding company; or

(ii) The amount of a clean, irrevocable, and unconditional letter of credit issued by a United States bank that is determined by the national association of insurance commissioners to meet credit standards for issuing letters of credit in connection with reinsurance, and issued for a term of at least one year with provisions that it must be renewed unless the bank gives notice of nonrenewal at least thirty days before the expiration issued under arrangements satisfactory to the commissioner of insurance as constituting security to the ceding insurer substantially equal to that of a deposit under ~~((b))~~ (c)(i) of this subsection.

(2) Any reinsurance ceded by a company organized under the laws of this state or ceded by any company not organized under the laws of this state and transacting business in this state must be payable by the assuming insurer on the basis of liability of the ceding company under the contract or contracts reinsured without diminution because of the insolvency of the ceding company, and any such reinsurance agreement which may be canceled on less than ninety days notice must provide for a run-off of the reinsurance in force at the date of cancellation.

(3) A reinsurance agreement may provide that the liquidator or receiver or statutory successor of an insolvent ceding insurer shall give written notice of the pendency of a claim against the insolvent ceding insurer on the policy or bond reinsured within a reasonable time after such claim is filed in the insolvency proceeding and that during the pendency of such claim any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which it may deem available to the ceding insurer or its liquidator or receiver or statutory successor.

The expense thus incurred by the assuming insurer shall be chargeable subject to court approval against the insolvent ceding insurer as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

(4) Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

**NEW SECTION. Sec. 2.** The insurance commissioner shall adopt rules to implement and administer the amendatory changes made by section 1 of this act.

**NEW SECTION. Sec. 3.** (1) The insurance commissioner shall conduct a study to determine what rules or requirements are necessary to ensure the safety, soundness, and regulatory oversight of the practice set forth in section 1(1)(b) of this act.

(2) There is appropriated from the insurance commissioner's regulatory account, over and above the appropriation for the insurance commissioner for the fiscal year ending June 30, 1997, the sum of ten thousand dollars, or as much thereof as may be necessary, for the insurance commissioner to conduct the study in subsection (1) of this section.

**NEW SECTION.** Sec. 4. (1) Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 1 of this act shall take effect January 1, 1997.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 298

[Substitute House Bill 2533]

### MISDEMEANANT PROBATION SERVICES—REVISIONS

AN ACT Relating to misdemeanor probation services; amending RCW 9.95.210, 9.95.214, 9.92.060, 10.64.120, and 36.01.070; and adding new sections to chapter 9.95 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 9.95 RCW to read as follows:

(1) When a superior court places a defendant convicted of a misdemeanor or gross misdemeanor on probation and orders supervision under RCW 9.92.060 or 9.95.210, the department of corrections has initial responsibility for supervision of that defendant.

(2) A county legislative authority may assume responsibility for the supervision of all defendants within its jurisdiction who have been convicted of a misdemeanor or gross misdemeanor and sentenced to probation by a superior court. The assumption of responsibility shall be made by contract with the department of corrections on a biennial basis.

(3) If a county assumes supervision responsibility, the county shall supervise all superior court misdemeanor probationers within that county for the duration of the biennium, as set forth in the contract with the department of corrections.

(4) A contract between a county legislative authority and the department of corrections for the transfer of supervision responsibility must include, at a minimum, the following provisions:

(a) The county's agreement to supervise all misdemeanor probationers who are sentenced by a superior court within that county and who reside within that county;

(b) A reciprocal agreement regarding the supervision of superior court misdemeanor probationers sentenced in one county but who reside in another county;

(c) The county's agreement to comply with the minimum standards for classification and supervision of offenders as required under section 2 of this act;

(d) The amount of funds available from the department of corrections to the county for supervision of superior court misdemeanor probationers, calculated according to a formula established by the department of corrections;

(e) A method for the payment of funds by the department of corrections to the county;

(f) The county's agreement that any funds received by the county under the contract will be expended only to cover costs of supervision of superior court misdemeanor probationers;

(g) The county's agreement to account to the department of corrections for the expenditure of all funds received under the contract and to submit to audits for compliance with the supervision standards and financial requirements of this section;

(h) Provisions regarding rights and remedies in the event of a possible breach of contract or default by either party; and

(i) Provisions allowing for voluntary termination of the contract by either party, with good cause, after sixty days' written notice.

(5) If the contract between the county and the department of corrections is terminated for any reason, the department of corrections shall reassume responsibility for supervision of superior court misdemeanor probationers within that county. In such an event, the department of corrections retains any and all rights and remedies available by law and under the contract.

(6) The state of Washington, the department of corrections and its employees, community corrections officers, and volunteers who assist community corrections officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of a county. A county, its probation department and employees, probation officers, and volunteers who assist probation officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of the department of corrections. This subsection applies regardless of whether the supervising entity is in compliance with the standards of supervision at the time of the misdemeanor probationer's actions.

(7) The state of Washington, the department of corrections and its employees, community corrections officers, any county under contract with the department of corrections pursuant to this section and its employees, probation officers, and volunteers who assist community corrections officers and probation officers in the superior court misdemeanor probation program are not liable for civil damages resulting from any act or omission in the rendering of superior court misdemeanor probation activities unless the act or omission constitutes



gross negligence. For purposes of this section, "volunteers" is defined according to RCW 51.12.035.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.95 RCW to read as follows:

(1) Probation supervision of misdemeanor offenders sentenced in a superior court must be based upon an offender classification system and supervision standards.

(2) Any entity under contract with the department of corrections pursuant to section 1 of this act shall establish and maintain a classification system that:

(a) Provides for a standardized assessment of offender risk;

(b) Differentiates between higher and lower risk offenders based on criminal history and current offense;

(c) Assigns cases to a level of supervision based on assessed risk;

(d) Provides, at a minimum, three levels of supervision;

(e) Provides for periodic review of an offender's classification level during the term of supervision; and

(f) Structures the discretion and decision making of supervising officers.

(3) Any entity under contract with the department of corrections pursuant to section 1 of this act may establish and maintain supervision standards that:

(a) Identify the frequency and nature of offender contact within each of at least three classification levels;

(b) Provide for a minimum of one face-to-face contact each month with offenders classified at the highest level of risk;

(c) Provide for a minimum of one personal contact per quarter for lower-risk offenders;

(d) Provide for specific reporting requirements for offenders within each level of the classification system;

(e) Assign higher-risk offenders to staff trained to deal with higher-risk offenders;

(f) Verify compliance with sentence conditions imposed by the court; and

(g) Report to the court violations of sentence conditions as appropriate.

(4) Under no circumstances may an entity under contract with the department of corrections pursuant to section 1 of this act establish or maintain supervision that is less stringent than that offered by the department.

(5) The minimum supervision standards established and maintained by the department of corrections shall provide for no less than one contact per quarter for misdemeanor probationers under its jurisdiction. The contact shall be a personal interaction accomplished either face-to-face or by telephone, unless the department finds that the individual circumstances of the offender do not require personal interaction to meet the objectives of the supervision. The circumstances under which the department may find that an offender does not require personal interaction are limited to the following: (a) The offender has no special conditions or crime-related prohibitions imposed by the court other than legal financial obligations; and (b) the offender poses minimal risk to public safety.

(6) The classification system and supervision standards must be established and met within the resources available as provided for by the legislature and the cost of supervision assessments collected, and may be enhanced by funds otherwise generated by the supervising entity.

**Sec. 3.** RCW 9.95.210 and 1995 1st sp.s. c 19 s 29 are each amended to read as follows:

(1) In granting probation, the superior 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.

(2) In the order granting probation and as a condition thereof, the superior 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 superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) 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; (c) 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; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may 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 the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and 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 probation. For defendants found guilty in 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. 4. RCW 9.95.214 and 1995 1st sp.s. c 19 s 32 are each amended to read as follows:

Whenever a defendant convicted of a misdemeanor or gross misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and the defendant is supervised by the department of corrections or a county probation department, the department or county probation department may assess and collect from the defendant for the duration of the term of supervision a monthly assessment not to exceed one hundred dollars per month. This assessment shall be paid to the ~~((department))~~ agency supervising the defendant and shall be applied, along with funds appropriated by the legislature, toward the payment or part payment of the cost of supervising the defendant.

Sec. 5. RCW 9.92.060 and 1995 1st sp.s. c 19 s 30 are each amended to read as follows:

(1) Whenever any person is convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, rape of a child, or rape, the superior 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))~~ the superior court, and that the sentenced person be placed under the charge of a community corrections officer employed by the department of corrections, or if the county elects to assume responsibility for the supervision of all superior court misdemeanor probationers a probation officer employed or contracted for by the county, upon such terms as the superior court may determine.

(2) As a condition to suspension of sentence, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. In addition, the superior court may require the convicted person to make such monetary payments, on such terms as the superior court deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) 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; (c) 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 (d) to contribute to a county or interlocal drug fund.

(3) As a condition of the suspended sentence, the superior court may 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 the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(4) If restitution to the victim has been ordered under subsection (2)(b) of this section and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If the superior court has ordered supervision and 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. 6. RCW 10.64.120 and 1991 c 247 s 3 are each amended to read as follows:

(1) Every judge of a court of limited jurisdiction shall have the authority to levy upon a person a monthly assessment not to exceed ~~((fifty))~~ one hundred dollars for services provided whenever ~~((a))~~ the person is referred by the court to the misdemeanant probation department for evaluation or supervision services. The assessment may also be made by a ~~((sentencing))~~ judge in superior court when such misdemeanor or gross misdemeanor cases are heard in the superior court.

(2) For the purposes of this section the office of the administrator for the courts shall define a probation department and adopt rules for the qualifications

of probation officers based on occupational and educational requirements developed by an oversight committee. This oversight committee shall include a representative from the district and municipal court judges association, the misdemeanor corrections association, the office of the administrator for the courts, and associations of cities and counties. The oversight committee shall consider qualifications that provide the training and education necessary to (a) conduct presentencing and postsentencing background investigations, including sentencing recommendations to the court regarding jail terms, alternatives to incarceration, and conditions of release; and (b) provide ongoing supervision and assessment of offenders' needs and the risk they pose to the community.

(3) It shall be the responsibility of the probation services office to implement local procedures approved by the court of limited jurisdiction to ensure collection and payment of such fees into the general fund of the city or county treasury.

~~((3))~~ (4) Revenues raised under this section shall be used to fund programs for probation services and shall be in addition to those funds provided in RCW 3.62.050.

Sec. 7. RCW 36.01.070 and 1967 c 200 s 9 are each amended to read as follows:

Notwithstanding the provisions of chapter 72.01 RCW or any other provision of law, counties may engage in probation and parole services and employ personnel therefor under such terms and conditions as any such county shall so determine. If a county elects to assume responsibility for the supervision of superior court misdemeanor offenders placed on probation under RCW 9.92.060 or 9.95.210, the county may contract with other counties to receive or provide such probation services. A county may also enter into partnership agreements with the department of corrections under RCW 72.09.300.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 299

[Substitute House Bill 2708]

### WAREHOUSE AND DISTRIBUTION ACTIVITY—STUDY OF IMPACT OF TAXES

AN ACT Relating to the impact of taxes on warehouse and distribution activity; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The department of revenue shall perform a study to:

(a) Determine the current and potential impact of warehouse and distribution activity on the Washington economy;

(b) Analyze how the current tax structure affects warehouse and distribution activity;

(c) Evaluate alternative methods of taxing warehouse and distribution activity;

(d) Identify the effects of tax incentives for warehouse and distribution activity; and

(e) Evaluate the impact of any potential changes in taxation of warehouse and distribution activity on equity among other industries and upon the overall state tax structure.

(2) To perform this study, the department shall form an advisory study committee which may include representation from warehouse and distribution interests, local government, and other interest groups. The advisory committee shall also include, but need not be limited to, two members from the house of representatives and two members from the senate.

(3) The department of revenue shall provide staff for the purpose of the study.

(4) The department of revenue shall present a final report of the findings of the study to the committees of the legislature that deal with revenue matters by December 1, 1996.

(5) The department of revenue shall not perform the study under this section unless matching funds in the amount of forty-five thousand dollars are provided from other public and private sources.

NEW SECTION. Sec. 2. If specific funding in the amount of forty-five thousand dollars for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1996, in the omnibus appropriations act, this act is null and void.

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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**CHAPTER 300**

[Engrossed Substitute House Bill 2781]

**VETERANS' BENEFITS—REVISIONS**

AN ACT Relating to veterans' benefits, and amending RCW 41.04.005 and 41.04.010.

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

Sec. 1. RCW 41.04.005 and 1991 c 240 s 1 are each amended to read as follows:

(1) As used in RCW 41.04.005, (~~(41.04.010,)~~) 41.16.220, and 41.20.050 "veteran" includes every person, who at the time he or she seeks the benefits of RCW (~~(28B-40-361,)~~) 41.04.005, 41.04.010, 41.16.220, 41.20.050, 41.40.170, 73.04.110, or 73.08.080 has received an honorable discharge or received a

discharge for physical reasons with an honorable record and who meets at least one of the following ~~((two))~~ criteria:

~~((1))~~ (a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either ~~((a))~~:

(i) A member in any branch of the armed forces of the United States~~((b))~~;

(ii) A member of the women's air forces service pilots~~((c))~~;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, during the period of armed conflict, December 7, 1941, to August 15, 1945~~((d))~~; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service during the period of armed conflict~~((e))~~, December 7, 1941, to August 15, 1945; or

~~((2))~~ (b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service ~~((a))~~;

(i) In any branch of the armed forces of the United States; or

~~((b))~~ (ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I~~((1))~~;

(b) World War II~~((2))~~;

(c) The Korean conflict~~((3))~~;

(d) The Vietnam era, ~~((and))~~ which was the period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on the date prescribed by presidential proclamation or law;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress~~((The "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975))~~; and

(g) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor.

*\*Sec. 2. RCW 41.04.010 and 1974 ex.s. c 170 s 1 are each amended to read as follows:*

*~~((In all competitive examinations, unless otherwise provided herein, to determine the qualifications of applicants for public offices, positions or employment, the state, and all of its political subdivisions and all municipal corporations, shall give a preference status to all veterans as defined in RCW 41.04.005, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance~~*

with the following:)) For purposes of this section only, "veteran" is defined to include veterans as defined in RCW 41.04.005(1) and to include every person who, at the time the person seeks the benefits of this section, has served more than one hundred eighty days of active duty not for training, or if less than one hundred eighty days, must be receiving compensation for a service-connected disability, in any branch of the armed forces of the United States and who was discharged or released under conditions other than dishonorable.

A veteran participating in all competitive and certain designated promotional examinations with the state or any of its political subdivisions and all municipal corporations shall receive a veteran's preference. To receive a veteran's preference, the veteran must receive a passing examination mark, grade, or rating. The veteran's preference shall be a percentage of the passing examination mark, grade, or rating as follows:

(1) Ten percent to a veteran who served in a combat zone during a period of war as defined in RCW 41.04.005 and who is not receiving ((any veterans)) military retirement ((payments and said)). The percentage shall be ((utilized in said veteran's)) added to the passing mark, grade, or rating of competitive examinations ((and not in any promotional examination)) until ((one of such examinations results in said)) the veteran's first appointment((~~PROVIDED, That said~~)). The percentage shall not be utilized in ((any)) promotional examinations unless the veteran was called to active military service from employment with the state or any of its political subdivisions or municipal corporations, then the percentage shall be added to the first promotional examination only, after compliance with RCW 73.16.035;

(2) Five percent to a veteran who did not serve in a combat zone during a war period as defined in RCW 41.04.005 or who is receiving ((any veterans retirement payments and said percentage shall be utilized in said veteran's)) military retirement. The percentage shall be added to the mark, grade, or rating of competitive examinations ((only and not in any promotional examination)) until ((one of such examinations results in said)) the veteran's first appointment((~~PROVIDED, That said~~)). The percentage shall not be utilized in ((any)) promotional examination((~~;~~

~~(3) Five percent to a veteran who, after having previously received)) unless the veteran was called to active military service from employment with the state or any of its political subdivisions or municipal corporations((~~shall be called, or recalled, to active military service for a period of one year, or more, during any period of war, for his~~)). Then the percentage shall be added to the first promotional examination only((~~upon~~)) after compliance with RCW 73.16.035 ((as it now exists or may hereafter be amended));~~

~~((4) There shall be no examination preferences other than those which have been specifically provided for above and all)) (3) A veteran's preference((~~above~~)) specified in subsections (1)((~~;~~)) and (2) ((and (3))) of this section must be claimed ((by a veteran)) within ((eight)) ten years of the date of ((his)) release from active military service.~~



\*Sec. 2 was vetoed. See message at end of chapter.

Passed the House February 9, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Engrossed Substitute House Bill No. 2781 entitled:

"AN ACT Relating to veterans' benefits;"

Engrossed Substitute House Bill No. 2781 amends statutes that give preference in public employment to veterans who have served during specific armed conflicts since the Vietnam era. This bill also adds categories of veterans to those who currently receive preferences.

Section 1 of the bill recognizes veterans who have served in armed conflicts since 1975 for the purpose of receiving public employment preferences in the form of additional percentage points on competitive and promotional exams. I am very supportive of this portion of the bill, which provides well-deserved recognition to these men and women.

Because section 2 of Engrossed Substitute House Bill No. 2781 contains substantial ambiguities which would make implementation extremely difficult, I have reluctantly vetoed this section. Furthermore, inconsistent interpretation and application by the public entities covered by the statute would make application of this section unnecessarily susceptible to legal challenges. Clear and consistent laws are particularly critical for those programs granting rights and benefits to any identified group.

The legislature should make the updating of these statutes relating to our state's veterans an early priority in the next legislative session. Carefully tailored language based on the goals of this legislation should be enacted at the earliest opportunity.

For these reasons, I have vetoed section 2 of Engrossed Substitute House Bill No. 2781.

With the exception of section 2, Engrossed Substitute House Bill No. 2781 is approved."

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## CHAPTER 301

[Second Substitute Senate Bill 5053]

### REAL ESTATE DISCLOSURE

AN ACT Relating to real estate disclosure; amending RCW 64.06.010, 64.06.020, 64.06.030, 64.06.040, 64.06.050, and 64.06.070; and providing an effective date.

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

*\*Sec. 1. RCW 64.06.010 and 1994 c 200 s 2 are each amended to read as follows:*

*(1) Except as provided in subsection (2) of this section, this chapter does not apply to the following transfers of residential real property:*

*(((1))) (a) A foreclosure, deed-in-lieu of foreclosure, real estate contract forfeiture, or a sale by a lienholder who acquired the residential real property through foreclosure ((or)), deed-in-lieu of foreclosure, or real estate contract forfeiture;*

~~((2))~~ *(b) A gift or other transfer to a parent, spouse, or child of a transferor or child of any parent or spouse of a transferor;*

~~((3))~~ *(c) A transfer between spouses in connection with a marital dissolution;*

~~((4))~~ *(d) A transfer where a buyer had an ownership interest in the property within two years of the date of the transfer including, but not limited to, an ownership interest as a partner in a partnership, a limited partner in a limited partnership, a shareholder in a corporation, a leasehold interest, or transfers to and from a facilitator pursuant to a tax deferred exchange;*

~~((5))~~ *(e) A transfer of an interest that is less than fee simple, except that the transfer of a vendee's interest under a real estate contract is subject to the requirements of this chapter; ~~(and~~*

~~(6))~~ *(f) A transfer made by the personal representative of the estate of the decedent or by a trustee in bankruptcy; and*

*(g) A transfer of new residential construction, if the seller is registered under chapter 18.27 RCW, and if the buyer is the first purchaser and occupant.*

*(2) This chapter shall apply to transfers of residential real property exempt under this section, if the seller provides to the buyer a completed real property transfer disclosure statement in the form described in RCW 64.06.020(1).*

\*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 64.06.020 and 1994 c 200 s 3 are each amended to read as follows:

(1) In a transaction for the sale of residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement, or unless the transfer is exempt under RCW 64.06.010, deliver to the buyer a completed real property transfer disclosure statement in the following ~~(form)~~ format and that contains, at a minimum, the following information:

#### INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA". If the answer is "yes" to any \* items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than ~~(---)~~ five business days ~~((or five days if not filled in) of), unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.~~

#### NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY THE SELLER(S), CONCERNING THE CONDITION OF THE PROPERTY LOCATED AT . ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME THIS DISCLOSURE FORM IS COMPLETED BY THE SELLER. YOU HAVE ~~((---))~~ THREE BUSINESS DAYS, ~~((OR THREE BUSINESS DAYS IF NOT FILLED IN))~~ UNLESS OTHERWISE AGREED, FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE STATEMENT TO ~~((REVOKE YOUR OFFER))~~ RESCIND YOUR AGREEMENT BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT OF ~~((REVOCATION))~~ RESCISSION TO THE SELLER, UNLESS YOU WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT. THE FOLLOWING ARE DISCLOSURES MADE BY THE SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN THE BUYER AND THE SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF A QUALIFIED SPECIALIST TO INSPECT THE PROPERTY ON YOUR BEHALF, FOR EXAMPLE, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, OR PEST AND DRY ROT INSPECTORS. THE PROSPECTIVE BUYER AND THE OWNER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . . is/ . . . . is not occupying the property.

**I. SELLER'S DISCLOSURES:**

\*If "Yes" attach a copy or explain. If necessary use an attached sheet.

**I. TITLE**

- [ ] Yes [ ] No [ ] Don't know    A. Do you have legal authority to sell the property?
- [ ] Yes [ ] No [ ] Don't know    \*B. Is title to the property subject to any of the following?
  - (1) First right of refusal
  - (2) Option
  - (3) Lease or rental agreement
  - (4) Life estate?
- [ ] Yes [ ] No [ ] Don't know    \*C. Are there any encroachments, boundary agreements, or boundary disputes?

- Yes  No  Don't know \*D. Are there any rights of way, easements, or access limitations that may affect the owner's use of the property?
- Yes  No  Don't know \*E. Are there any written agreements for joint maintenance of an easement or right of way?
- Yes  No  Don't know \*F. Is there any study, survey project, or notice that would adversely affect the property?
- Yes  No  Don't know \*G. Are there any pending or existing assessments against the property?
- Yes  No  Don't know \*H. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the subject property that would affect future construction or remodeling?
- Yes  No  Don't know \*I. Is there a boundary survey for the property?
- Yes  No  Don't know \*J. Are there any covenants, conditions, or restrictions which affect the property?

**2. WATER**

**A. Household Water**

- (1) The source of the water is  Public  Community  Private  Shared
- (2) Water source information:
  - Yes  No  Don't know \*a. Are there any written agreements for shared water source?
  - Yes  No  Don't know \*b. Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?
  - Yes  No  Don't know \*c. Are any known problems or repairs needed?
  - Yes  No  Don't know \*d. Does the source provide an adequate year round supply of potable water?
  - Yes  No  Don't know \*(3) Are there any water treatment systems for the property?  Leased  Owned

**B. Irrigation**

- (1) Are there any water rights for the property?
- Yes  No  Don't know \*(2) If they exist, to your knowledge, have the water rights been used during the last five-year period?
- Yes  No  Don't know \*(3) If so, is the certificate available?

**C. Outdoor Sprinkler System**

- (1) Is there an outdoor sprinkler system for the property?

[ ]Yes [ ]No [ ]Don't know \* (2) Are there any defects in the outdoor sprinkler system?

3. SEWER/SEPTIC SYSTEM

A. The property is served by: [ ]Public sewer main, [ ]Septic tank system [ ]Other disposal system (describe)

[ ]Yes [ ]No [ ]Don't know B. If the property is served by a public or community sewer main, is the house connected to the main?

C. Is the property currently subject to a sewer capacity charge?

D. If the property is connected to a septic system:

[ ]Yes [ ]No [ ]Don't know (1) Was a permit issued for its construction, and was it approved by the city or county following its construction?

(2) When was it last pumped: , 19. . .

[ ]Yes [ ]No [ ]Don't know \* (3) Are there any defects in the operation of the septic system?

[ ]Don't know (4) When was it last inspected? , 19. . .

By Whom: . . . . .

[ ]Don't know (5) How many bedrooms was the system approved for?

. . . . . bedrooms

[ ]Yes [ ]No [ ]Don't know \* ((D)) E. Do all plumbing fixtures, including laundry drain, go to the septic/sewer system? If no, explain: . . . . .

[ ]Yes [ ]No [ ]Don't know \* ((E)) F. Are you aware of any changes or repairs to the septic system?

[ ]Yes [ ]No [ ]Don't know ((F)) G. Is the septic tank system, including the drainfield, located entirely within the boundaries of the property?

4. STRUCTURAL

[ ]Yes [ ]No [ ]Don't know \* A. Has the roof leaked? If yes, has it been repaired?

[ ]Yes [ ]No [ ]Don't know \* B. Have there been any conversions, additions, or remodeling?

[ ]Yes [ ]No [ ]Don't know \* 1. If yes, were all building permits obtained?

[ ]Yes [ ]No [ ]Don't know

\*2. If yes, were all final inspections obtained?

[ ]Yes [ ]No [ ]Don't know

C. Do you know the age of the house? If yes, year of original construction:

.....

[ ]Yes [ ]No [ ]Don't know

\*D. Do you know of any settling, slippage, or sliding of either the house or other structures/improvements located on the property? If yes, explain:

.....

[ ]Yes [ ]No [ ]Don't know

\*E. Do you know of any defects with the following: (Please check applicable items)

- Foundations
- Chimneys
- Doors
- Ceilings
- Pools
- Sidewalks
- Garage Floors
- Other

- Decks
- Interior Walls
- Windows
- Slab Floors
- Hot Tub
- Outbuildings
- Walkways
- Wood Stoves
- Exterior Walls
- Fire Alarm
- Patio
- Driveways
- Sauna
- Fireplaces

[ ]Yes [ ]No [ ]Don't know

\*F. Was a pest or dry rot, structural or "whole house" inspection done? When and by whom was the inspection completed? .....

[ ]Yes [ ]No [ ]Don't know

\*G. Since assuming ownership, has your property had a problem with wood destroying organisms and/or have there been any problems with pest control, infestations, or vermin?

**5. SYSTEMS AND FIXTURES**

If the following systems or fixtures are included with the transfer, do they have any existing defects:

[ ]Yes [ ]No [ ]Don't know

\*A. Electrical system, including wiring, switches, outlets, and service

[ ]Yes [ ]No [ ]Don't know

\*B. Plumbing system, including pipes, faucets, fixtures, and toilets

[ ]Yes [ ]No [ ]Don't know

\*C. Hot water tank

[ ]Yes [ ]No [ ]Don't know

\*D. Garbage disposal

[ ]Yes [ ]No [ ]Don't know

\*E. Appliances

[ ]Yes [ ]No [ ]Don't know

\*F. Sump pump

[ ]Yes [ ]No [ ]Don't know

\*G. Heating and cooling systems

[ ]Yes [ ]No [ ]Don't know

\*H. Security system [ ] Owned [ ] Leased

\*I. Other .....

6. COMMON INTEREST

- [ ] Yes [ ] No [ ] Don't know A. Is there a Home Owners' Association? Name of Association . . . . .
- [ ] Yes [ ] No [ ] Don't know B. Are there regular periodic assessments: \$ . . . . . per [ ] Month [ ] Year [ ] Other . . . . .
- [ ] Yes [ ] No [ ] Don't know \*C. Are there any pending special assessments?
- [ ] Yes [ ] No [ ] Don't know \*D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

7. GENERAL

- [ ] Yes [ ] No [ ] Don't know \*A. Is there any settling, soil, standing water, or drainage problems on the property?
- [ ] Yes [ ] No [ ] Don't know \*B. Does the property contain fill material?
- [ ] Yes [ ] No [ ] Don't know \*C. Is there any material damage to the property or any of the structure from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?
- [ ] Yes [ ] No [ ] Don't know D. Is the property in a designated flood plain?
- ~~(( [ ] Yes [ ] No [ ] Don't know~~ E. ~~Is the property in a designated flood hazard zone?)~~
- [ ] Yes [ ] No [ ] Don't know ~~((~~\*F-~~)~~ \*E. Are there any substances, materials, or products that may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property?
- [ ] Yes [ ] No [ ] Don't know ~~((~~\*G-~~)~~ \*F. Are there any tanks or underground storage tanks (e.g., chemical, fuel, etc.) on the property?
- [ ] Yes [ ] No [ ] Don't know ~~((~~\*H-~~)~~ \*G. Has the property ever been used as an illegal drug manufacturing site?

8. FULL DISCLOSURE BY SELLERS

- A. Other conditions or defects:
  - [ ] Yes [ ] No [ ] Don't know \*Are there any other material defects affecting this property or its value that a prospective buyer should know about?
- B. Verification:
  - The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we

have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE . . . . . SELLER . . . . . SELLER . . . . .

**II. BUYER'S ACKNOWLEDGMENT**

- A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects which are known to me/us or can be known to me/us by utilizing diligent attention and observation.
- B. Each buyer acknowledges and understands that the disclosures set forth in this statement and in any amendments to this statement are made only by the seller.
- C. Buyer (which term includes all persons signing the "buyer's acceptance" portion of this disclosure statement below) hereby acknowledges receipt of a copy of this disclosure statement (including attachments, if any) bearing seller's signature.

DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE. YOU, THE BUYER, HAVE ~~((---))~~ THREE BUSINESS DAYS ~~((OR THREE BUSINESS DAYS IF NOT FILLED IN))~~, UNLESS OTHERWISE AGREED, FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE STATEMENT TO ~~((REVOKE YOUR OFFER))~~ RESCIND YOUR AGREEMENT BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT OF ((REVOCATION)) RESCISSION TO THE SELLER UNLESS YOU WAIVE THIS RIGHT OF ((REVOCATION)) RESCISSION.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS REAL PROPERTY TRANSFER DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE . . . . . BUYER . . . . . BUYER . . . . .

(2) The real property transfer disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential real property. The real property transfer disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.



Sec. 3. RCW 64.06.030 and 1994 c 200 s 4 are each amended to read as follows:

Unless the buyer has expressly waived the right to receive the disclosure statement, ~~((within))~~ not later than five business days or as otherwise agreed to, ~~((of))~~ after mutual acceptance of a written agreement between a buyer and a seller for the purchase and sale of residential real property, the seller shall deliver to the buyer a completed, signed, and dated real property transfer disclosure statement. Within three business days, or as otherwise agreed to, of receipt of the real property transfer disclosure statement, the buyer shall have the right to exercise one of the following two options: (1) Approving and accepting the real property transfer disclosure statement; or (2) rescinding the agreement for the purchase and sale of the property, which decision may be made by the buyer in the buyer's sole discretion. If the buyer elects to rescind the agreement, the buyer must deliver written notice of rescission to the seller within the three-business-day period, or as otherwise agreed to, and upon delivery of the written rescission notice the buyer shall be entitled to immediate return of all deposits and other considerations less any agreed disbursements paid to the seller, or to the seller's agent or an escrow agent for the seller's account, and the agreement for purchase and sale shall be void. If the buyer does not deliver a written rescission notice to [the] seller within the three-business-day period, or as otherwise agreed to, the real property transfer disclosure statement will be deemed approved and accepted by the buyer.

Sec. 4. RCW 64.06.040 and 1994 c 200 s 5 are each amended to read as follows:

(1) If, after the date that a seller of residential real property completes a real property transfer disclosure statement, the seller becomes aware of additional information, or an adverse change occurs which makes any of the disclosures made inaccurate, the seller shall amend the real property transfer disclosure statement, and deliver the amendment to the buyer. No amendment shall be required, however, if the seller takes whatever corrective action is necessary so that the accuracy of the disclosure is restored, or the adverse change is corrected, at least three business days prior to the closing date. Unless the ~~((adverse change is corrected or repaired))~~ corrective action is completed by the seller prior to the closing date, the buyer shall have the right to exercise one of the following two options: (a) Approving and accepting the amendment, or (b) rescinding the agreement of purchase and sale of the property within three business days after receiving the amended real property transfer disclosure statement. Acceptance or rescission shall be subject to the same procedures described in RCW 64.06.030. If the closing date provided in the purchase and sale agreement is scheduled to occur within the three-business-day rescission period provided for in this section, the closing date shall be extended until the expiration of the three-business-day rescission period. The buyer shall have no right of rescission if the seller takes whatever action is necessary so that the accuracy of the disclosure is restored at least three business days prior to the closing date.

(2) In the event any act, occurrence, or agreement arising or becoming known after the closing of a residential real property transfer causes a real property transfer disclosure statement to be inaccurate in any way, the seller of such property shall have no obligation to amend the disclosure statement, and the buyer shall not have the right to rescind the transaction under this chapter.

(3) If the seller in a residential real property transfer fails or refuses to provide to the prospective buyer a real property transfer disclosure statement as required under this chapter, the prospective buyer's right of rescission under this section shall apply until the earlier of three business days after receipt of the real property transfer disclosure statement or the date the transfer has closed, unless the buyer has otherwise waived the right of rescission in writing. Closing is deemed to occur when the buyer has paid the purchase price, or down payment, and the conveyance document, including a deed or real estate contract, from the seller has been delivered and recorded. After closing, the seller's obligation to deliver the real property transfer disclosure statement and the buyer's rights and remedies under this chapter shall terminate.

Sec. 5. RCW 64.06.050 and 1994 c 200 s 6 are each amended to read as follows:

(1) The seller of residential real property shall not be liable for any error, inaccuracy, or omission in the real property transfer disclosure statement if the seller had no ~~((personal))~~ actual knowledge of the error, inaccuracy, or omission. Unless the seller of residential real property has actual knowledge of an error, inaccuracy, or omission in a real property transfer disclosure statement, the seller shall not be liable for such error, inaccuracy, or omission if the disclosure was based on information provided by public agencies, or by other persons providing information within the scope of their professional license or expertise, including, but not limited to, a report or opinion delivered by a land surveyor, title company, title insurance company, structural inspector, pest inspector, licensed engineer, or contractor.

(2) Any licensed real estate salesperson or broker involved in a residential real property transaction is not liable for any error, inaccuracy, or omission in the real property transfer disclosure statement if the licensee had no ~~((personal))~~ actual knowledge of the error, inaccuracy, or omission. Unless the salesperson or broker has actual knowledge of an error, inaccuracy, or omission in a real property transfer disclosure statement, the salesperson or broker shall not be liable for such error, inaccuracy, or omission if the disclosure was based on information provided by public agencies, or by other persons providing information within the scope of their professional license or expertise, including, but not limited to, a report or opinion delivered by a land surveyor, title company, title insurance company, structural inspector, pest inspector, licensed engineer, or contractor.

Sec. 6. RCW 64.06.070 and 1994 c 200 s 8 are each amended to read as follows:

Except as provided in RCW 64.06.050, nothing in this chapter shall extinguish or impair any rights or remedies of a buyer of real estate against the seller or against any agent acting for the seller otherwise existing pursuant to common law, statute, or contract; nor shall anything in this chapter create any new right or remedy for a buyer of residential real property other than the right of rescision exercised on the basis and within the time limits provided in this chapter.

NEW SECTION. Sec. 7. Section 2 of this act shall take effect July 1, 1996.

Passed the Senate March 7, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Second Substitute Senate Bill No. 5053 entitled:

"AN ACT Relating to real estate disclosure;"

Second Substitute Senate Bill No. 5053 clarifies and updates state residential real estate disclosure law. Under current law, sellers of real estate are required to make an extensive list of disclosures concerning their properties and to deliver the statements within five days of acceptance of a written purchase agreement. Following delivery of the disclosure statement, the purchaser has up to three business days to rescind the transaction.

Section 1 of Second Substitute Senate Bill No. 5053 would exempt new residential construction from these real estate disclosure requirements. This is unacceptable.

The residential real estate disclosure act is a basic consumer protection law. Although it may duplicate some of the protections provided by the state and local permitting process, it places little burden on the seller and facilitates open and honest review of a transaction that represents, for most citizens, the single largest purchase in their lifetime.

Section 2 of Second Substitute Senate Bill No. 5053 makes a number of clarifications to the law and eliminates the question about whether property is in a designated flood hazard zone. Given the catastrophic floods of this past winter, eliminating a question of this kind might appear foolhardy. However, the question is ambiguous and in practice has caused sellers great difficulty in attempting to offer a clear and accurate answer. Section 2 further provides that the questions included in statute are the minimum to be included on the state disclosure form. The Washington Association of Realtors has authority to add additional questions that are substantially similar to the statewide form or to specialized, regional forms. I have asked the Growth Management Division of the state Department of Community, Trade and Economic Development to work with the Washington Association of Realtors and other interested parties to develop a question on this issue that will include a reference to sellers about where to find this information. Re-working this question will allow sellers to disclose clear, accurate information on this topic without becoming bogged down in technical ambiguities.

For these reasons, I have vetoed section 1 of Second Substitute Senate Bill No. 5053.

With the exception of section 1, Second Substitute Senate Bill No. 5053 is approved."

## CHAPTER 302

[Second Substitute Senate Bill 5417]

## ABANDONMENT OF DEPENDENT PERSONS

AN ACT Relating to abandonment of dependent persons; amending RCW 9A.42.010; reenacting and amending RCW 9.94A.320; adding new sections to chapter 9A.42 RCW; and prescribing penalties.

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

Sec. 1. RCW 9A.42.010 and 1986 c 250 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Basic necessities of life" means food, water, shelter, clothing, and health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

(2)(a) "Bodily injury" 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;

(c) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

(3) "Child" means a person under eighteen years of age.

(4) "Dependent person" 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.

(5) "Employed" means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be "employed" regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.

(6) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

(7) "Abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.42 RCW to read as follows:

(1) A person is guilty of the crime of abandonment of a dependent person in the first degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life;

(b) The person recklessly abandons the child or other dependent person; and  
(c) As a result of being abandoned, the child or other dependent person suffers great bodily harm.

(2) Abandonment of a dependent person in the first degree is a class B felony.

**NEW SECTION.** Sec. 3. A new section is added to chapter 9A.42 RCW to read as follows:

(1) A person is guilty of the crime of abandonment of a dependent person in the second degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers substantial bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other dependent person will die or suffer great bodily harm.

(2) Abandonment of a dependent person in the second degree is a class C felony.

**NEW SECTION.** Sec. 4. A new section is added to chapter 9A.42 RCW to read as follows:

(1) A person is guilty of the crime of abandonment of a dependent person in the third degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other person will suffer substantial bodily harm.

(2) Abandonment of a dependent person in the third degree is a gross misdemeanor.

**NEW SECTION.** Sec. 5. A new section is added to chapter 9A.42 RCW to read as follows:

It is an affirmative defense to the charge of abandonment of a dependent person, that the person employed to provide any of the basic necessities of life to the child or other dependent person, gave reasonable notice of termination of services and the services were not terminated until after the termination date specified in the notice. The notice must be given to the child or dependent person, and to other persons or organizations that have requested notice of termination of services furnished to the child or other dependent person.

The department of social and health services and the department of health shall adopt rules establishing procedures for termination of services to children and other dependent persons.

Sec. 6. RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and 1995 c 129 s 3 (Initiative Measure No. 159) are each reenacted and amended to read as follows:

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL.

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)
XI	Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
X	Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) 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 (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Assault of a Child 2 (RCW 9A.36.130) Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Endangering life and property by explosives with threat to human being (RCW 70.74.170) 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) Controlled Substance Homicide (RCW 69.50.415) Sexual Exploitation (RCW 9.68A.040) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b)) Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

- VIII Arson 1 (RCW 9A.48.020)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))  
 Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))  
 Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)  
 Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)  
 Introducing Contraband 1 (RCW 9A.76.140)  
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))  
 Child Molestation 2 (RCW 9A.44.086)  
 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)  
 Involving a minor in drug dealing (RCW 69.50.401(f))  
 Reckless Endangerment 1 (RCW 9A.36.045)  
 Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- VI Bribery (RCW 9A.68.010)  
 Manslaughter 2 (RCW 9A.32.070)  
 Rape of a Child 3 (RCW 9A.44.079)  
 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)  
 Incest I (RCW 9A.64.020(1))  
 Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))  
 Intimidating a Judge (RCW 9A.72.160)  
 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))  
 Theft of a Firearm (RCW 9A.56.300)

- V
- Persistent prison misbehavior (RCW 9A.94.070)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Abandonment of dependent person 1 (section 2 of this act)
  - Rape 3 (RCW 9A.44.060)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - 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)
  - Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
  - Sexually Violating Human Remains (RCW 9A.44.105)
  - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
  - Possession of a Stolen Firearm (RCW 9A.56.310)
- IV
- Residential Burglary (RCW 9A.52.025)
  - Theft of Livestock 1 (RCW 9A.56.080)
  - Robbery 2 (RCW 9A.56.210)
  - Assault 2 (RCW 9A.36.021)
  - Escape 1 (RCW 9A.76.110)
  - Arson 2 (RCW 9A.48.030)
  - Commercial Bribery (RCW 9A.68.060)
  - Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9.61.160)
  - Willful 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 or methamphetamines) (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)
  - Abandonment of dependent person 2 (section 3 of this act)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Assault of a Child 3 (RCW 9A.36.140)
  - Custodial Assault (RCW 9A.36.100)
  - Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
  - Harassment (RCW 9A.46.020)
  - Promoting Prostitution 2 (RCW 9A.88.080)
  - Willful Failure to Return from Work Release (RCW 72.65.070)
  - Burglary 2 (RCW 9A.52.030)
  - 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)
  - Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
  - 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))
  - Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
  - Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
  - Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
  - Theft of livestock 2 (RCW 9A.56.080)
  - Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
  - Malicious Mischief 1 (RCW 9A.48.070)
  - Possession of Stolen Property 1 (RCW 9A.56.150)
  - Theft 1 (RCW 9A.56.030)

Trafficking in Insurance Claims (RCW 48.30A.015)  
 Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))  
 Health Care False Claims (RCW 48.80.030)  
 Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))  
 Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
 Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
 Computer Trespass I (RCW 9A.52.110)  
 Escape from Community Custody (RCW 72.09.310)

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 I (RCW 9A.52.095)  
 Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
 Malicious Mischief 2 (RCW 9A.48.080)  
 Reckless Burning I (RCW 9A.48.040)  
 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
 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 (except phencyclidine) (RCW 69.50.401(d))

**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 March 6, 1996.

Passed the House February 27, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 303

[Engrossed Second Substitute Senate Bill 5676]

## ABUSIVE PARENTS—RESTRICTIONS ON RESIDENTIAL TIME AND VISITATION

AN ACT Relating to restrictions on residential time and visitation for abusive parents; amending RCW 26.09.191 and 26.10.160; and declaring an emergency.

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

**Sec. 1.** RCW 26.09.191 and 1994 c 267 s 1 are each amended to read as follows:

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; ~~((e))~~ (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; ~~((or))~~ (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been ~~((convicted as an adult of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has been))~~ found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been ~~((convicted, or with a juvenile who has been adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has been))~~ found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who as an adult has been convicted or as a juvenile has been adjudicated of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have residential time with the child supervised by a neutral and

independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who as an adult has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of

residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's



presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

~~((e))~~ (n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and ~~((d))~~ (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and ~~((d))~~ (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c) ~~(and (d)(iii))~~, (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;  
 (b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(5) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

(6) For the purposes of this section, a parent's child means that parent's natural child, adopted child, or stepchild.

Sec. 2. RCW 26.10.160 and 1994 c 267 s 2 are each amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights except as provided in subsection (2) of this section.

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; ~~((or))~~ (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's ~~((residential-time))~~ visitation with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; ~~((or))~~ (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault ~~((which))~~ that causes grievous bodily

harm or the fear of such harm; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(ii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been ~~((convicted as an adult of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has been))~~ found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been ~~((convicted, or with a juvenile who has been adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has been))~~ found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises visitation in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence;

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child;  
or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have visitation with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who as an adult has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised visitation has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of visitation between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised visitation has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of visitation between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting visitation. If the court expressly finds based on the evidence that limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits ~~((residential time))~~ visitation under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent

who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

~~((e))~~ (n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and ~~((d))~~ (m) (i) and (iii) of this subsection, or if the court expressly finds ~~((based on the evidence))~~ that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and ~~((d))~~ (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c) ~~((and (d)(i)))~~, (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

(5) For the purposes of this section, a parent's child means that parent's natural child, adopted child, or stepchild.

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

Passed the Senate March 6, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 304

[Senate Bill 6129]

### MENTAL HEALTH SERVICES—CONTRACTING

AN ACT Relating to mental health services; and adding a new section to chapter 48.43 RCW.

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



NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For purposes of this section:

(a) "Health carrier" includes disability insurers regulated under chapter 48.20 or 48.21 RCW, health care services contractors regulated under chapter 48.44 RCW, plans operating under the health care authority under chapter 41.05 RCW, the basic health plan operating under chapter 70.47 RCW, the state health insurance pool operating under chapter 48.41 RCW, insuring entities regulated under this chapter, and health maintenance organizations regulated under chapter 48.46 RCW.

(b) "Intermediary" means a person duly authorized to negotiate and execute provider contracts with health carriers on behalf of mental health care practitioners.

(c) Consistent with their lawful scopes of practice, "mental health care practitioners" includes only the following: Any generally recognized medical specialty of practitioners licensed under chapter 18.57 or 18.71 RCW who provide mental health services, advanced practice psychiatric nurses as authorized by the nursing care quality assurance commission under chapter 18.79 RCW, psychologists licensed under chapter 18.83 RCW, social workers, marriage and family therapists, and mental health counselors certified under chapter 18.19 RCW.

(d) "Mental health services" means outpatient services.

(2) Consistent with federal and state law and rule, no contract between a mental health care practitioner and an intermediary or between a mental health care practitioner and a health carrier that is written, amended, or renewed after the effective date of this section may contain a provision prohibiting a practitioner and an enrollee from agreeing to contract for services solely at the expense of the enrollee as follows:

(a) On the exhaustion of the enrollee's mental health care coverage;

(b) During an appeal or an adverse certification process;

(c) When an enrollee's condition is excluded from coverage; or

(d) For any other clinically appropriate reason at any time.

(3) If a mental health care practitioner provides services to an enrollee during an appeal or adverse certification process, the practitioner must provide to the enrollee written notification that the enrollee is responsible for payment of these services, unless the health carrier elects to pay for services provided.

(4) This section does not apply to a mental health care practitioner who is employed full time on the staff of a health carrier.

Passed the Senate March 2, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

CHAPTER 305

[Senate Bill 6174]

HIGHER EDUCATION COORDINATING BOARD—DUTIES REGARDING FINANCES

AN ACT Relating to duties of the higher education coordinating board; amending RCW 28B.85.020, 42.17.310, and 28B.15.558; and declaring an emergency.

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

Sec. 1. RCW 28B.85.020 and 1994 c 38 s 1 are each amended to read as follows:

(1) The board:

~~((1))~~ (a) Shall adopt by rule minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The board shall adopt the rules in accordance with chapter 34.05 RCW;

~~((2))~~ (b) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections and examine records of all institutions subject to this chapter;

~~((3))~~ (c) Shall develop an interagency agreement with the work force training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs.

(2) Financial disclosures provided to the board by degree-granting private vocational schools are not subject to public disclosure under chapter 42.17 RCW.

Sec. 2. RCW 42.17.310 and 1995 c 267 s 6 are each 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, or welfare recipients.

(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 are witnesses to or victims of crime or 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. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, 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 43.163 RCW and chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) 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.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying if the provider has provided the department with an accurate alternative or business address and telephone number.

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee:  
(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(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.

**Sec. 3.** RCW 28B.15.558 and 1992 c 231 s 20 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section pursuant to the following conditions:

(a) Such state employees shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on state employees registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such state employees be considered in any enrollment statistics which would affect budgetary determinations; and

(c) State employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means permanent ~~((full-time))~~ employees employed half-time or more in classified service under chapter ~~(s 28B.16 and)~~ 41.06 RCW; permanent employees employed half-time or more who are governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201; permanent classified employees and exempt paraprofessional employees of technical colleges employed half-time or more; and nonacademic employees and members of the faculties and instructional staff employed half-time or more at institutions of higher education as defined in RCW 28B.10.016.

NEW SECTION. **Sec. 4.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect 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 Senate March 7, 1996.

Passed the House March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

**CHAPTER 306**

[Substitute Senate Bill 6197]

**WATER SUPPLY AUGMENTATION**

AN ACT Relating to water supply augmentation; adding a new section to chapter 90.03 RCW; and adding a new section to chapter 90.44 RCW.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 90.03 RCW to read as follows:

The department shall, when evaluating an application for a water right, transfer, or change filed pursuant to RCW 90.03.250 or 90.03.380 that includes provision for any water impoundment, take into consideration the benefits of the water impoundment that is included as a component of the application. The department's consideration shall extend to any increased water supply that results from the impoundment including, but not limited to, any recharge of ground water that may occur. Provision for impoundment in an application shall be made solely at the discretion of the applicant and shall not otherwise be made by the department a condition for approving an application that does not include provision for impoundment.

This section does not lessen, enlarge, or modify the rights of any riparian owner, or any existing water right acquired by appropriation or otherwise.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 90.44 RCW to read as follows:

The department shall, when evaluating an application for a water right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100 that includes provision for any water impoundment, take into consideration the benefits of the water impoundment that is included as a component of the application. The department's consideration shall extend to any increased water supply that results from the impoundment including, but not limited to, any recharge of ground water that may occur. Provision for impoundment in an application shall be made solely at the discretion of the applicant and shall not be made by the department a condition for approving an application that does not include provision for impoundment.

This section does not lessen, enlarge, or modify the rights of any riparian owner, or any existing water right acquired by appropriation or otherwise.

Passed the Senate March 6, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 307

[Engrossed Substitute Senate Bill 6204]

## NEGLIGENT DRIVING—REVISIONS

AN ACT Relating to penalties for driving without a driver's license and negligent driving; amending RCW 46.61.525, 46.61.5055, 46.52.130; reenacting and amending RCW 46.20.021 and 46.63.020; creating a new creating; and prescribing penalties.

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

Sec. 1. RCW 46.61.525 and 1979 ex.s. c 136 s 86 are each amended to read as follows:

~~((It shall be unlawful for any person to operate a motor vehicle in a negligent manner. For the purpose of this section to "operate in a negligent manner" shall be construed to mean the operation of a vehicle in such a manner as to endanger or be likely to endanger any persons or property: PROVIDED HOWEVER, That any person operating a motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent shall not be guilty of negligent driving.~~

~~—The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. Any person violating the provisions of this section will be guilty of a misdemeanor: PROVIDED, That the director may not revoke any license under this section, and such offense is not punishable by imprisonment or by a fine exceeding two hundred fifty dollars.))~~ (1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2)(a) A person is guilty of negligent driving in the second degree if, under circumstances not constituting negligent driving in the first degree, he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property.

(b) It is an affirmative defense to negligent driving in the second degree that must be proved by the defendant by a preponderance of the evidence, that the driver was operating the motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent.



(c) Negligent driving in the second degree is a traffic infraction and is subject to a penalty of two hundred fifty dollars.

(3) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(4) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

NEW SECTION. Sec. 2. (1) The office of the administrator for the courts shall collect data on the following after the effective date of this act:

(a) The number of arrests, charges, and convictions for negligent driving in the first degree;

(b) The number of notices of infraction issued for negligent driving in the second degree; and

(c) The number of charges for negligent driving that were the result of an amended charge from some other offense, and the numbers for each such other offense.

(2) The office of the administrator for the courts shall compile the collected data and make a report to the legislature no later than October 1, 1998.

Sec. 3. RCW 46.61.5055 and 1995 1st sp.s. c 17 s 2 are each amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one hundred twenty days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four hundred fifty days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.525(1) or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), ~~((¶))~~ (iv), or (v) of this subsection if committed in this state; ~~((¶))~~

~~((vi))~~ (vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.525(1), or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

Sec. 4. RCW 46.52.130 and 1994 c 275 s 16 are each amended to read as follows:

A certified abstract of the driving record 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 insurance carrier that has insurance in effect covering the named individual, the insurance carrier to which the named individual has applied, 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, or city and county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide 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 to insurance companies. Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years. Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract or to an employer or prospective employer of the named individual. 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; any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. 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. Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(a)(i).

The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.525 (1) and (2) except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

The director shall collect for each abstract the sum of four 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, denied, or have the rate increased 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, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer receiving the certified abstract shall use it exclusively for his or her 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. 5.** RCW 46.20.021 and 1991 c 293 s 3 and 1991 c 73 s 1 are each reenacted and amended to read as follows:

(1) No person, except as expressly exempted by this chapter, may drive any motor vehicle upon a highway in this state unless the person has a valid driver's license issued to Washington residents under the provisions of this chapter. A violation of this subsection is a misdemeanor and is a lesser included offense within the offenses described in RCW 46.20.342(1) or 46.20.420. However, if a person in violation of this section provides the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and is not in violation of RCW 46.20.342(1) or 46.20.420, the violation of this section is an infraction and is subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she obtained a valid license after being cited, the court shall reduce the penalty to fifty dollars.

(2) For the purposes of obtaining a valid driver's license, 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) Becoming a registered voter in this state; or

(b) Receiving benefits under one of the Washington public assistance programs; or

(c) Declaring that he or she is a resident for the purpose of obtaining a state license or tuition fees at resident rates.

(3) The term "Washington public assistance programs" referred to in subsection (2)(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.

(4) No person shall receive a driver's license unless and until he or she surrenders to the department all valid driver's licenses in his or her possession issued to him or her by any other jurisdiction. The department shall establish a procedure to invalidate the surrendered photograph license and return it to the person. The invalidated license, along with the valid temporary Washington driver's license provided for in RCW 46.20.055(3), shall be accepted as proper identification. The department shall notify the issuing department that the



licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time.

(5) New Washington residents are allowed thirty days from the date they become residents as defined in this section to procure a valid Washington driver's license.

(6) Any person licensed as a driver under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations.

Sec. 6. RCW 46.63.020 and 1995 1st sp.s. c 16 s 1, 1995 c 332 s 16, and 1995 c 256 s 25 are each reenacted and 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 and markings indicating that a vehicle has been destroyed or declared a total loss;
- (6) RCW 46.16.010 relating to initial registration of motor vehicles;
- (7) RCW 46.16.011 relating to permitting unauthorized persons to drive;
- (8) RCW 46.16.160 relating to vehicle trip permits;
- (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or acquisition of a special placard or license plate for disabled persons' parking;
- (10) RCW 46.20.021 relating to driving without a valid driver's license, unless the person cited for the violation provided the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and was not in violation of RCW 46.20.342(1) or 46.20.420, in which case the violation is an infraction;
- (11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (12) RCW 46.20.342 relating to driving with a suspended or revoked license or status;
- (13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

- (14) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (15) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (16) RCW 46.25.170 relating to commercial driver's licenses;
- (17) Chapter 46.29 RCW relating to financial responsibility;
- (18) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- (19) RCW 46.37.435 relating to wrongful installation of sunscreening material;
- (20) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (21) RCW 46.48.175 relating to the transportation of dangerous articles;
- (22) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (23) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (24) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (25) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (26) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (27) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (28) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (29) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (30) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (31) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (32) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (33) RCW 46.61.500 relating to reckless driving;
- (34) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (35) RCW (~~46.61.505 (section 5, chapter 332 (Substitute Senate Bill No. 5141), Laws of 1995))~~ 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
- (36) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (37) RCW 46.61.522 relating to vehicular assault;
- (38) RCW 46.61.525(1) relating to first degree negligent driving;

- (39) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
- (40) RCW 46.61.530 relating to racing of vehicles on highways;
- (41) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (42) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (43) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (44) Chapter 46.65 RCW relating to habitual traffic offenders;
- (45) 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;
- (46) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (47) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (48) Chapter 46.82 RCW relating to driver's training schools;
- (49) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
- (50) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Passed the Senate March 6, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 308

[Engrossed Substitute Senate Bill 6211]

### CRIMINAL JUSTICE COSTS—INTERLOCAL AGREEMENTS AND CONTRACTS

AN ACT Relating to criminal justice costs; adding a new section to chapter 39.34 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 39.34 RCW to read as follows:

(1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of

felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county, then either party may invoke binding arbitration on the compensation issued by notice to the other party. In the case of establishing initial compensation, the notice shall request arbitration within thirty days. In the case of nonrenewal of an existing contract or interlocal agreement, the notice must be given one hundred twenty days prior to the expiration of the existing contract or agreement and the existing contract or agreement remains in effect until a new agreement is reached or until an arbitration award on the matter of fees is made. The city and county each select one arbitrator, and the initial two arbitrators pick a third arbitrator.

(4) For cities or towns that have not adopted, in whole or in part, criminal code or ordinance provisions related to misdemeanor and gross misdemeanor crimes as defined by state law, this section shall have no application until July 1, 1998.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1997.

Passed the Senate March 7, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 309

[Senate Bill 6217]

### TEACHER PREPARATION PROGRAMS—ENTRANCE REQUIREMENTS

AN ACT Relating to demonstrating basic skills for entrance into a teacher preparation program; and amending RCW 28A.410.020.

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

**Sec. I.** RCW 28A.410.020 and 1991 c 116 s 20 are each amended to read as follows:

(1) No person may be admitted to a professional teacher preparation program within Washington state without first demonstrating by one of the following options that he or she is competent in the basic skills required for oral and written communication, reading, and computation(~~(—This requirement shall be waived for persons who have completed)~~);

(a) Successful completion of an examination in the basic skills required for oral and written communication, reading, and computation; or

(b) Completion of a baccalaureate degree program; or

(c) Completion of a graduate degree program; or ((who have completed))

(d) Completion of two or more years of college level course work((,)) and demonstrated basic skills competency through college level course work and a written essay(, and are over the age of twenty-one); or

(e) Earning a combined score of more than the state-wide median score for the prior school year scored by all persons taking tests of general achievement selected by the state board of education.

~~(2) ((After June 30, 1989, no person shall be admitted to a teacher preparation program who has a combined score of less than the state wide median score for the prior school year scored by all persons taking tests of general achievement selected by the state board of education. The state board of education shall develop criteria and adopt rules for exemptions from this subsection.~~

~~—(3)) The state board of education shall adopt rules to implement this section.~~

NEW SECTION. Sec. 2. (1) As part of the report required by RCW 28A.410.013, the state board of education shall include specific recommendations for establishment of a uniform test of basic skills:

(a) As a requirement for admission to a professional teacher preparation program within Washington state; and

(b) As a requirement for out-of-state teachers applying for Washington state certification.

(2) This section shall expire January 31, 1997.

Passed the Senate March 6, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 310

[Senate Bill 6247]

### WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY AND WASHINGTON STATE HOUSING FINANCE COMMISSION—REVISIONS

AN ACT Relating to economic development; amending RCW 43.163.210 and 43.180.160; and declaring an emergency.

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

**Sec. 1.** RCW 43.163.210 and 1994 c 238 s 4 are each amended to read as follows:

For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for no more than five economic development activities, per fiscal year, included under the authority's general plan of economic development finance objectives((;)). In addition, the authority may issue tax-exempt bonds to finance ten manufacturing or processing activities, per fiscal year, for which the total project cost is less than one million dollars per project.

(2) The authority may also develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available from commercial sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into contracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts

about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instrument manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090.

(4) The authority may not issue any bonds for the programs authorized under this section after June 30, 2000.

**Sec. 2.** RCW 43.180.160 and 1986 c 264 s 2 are each amended to read as follows:

The total amount of outstanding indebtedness of the commission may not exceed (~~one and one-half~~) two billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

NEW SECTION. **Sec. 3.** Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 7, 1996.

Passed the House March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

CHAPTER 311

[Senate Bill 6339]

ALCOHOL SERVER PERMITS—REVISIONS

AN ACT Relating to making modifications to the alcohol server permit program; and amending RCW 66.20.310 and 66.20.320.

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

**Sec. 1.** RCW 66.20.310 and 1995 c 51 s 3 are each amended to read as follows:

(1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective (~~July 1, 1996~~) January 1, 1997, except as provided in (d) of this subsection, every person employed, under contract or otherwise, by an annual retail liquor licensee holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.340, 66.24.350, 66.24.400, 66.24.425, or 66.24.450, who as part of his or her employment participates in any manner in the sale or service of alcoholic beverages shall have issued to them a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.

(c) No licensee described in (a) of this subsection, except as provided in (d) of this subsection, may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or



(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After ~~((July 1, 1996))~~ January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Establishments licensed under RCW 66.24.320 and 66.24.340, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.

**Sec. 2.** RCW 66.20.320 and 1995 c 51 s 4 are each amended to read as follows:

(1) The board shall regulate a required alcohol server education program that includes:

(a) Development of the curriculum and materials for the education program;

(b) Examination and examination procedures;

(c) Certification procedures, enforcement policies, and penalties for education program instructors and providers;

(d) The curriculum for an approved class 12 alcohol permit training program that includes but is not limited to the following subjects:

(i) The physiological effects of alcohol including the effects of alcohol in combination with drugs;

(ii) Liability and legal information;

(iii) Driving while intoxicated;

(iv) Intervention with the problem customer, including ways to stop service, ways to deal with the belligerent customer, and alternative means of transportation to get the customer safely home;

(v) Methods for checking proper identification of customers;

(vi) Nationally recognized programs, such as TAM (Techniques in Alcohol Management) and TIPS (Training for Intervention Programs) modified to include Washington laws and regulations.

(2) The board shall provide the program through liquor licensee associations, independent contractors, private persons, private or public schools certified by the board, or any combination of such providers.

(3) Each training entity shall provide a class 12 permit to the manager or bartender who has successfully completed a course the board has certified. A list of the individuals receiving the class 12 permit shall be forwarded to the board on the completion of each course given by the training entity.

(4) After ~~((July 1, 1996))~~ January 1, 1997, the board shall require all alcohol servers applying for a class 13 alcohol server permit to view a video training session. Retail liquor licensees shall fully compensate employees for the time spent participating in this training session.

(5) When requested by a retail liquor licensee, the board shall provide copies of videotaped training programs that have been produced by private vendors and make them available for a nominal fee to cover the cost of purchasing and shipment, with the fees being deposited in the liquor revolving fund for distribution to the board as needed.

(6) Each training entity may provide the board with a video program of not less than one hour that covers the subjects in subsection (1)(d) (i) through (v) of this section that will be made available to a licensee for the training of a class 13 alcohol server.

(7) Applicants shall be given a class 13 permit upon the successful completion of the program.

(8) A list of the individuals receiving the class 13 permit shall be forwarded to the board on the completion of each video training program.

(9) The board shall develop a model permit for the class 12 and 13 permits. The board may provide such permits to training entities or licensees for a nominal cost to cover production.

(10)(a) Persons who have completed a nationally recognized alcohol management or intervention program since July 1, 1993, may be issued a class 12 or 13 permit upon providing proof of completion of such training to the board.

(b) Persons who completed the board's alcohol server training program after July 1, 1993, but before July 1, 1995, may be issued a class 13 permit upon providing proof of completion of such training to the board.

Passed the Senate March 7, 1996.

Passed the House March 6, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 312

[Engrossed Substitute Senate Bill 6392]

### MANAGED CARE ENTITIES—DISCLOSURE

AN ACT Relating to disclosure by managed care entities; adding new sections to chapter 48.43 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. LEGISLATIVE FINDINGS. It is the intent of the legislature to ensure that all enrollees in managed care settings have access to adequate information regarding health care services covered by health carriers' health plans, and provided by health care providers and health care facilities. It is only through such disclosure that Washington state citizens can be fully informed as to the extent of health insurance coverage, availability of health care service options, and necessary treatment. With such information, citizens are able to make knowledgeable decisions regarding their health care.

**NEW SECTION.** Sec. 2. CENSORING PROVIDER INFORMATION TO PATIENTS BY CARRIERS. (1) No health carrier subject to the jurisdiction of the state of Washington may in any way preclude or discourage their providers from informing patients of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the patient's service agreement with the health carrier. No health carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this section shall be construed to authorize providers to bind health carriers to pay for any service.

(2) No health carrier may preclude or discourage patients or those paying for their coverage from discussing the comparative merits of different health carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

(3) The insurance commissioner is prohibited from adopting rules regarding this section.

**NEW SECTION.** Sec. 3. PATIENT AND PROVIDER MANAGED CARE OPT-OUT PROVISION. Notwithstanding any other provision of law, no health carrier subject to the jurisdiction of the state of Washington may prohibit directly or indirectly its enrollees from freely contracting at any time to obtain any health care services outside the health care plan on any terms or conditions the enrollees choose. Nothing in this section shall be construed to bind a carrier for any services delivered outside the health plan. The provisions of this section shall be disclosed pursuant to section 4(2) of this act. The insurance commissioner is prohibited from adopting rules regarding this section.

**NEW SECTION.** Sec. 4. CARRIER DISCLOSURE TO PATIENTS REGARDING CARRIER POLICIES. (1) Upon the request of an enrollee or a prospective enrollee, a health carrier, as defined in RCW 48.43.005, and the Washington state health care authority, established by chapter 41.05 RCW, shall provide the following information:

(a) The availability of a point-of-service plan and how the plan operates within the coverage;

(b) Any documents, instruments, or other information referred to in the enrollment agreement;

(c) A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral;

(d) Whether a plan provider is restricted to prescribing drugs from a plan list or plan formulary, what drugs are on the plan list or formulary, and the extent to which enrollees will be reimbursed for drugs that are not on the plan's list or formulary;

(e) Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services;

(f) A written description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider;

(g) Circumstances under which the plan may retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies;

(h) A copy of all grievance procedures for claim or service denial and for dissatisfaction with care; and

(i) Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists.

(2) Each health carrier, as defined in RCW 48.43.005, and the Washington state health care authority, established by chapter 41.05 RCW, shall provide to all enrollees and prospective enrollees a list of available disclosure items.

(3) Nothing in this section shall be construed to require a carrier to divulge proprietary information to an enrollee.

(4) The insurance commissioner is prohibited from adopting rules regarding this section.

**NEW SECTION. Sec. 5. LIABILITY IMMUNITY FOR PLAN COMPARISON ACTIVITIES.** (1) A public or private entity who exercises due diligence in preparing a document of any kind that compares health carriers of any kind is immune from civil liability from claims based on the document and the contents of the document.

(2)(a) There is absolute immunity to civil liability from claims based on such a comparison document and its contents if the information was provided by the carrier, was substantially accurately presented, and contained the effective date of the information that the carrier supplied, if any.

(b) Where due diligence efforts to obtain accurate information have been taken, there is immunity from claims based on such a comparison document and its contents if the publisher of the comparison document asked for such information from the carrier, was refused, and relied on any usually reliable source for the information including, but not limited to, carrier enrollees,

customers, agents, brokers, or providers. The carrier enrollees, customers, agents, brokers, or providers are likewise immune from civil liability on claims based on information they provided if they believed the information to be accurate and had exercised due diligence in their efforts to confirm the accuracy of the information provided.

(3) The immunity from liability contained in this section applies only if the comparison document contains the following in a conspicuous place and in easy to read typeface:

This comparison is based on information believed to be reliable by its publisher, but the accuracy of the information cannot be guaranteed. Caution is suggested to all readers who are encouraged to confirm data of importance to the reader before any purchasing or other decisions are made.

(4) The insurance commissioner is prohibited from adopting rules regarding this section.

NEW SECTION. Sec. 6. CAPTIONS. Captions used in this act do not constitute part of the law.

NEW SECTION. Sec. 7. CODIFICATION. Sections 1 through 5 of this act are each added to chapter 48.43 RCW.

NEW SECTION. Sec. 8. EFFECTIVE DATE. This act shall take effect July 1, 1996.

Passed the Senate March 7, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 313

[Senate Bill 6428]

### SPECIAL DISTRICT MERGERS

AN ACT Relating to the merger of special districts; and amending RCW 85.08.850 and 36.93.800.

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

**Sec. 1.** RCW 85.08.850 and 1957 c 94 s 4 are each amended to read as follows:

The petition requesting the merger shall be signed by the board of supervisors of, or by ten owners of land located within, the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district and presented to the clerk or clerks of the appropriate ~~((board or boards of county commissioners))~~ county legislative authority or authorities, at a regular or special meeting ~~((of the board or boards)).~~

**Sec. 2.** RCW 36.93.800 and 1993 c 235 s 10 are each amended to read as follows:

This chapter does not apply to the merger of irrigation districts authorized under RCW 87.03.530(2) and 87.03.845 through 87.03.855 or to the merger of a drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district into an irrigation district authorized by RCW 87.03.720 through 87.03.745 and 85.08.830 through 85.08.890.

Passed the Senate March 4, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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### CHAPTER 314

[Substitute Senate Bill 6430]

#### SOCIAL CARD GAMES

AN ACT Relating to social card games; and amending RCW 9.46.0281.

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

**Sec. 1.** RCW 9.46.0281 and 1994 c 120 s 2 are each amended to read as follows:

"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))~~ The number of card tables shall be set by the commission but shall not exceed a total of fifteen separate tables per establishment;

(2) Except as provided in subsection (3) of this section, 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))~~ △ cardroom may serve as the custodian of a player-supported progressive prize contest, in any card game authorized by the commission;

(4) No organization or corporation, or person other than one licensed by the commission to operate a cardroom 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 three 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.

Passed the Senate February 9, 1996.

Passed the House March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 315

[Senate Bill 6476]

### VEHICLE AND VESSEL FEES

AN ACT Relating to vehicle and vessel fees; amending RCW 46.01.140, 46.01.320, and 88.02.070; adding a new section to chapter 46.01 RCW; adding a new section to chapter 46.16 RCW; and providing effective dates.

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

**Sec. I.** RCW 46.01.140 and 1992 c 216 s 1 are each amended to read as follows:

(1) 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 and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county. Upon authorization of the director, the auditor shall advertise a request for proposals and use the process for soliciting vendors under RCW 39.04.190(2), except that the provision requiring the contract to be awarded to the lowest responsible bidder shall not apply. The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the request for proposal process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to ~~((motor))~~ vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to ~~((motor))~~ vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of ~~((motor))~~ vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) 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 or vessel upon the public highways or waters 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 ~~((two))~~ three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of ~~((motor))~~ vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) 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))~~ four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent 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 or her expenses in handling the application.

(5) A subagent shall collect a service fee of (a) ~~((five))~~ seven dollars and fifty cents for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) ~~((two))~~ three dollars ~~((and twenty-five cents))~~ for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such 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.

(7) Any county revenues that exceed the cost of providing ~~((motor))~~ vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.

**Sec. 2.** RCW 46.01.320 and 1992 c 216 s 3 are each amended to read as follows:

The title and registration advisory committee is created within the department. The committee consists of the director or a designee, who shall serve as chair, the assistant director for vehicle services, the administrator of title and registration services, two members from each of the house and senate transportation committees, two county auditors nominated by the Washington association of county officials, and two representatives of subagents nominated by an association of vehicle subagents. The committee shall meet at least twice a year, and may meet as often as is necessary.

The committee's purpose is to foster communication between the legislature, the department, county auditors, and subagents. The committee shall make recommendations when requested by the legislative transportation committee, or on its own initiative, about revisions to fee structures, implications of fee revisions on cost sharing, and the development of standard contracts provided for in RCW 46.01.140(3). ~~((The committee shall make recommendations about fee revisions to the legislative transportation committee by January 1, 1996.))~~

**NEW SECTION.** **Sec. 3.** A new section is added to chapter 46.01 RCW to read as follows:

(1) The director shall prepare, with the advice of the title and registration advisory committee, an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and

subagent fee revisions approved by the title and registration advisory committee to the legislative transportation committee by January 1st of every third year starting with 1996. Fee revision recommendations may be made more frequently when justified by the annual analysis and evaluation, and requested by the title and registration advisory committee.

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

(a) Unique and significant financial, legislative, or other relevant developments that may impact fees;

(b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;

(c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;

(d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;

(e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of Washington.

NEW SECTION. **Sec. 4.** A new section is added to chapter 46.16 RCW to read as follows:

(1) In addition to the fees set forth in RCW 46.16.070, there shall be paid and collected annually upon registration, a fee of one dollar for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, notwithstanding the provisions of RCW 46.16.070.

(2) In addition to the fees set forth in RCW 46.16.085, there shall be paid and collected annually upon registration, a fee of one dollar for each trailer, semitrailer, and pole trailer, notwithstanding the provisions of RCW 46.16.085.

(3) The proceeds from the fees collected under subsections (1) and (2) of this section shall be deposited into the highway safety fund, except that for each vehicle registered by a county auditor or agent to a county auditor under RCW 46.01.140, the proceeds shall be credited to the current county expense fund.

**Sec. 5.** RCW 88.02.070 and 1991 c 339 s 31 are each amended to read as follows:

(1) The department shall provide for the issuance of vessel certificates of title. Applications for certificates may be made through the agents appointed under RCW 88.02.040. The fee for a vessel certificate of title is five dollars. Fees required for licensing agents under RCW 46.01.140 are in addition to the vessel certificate of title fee. Fees for vessel certificates of title shall be deposited in the general fund. Security interests in vessels subject to the requirements of this chapter and attaching after July 1, 1983, shall be perfected only by indication upon the vessel's title certificate. The provisions of chapters

46.12 and 46.16 RCW relating to motor vehicle certificates of registration, titles, certificate issuance, ownership transfer, and perfection of security interests, and other provisions which may be applied to vessels subject to this chapter, may be so applied by rule of the department if they are not inconsistent with this chapter.

(2) Whenever a vessel is to be registered for the first time as required by this chapter, except for a vessel having a valid marine document as a vessel of the United States, application shall be made at the same time for a certificate of title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this chapter, except for a vessel having a valid marine document as a vessel of the United States, shall within fifteen days thereof apply for a new certificate of title which shows the vessel's change of ownership.

(3) Security interests may be released or acted upon as provided by the law under which they arose or were perfected. No new security interest or renewal or extension of an existing security interest is affected except as provided under the terms of this chapter and RCW 46.12.095.

(4) Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within fifteen days of the occurrence of any of the following: Any change of address of owner; destruction, loss, abandonment, theft, or recovery of the vessel; or loss or destruction of a valid certificate of registration on the vessel.

(5) Within five days, excluding Saturdays, Sundays, and state and federal holidays, the owner shall notify the department in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, and such description of the vessel, including the hull identification number, the vessel decal number, or both, as may be required by the department.

NEW SECTION. Sec. 6. (1) Section 4 of this act and the amendments to RCW 46.01.140(4) (a) and (c) by section 1 of this act become effective on vehicle fees due or to become due on January 1, 1997, and thereafter.

(2) Section 5 of this act and the amendments to RCW 46.01.140(4) (a) and (c) by section 1 of this act become effective on vessel fees due or to become due on July 1, 1997, and thereafter.

(3) The amendments to RCW 46.01.140(5) (a) and (b) by section 1 of this act become effective on July 1, 1996.

Passed the Senate February 7, 1996.

Passed the House March 5, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 316

[Engrossed Substitute Senate Bill 6666]

## NUISANCE AQUATIC WEEDS

AN ACT Relating to nuisance aquatic weeds; creating new sections; 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 finds that Washington's lakes, particularly urban and suburban lakes, are experiencing pollution problems. There are frequent conflicts between shoreline property owners, who want a lake free of nuisance and noxious aquatic weeds for health, natural habitat, and recreation purposes, and local and state agencies, who are charged with protecting water quality and habitat quality in the lakes. Human-caused pollution and natural factors that cause the growth of the nuisance and noxious aquatic weeds in lakes often have diffuse sources and can create dangerous conditions.

**NEW SECTION. Sec. 2.** There is created a committee to develop a Washington state lake health plan. The lake health plan shall include, but not be limited to, the following elements:

(1) An overview of the science of lakes management in general, and aquatic weeds in particular, using peer-reviewed studies and prior completed environmental impact statements, where possible. This scientific overview should identify and critically evaluate the various methods and techniques available for lake restoration and weed management;

(2) An analysis of the existing federal and state statutes, regulations, and policies dealing with lakes management. The plan shall provide recommendations on how to eliminate conflicts and inconsistencies in these legal requirements;

(3) An assessment of, and recommendations addressing, the problems arising from overlapping state and local agency programs and procedures;

(4) Recommendations on sources of state and local funding for lakes management. The funding mechanisms should reflect a preference for local solutions, and on involving all of the contributors to a lake's pollution in the funding of lake management expenses; and

(5) A plan or program to provide public information and education concerning how to prevent lake pollution and improve lake health. The committee shall consist of up to two senate members from each caucus of the senate, selected by the president of the senate and up to two representatives from each caucus of the house of representatives, selected by the speaker of the house of representatives. The committee may create advisory groups to assist them in evaluating these issues and shall consult with the following:

(a) Lakeside homeowners, lake users, and other citizens interested in lake water quality;

(b) The director or designee from the departments of fish and wildlife, health, ecology, natural resources, and agriculture;

(c) County governments and local health departments from both the east side and the west side of the state;

(d) Cities;

(e) Scientific and academic specialists; and

(f) Pesticide applicators.

Staff support for the committee shall be provided by the office of program research in the house of representatives and by senate committee services.

The committee shall submit a plan with statutory recommendations, if any, to the legislature by January 1, 1998.

**NEW SECTION.** Sec. 3. The department of ecology shall expedite requests for approval for the application of state or federally registered pesticides by licensed pesticide applicators, including the use of herbicides such as copper sulfate or diquat, to control nuisance and noxious weeds in lakes managed under chapter 90.24 RCW. Approval for the application of pesticides is subject to compliance with state and federal pesticide laws. The department of ecology shall condition the permits to ensure that fish within the watershed are not significantly affected. The department of ecology may require applicators to provide reasonable notification to shoreline residents before application and to post signs describing swimming and fishing restrictions. The department of ecology may require sampling by the local health department to assess the biological effects of pesticide treatments and effects on human and animal health of toxic algae. This section shall expire April 1, 1998.

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 7, 1996.

Passed the House March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 317

[Engrossed Substitute Senate Bill 6680]

### PERFORMANCE ASSESSMENT OF STATE GOVERNMENT

AN ACT Relating to the performance assessment of state government; amending RCW 43.88.090 and 43.88.160; reenacting and amending RCW 43.88.030; adding a new chapter to Title 44 RCW; creating a new section; and repealing RCW 43.88B.005, 43.88B.007, 43.88B.010, 43.88B.020, 43.88B.030, 43.88B.031, 43.88B.040, 43.88B.050, 43.88B.900, and 43.88B.901.

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

***\*NEW SECTION. Sec. 1. Public officials, public employees, legislators, and citizens recognize the need to review the value and relative priority of many programs throughout state government in the context of constantly changing conditions, limitations, and requirements for state government. They***

*also share the objective of improving the performance of state agencies and programs, thereby increasing effectiveness and efficiency.*

*The legislature must become more effective in its role of directing public policy and ensuring the public accountability of state programs, managers, and employees. With the support of the legislature, the executive branch must implement practices and processes that will improve performance, accountability, and public confidence in state government. The governor and the legislature shall use results from the performance assessment processes established by this chapter in establishing state budget policy and priorities. The budget process must become an effective means of ensuring compliance with performance improvement requirements.*

*The purpose of this chapter is to ensure that all state agencies and programs have a valid and necessary mission and that the agencies have clearly defined performance objectives, quality objectives, and cost objectives that are appropriately balanced. Each agency and program should operate within a strategic plan that includes the mission of the agency or program, measurable goals, strategies, and performance measurement systems that are vital tools used for agency management, legislative budget and policy deliberations, and public accountability. State agencies should engage customers, taxpayers, employees, and the legislature in the development and redevelopment of these plans. The strategic plans should be the framework within which agencies continuously assess the value and relative priority of their various functions. In order to streamline state government and redirect resources more effectively, the legislature intends to begin a systematic, fundamental review of the functions of state programs.*

*In developing future legislation to create new programs and activities in state government, or redirect existing programs and activities, the legislature shall include in such legislation the specific purpose and measurable goals of the program or activity.*

\*Sec. 1 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 2. The legislative committee on performance review is established.*

*(1) The thirteen-member committee consists of:*

*(a) The majority leader of the senate;*

*(b) The majority leader of the house of representatives;*

*(c) The minority leader of the senate;*

*(d) The minority leader of the house of representatives;*

*(e) The chair and ranking minority member of the senate ways and means committee;*

*(f) The chair and ranking minority member of the house of representatives appropriations committee;*

*(g) Four additional members, one each from the majority and minority caucuses of the senate and the house of representatives; and*

*(h) The lieutenant governor, who shall serve as a nonvoting member and chair of the committee.*

*(2) Members of the committee shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending meetings of the committee or any subcommittee or on other business authorized by the committee.*

*(3) An executive committee is established, consisting of the majority leader and minority leader of the senate and the majority leader and minority leader of the house of representatives. The function of the executive committee is to appoint the director of the legislative office of performance review. Approval by an affirmative vote of at least three members of the committee is required for decisions regarding employment of the director. Employment of the director terminates after each term of three years. At the end of the first year of each three-year term, the committee shall consider extension of the term by one year. However, at any time during the term of office, the employment of the director may be terminated by a unanimous vote of the executive committee. The executive committee shall set the salary of the director.*

*\*Sec. 2 was vetoed. See message at end of chapter.*

**\*NEW SECTION.** *Sec. 3. (1) The director shall establish and manage a legislative office of performance review to carry out the functions described in this chapter.*

*(2) In consultation with the executive committee, the director may select and employ personnel necessary to carry out the purposes of this chapter. Salaries for employees of the legislative office of performance review, other than the director, shall be set with the approval of the executive committee, the secretary of the senate, and the chief clerk of the house of representatives.*

*(3) The director has primary responsibility for performance reviews of state agencies, programs, and activities. The director shall consult with the state auditor, the legislative auditor of the legislative budget committee, and the director of financial management in the conduct of performance reviews. The director shall also consult with the chairs and staff of the appropriate legislative standing committees.*

*\*Sec. 3 was vetoed. See message at end of chapter.*

**\*NEW SECTION.** *Sec. 4. (1) Performance reviews under this chapter shall include a rethinking of the programs and functions of state agencies to assess whether or not they have a vital purpose or valid mission. The director shall work to involve frontline employees, agency and program managers, customers of the program or service, other taxpayers, legislators, legislative staff, office of financial management staff, and other external public and private sector experts as deemed appropriate in conducting performance reviews. The director shall, as necessary, contract with experts from either the private or public sector to assist in performance reviews.*

*(2) In preparation for a performance review, a state agency shall identify each of its discrete functions or activities, along with associated costs and full-*

*time equivalent staff, as requested by the director. In reviewing the agency or program, the director shall identify those activities and programs that should be strengthened, those that should be abandoned, and those that need to be redirected or other alternatives explored. The review should consider: (a) Whether or not the purpose for which the agency or program was created is still valid based on the circumstances under which the program was created versus those that exist at the time of the review; (b) the relative priority of the program among the agency's functions; (c) costs or implications of not performing the function; (d) citizen's individual responsibilities and freedoms; (e) whether or not the mission of the agency or program is attainable considering the effect of factors and circumstances beyond the control of the agency; and (f) in the event of inadequate performance by the program, the potential for a workable, affordable plan to improve performance.*

*(3) Performance reviews must also determine the existence and utility of an agency or program strategic plan that includes a concise statement of the agency's or program's mission, a vision for future direction, measurable goals and objectives, and clear strategies and specific timelines to achieve them. The director shall determine the extent to which the plan: (a) Forms the basis of agency management practices and continuous process reevaluation and improvement; (b) can be used to clearly identify and prioritize agency functions; (c) provides a valuable basis for legislative policy and budget deliberations; (d) is used to ensure accountability of employees, particularly managers, for achieving program goals, and is a primary consideration in retention and promotion of staff; (e) is used to assess the quality and effectiveness of the agency's programs and activities; (f) appropriately balances cost objectives, quality objectives, and performance objectives; and (g) is useful in demonstrating public accountability. The agency strategic plan shall provide for periodic self-assessment by the agency to determine whether the agency is achieving the goals and objectives of its programs. Where self-assessments have been completed by an agency, the assessments must be incorporated into a performance review conducted under this chapter.*

*(4) If the state agency or program being reviewed has not identified acceptable organizations or programs in the public or private sector to be used as benchmarks against which to measure its performance, the director shall conduct a review sufficient to recommend such benchmarks to the agency, the governor, and the legislature.*

*(5) As a part of each performance review and in consultation with the director of the agency being reviewed and the director of financial management, the director of the legislative office of performance review shall develop recommendations regarding statutes that inhibit or do not contribute to the agency's ability to perform its functions effectively and efficiently.*

*(6) Based on the information and conclusions compiled from the work required in subsections (1) through (5) of this section, the director shall develop an advisory recommendation for the governor and the legislature*



*regarding whether an agency, programs of an agency, or activities within an agency should be continued, abandoned, or restructured.*

*\*Sec. 4 was vetoed. See message at end of chapter.*

***\*NEW SECTION.*** *Sec. 5. Before the completion of each legislative session and in conjunction with development of the final omnibus appropriations act, the legislative committee on performance review shall approve a performance review plan for the next twelve to fifteen months. The performance review plan must include a schedule of agencies, programs, or activities for which performance reviews will be initiated during that period. The plan must also include anticipated performance review revolving fund charges to each individual agency scheduled for review. Appropriations for scheduled agencies shall be adjusted in the omnibus appropriations act to reflect the anticipated charges. For each performance review included, the plan must identify the role of the legislative office of performance review and the state auditor, as well as the need to contract for additional public or private sector expertise. In preparing a draft plan for consideration by the committee, the director shall consult with the state auditor, the chair and staff of the legislative budget committee, the director of financial management, and the chairs and staff of appropriate legislative standing committees. The committee shall meet quarterly to review progress on the plan and, if necessary, revise the plan.*

*\*Sec. 5 was vetoed. See message at end of chapter.*

***\*NEW SECTION.*** *Sec. 6. When the director has completed a performance review and before public release of the findings, the affected agency and the office of financial management may respond to the review. The director shall incorporate the agency's and the office of financial management's response into the final report. The legislative committee on performance review may also review and comment on the director's findings. The director shall include the comments of the committee in the final report as a separate addendum. Final reports of findings of the director from agency and program performance reviews must be transmitted to the agency, the director of financial management, and appropriate legislative committees and must be made available for public review.*

*\*Sec. 6 was vetoed. See message at end of chapter.*

***\*NEW SECTION.*** *Sec. 7. The performance review revolving fund is established in the state treasury. Expenditures from the fund may be spent only by appropriation. The fund is established to assist in recovering the costs of performance reviews from the audited agency or program. Subject to appropriation, the director shall assess agencies all or a portion of the cost of performance reviews.*

*The cost of performance reviews includes all direct and indirect costs and other expenses incurred by the director in fulfilling his or her statutory responsibilities.*

*Costs of the reviews may also be paid from other funds appropriated to the legislative office of performance review.*

\*Sec. 7 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 8. To ensure the accuracy and timeliness of information used as the basis for performance reviews and other responsibilities of the legislature, the director shall be provided direct and unrestricted access to information held by any state agency. Agencies shall submit directly to the legislative office of performance review, on a confidential basis, all data and other information requested, including tax records and client data.*

\*Sec. 8 was vetoed. See message at end of chapter.

\*Sec. 9. *RCW 43.88.030 and 1994 c 247 s 7 and 1994 c 219 s 2 are each reenacted and amended to read as follows:*

*(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues as approved by the economic and revenue forecast council or upon the estimated revenues of the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the interagency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues for use in the governor's budget document may be adjusted*

*to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.*

*Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.*

*The budget document or documents shall also contain:*

*(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;*

*(b) The undesignated fund balance or deficit, by fund;*

*(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;*

*(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;*

*(e) Tabulations showing expenditures classified by fund, function, activity and object;*

*(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;*

*(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.70 RCW, shown by agency and in total; and*

*(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.*

*(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed*

*applicable expenditures. The budget document or documents shall further include:*

*(a) Interest, amortization and redemption charges on the state debt;*

*(b) Payments of all reliefs, judgments and claims;*

*(c) Other statutory expenditures;*

*(d) Expenditures incident to the operation for each agency;*

*(e) Revenues derived from agency operations;*

*(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;*

*(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;*

*(h) Common school expenditures on a fiscal-year basis;*

*(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; ~~(and)~~*

*(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation; and*

*(k) For each agency, a description of the findings and recommendations of any applicable review by the legislative office of performance review conducted during the prior fiscal period. The budget document must describe the potential costs and savings associated with implementing the findings and recommendations, including any recommendations for program eliminations.*

*(3) A separate capital budget document or schedule shall be submitted that will contain the following:*

*(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;*

*(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;*

*(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;*

*(d) A statement of the reason or purpose for a project;*

*(e) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;*

*(f) A statement about the proposed site, size, and estimated life of the project, if applicable;*

*(g) Estimated total project cost;*

*(h) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;*

*(i) Estimated total project cost for each phase of the project as defined by the office of financial management;*

*(j) Estimated ensuing biennium costs;*

*(k) Estimated costs beyond the ensuing biennium;*

*(l) Estimated construction start and completion dates;*

*(m) Source and type of funds proposed;*

*(n) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;*

*(o) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;*

*(p) Such other information bearing upon capital projects as the governor deems to be useful;*

*(q) Standard terms, including a standard and uniform definition of maintenance for all capital projects;*

*(r) Such other information as the legislature may direct by law or concurrent resolution.*

*For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.*

*(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and*

*personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.*

\*Sec. 9 was vetoed. Sec message at end of chapter.

Sec. 10. RCW 43.88.090 and 1994 c 184 s 10 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing program performance, each state agency shall establish program objectives for each major program in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the

agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for continuous self-assessment of each program and activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section.

(5) It is the policy of the legislature that each agency's budget proposals must be directly linked to the agency's stated mission and program goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of a program's success in achieving its goals. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

*\*Sec. 11. RCW 43.88.160 and 1994 c 184 s 11 are each amended to read as follows:*

*This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.*

*(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.*

*(2) The director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.*

*(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.*

*(4) In addition, the director of financial management, as agent of the governor, shall:*

*(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system*



developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: **PROVIDED**, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(g) ~~((Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and RCW 43.88.525 through 43.88.540;~~

~~—(h))~~ Adopt rules to effectuate provisions contained in (a) through ~~((g))~~ (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: **PROVIDED**, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

*(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;*

*(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;*

*(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.*

*It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.*

*(6) The state auditor shall:*

*(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the*

*office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.*

*(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.*

*(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor (~~is authorized to~~) may perform or participate in performance verifications (~~(only as)~~) and performance reviews under chapter 44.—RCW (sections 1 through 8 of this act) if expressly authorized by the performance review plan adopted by the legislative committee on performance review or if expressly authorized by the legislature in the omnibus biennial appropriations acts. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification or performance review, may report to the legislative budget committee, legislative committee on performance review, or other appropriate committees of the legislature, in a manner prescribed by the legislative budget committee or the director of the legislative office of performance review, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit (~~(or)~~), performance verification, or performance review. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or the performance review plan.*

*(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.*

*(e) Promptly report any irregularities to the attorney general.*

*(f) Investigate improper governmental activity under chapter 42.40 RCW.*

*(7) The legislative budget committee may:*

*(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in RCW 44.28.085*

*as well as performance audits and program evaluations. To this end the committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.*

*(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.*

*(c) Make a report to the legislature which shall include at least the following:*

*(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and*

*(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs and generally for an improved level of fiscal management.*

\*Sec. 11 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 12.** The following acts or parts of acts are each repealed:

- (1) RCW 43.88B.005 and 1994 c 184 s 1;
- (2) RCW 43.88B.007 and 1994 c 184 s 2;
- (3) RCW 43.88B.010 and 1994 c 184 s 3;
- (4) RCW 43.88B.020 and 1994 c 184 s 4;
- (5) RCW 43.88B.030 and 1994 c 184 s 5;
- (6) RCW 43.88B.031 and 1994 c 184 s 6;
- (7) RCW 43.88B.040 and 1994 c 184 s 7;
- (8) RCW 43.88B.050 and 1994 c 184 s 8;
- (9) RCW 43.88B.900 and 1994 c 184 s 13; and
- (10) RCW 43.88B.901 and 1994 c 184 s 15.

**\*NEW SECTION. Sec. 13.** Sections 1 through 8 of this act constitute a new chapter in Title 44 RCW.

\*Sec. 13 was vetoed. See message at end of chapter.

**\*NEW SECTION. Sec. 14.** *If specific funding for purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1996, in the supplemental omnibus appropriations act, this act is null and void.*

\*Sec. 14 was vetoed. See message at end of chapter.

Passed the Senate March 5, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, and 14, Engrossed Substitute Senate Bill No. 6680 entitled:

"AN ACT Relating to the performance assessment of state government;"

Engrossed Substitute Senate Bill No. 6680, for the most part, creates a new legislative committee and office to conduct performance reviews of state agencies and programs. These reviews would determine whether agencies and programs should be strengthened, abandoned, or redirected and would evaluate whether there is still a valid purpose for them. They would also look at program costs, priorities, performance improvements, and strategic plans. These kinds of inquiries are valid and usually provide useful direction to state agencies. They also identify where state government programs should be cut back because of changing circumstances or should be expanded to meet new needs. I support these efforts and believe they should be strengthened.

However, the powers and duties given to the new Legislative Committee on Performance Review and to its staff office are unfunded and seriously overlap current responsibilities of the Legislative Budget Committee and its successor agency, the Joint Legislative Audit and Review Committee. This committee was created by Engrossed Second Substitute House Bill No. 2222.

While I strongly support any coordinated, well-planned, and properly funded effort to evaluate state agency performance, I am concerned that two legislative agencies with overlapping directives in this area would not be beneficial. Indeed, they could result in conflicting demands and directives on executive branch agencies that would be difficult and costly to fulfill. I cannot approve those sections of the bill relating to the powers and duties of the Legislative Committee on Performance Review and the Legislative Office of Performance Review.

On the other hand, section 10 of Engrossed Substitute Senate Bill No. 6680 provides reasonable and timely direction to state agencies and the Office of Financial Management (OFM) in a number of critical areas. It directs agencies to define their missions, goals, and objectives; to establish performance measures; and to adopt processes for continuous self-assessment and improvement. Section 10 also directs OFM to institute performance-based budgeting and to assist agencies in developing performance measurement systems. The supplemental appropriations act provides OFM with additional resources to accomplish these goals. These are useful steps that should be taken, and they build on work already done by agencies, OFM, and the Washington Performance Partnership Council. Section 10 should, therefore, be approved.

Section 12 of Engrossed Substitute Senate Bill No. 6680 repeals the enabling act for the Washington Performance Partnership Council. That organization and its staff contributed significantly to developing a workable Washington State management model, defined the role of state executives in strategically managing change, and began the process of incorporating continuous process improvement and performance measurement into our management culture. Since their work is done and they are no longer funded, the repeals in section 12 are appropriate.

For these reasons, I have vetoed sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, and 14 of Engrossed Substitute Senate Bill No. 6680.

With the exception of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, and 14, Engrossed Substitute Senate Bill No. 6680 is approved."

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## CHAPTER 318

[Engrossed Senate Bill 6702]

### JOINT ADMINISTRATIVE RULES REVIEW COMMITTEE— CLARIFICATION AND STREAMLINING OF PROCEDURES

AN ACT Relating to clarifying and streamlining procedures of the joint administrative rules review committee; amending RCW 34.05.330, 34.05.610, 34.05.620, 34.05.630, 34.05.640, 34.05.655, and 34.05.660; and repealing RCW 34.05.645.

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

Sec. 1. RCW 34.05.330 and 1995 c 403 s 703 are each amended to read as follows:

(1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The office of financial management shall prescribe by rule the format for such petitions and the procedure for their submission, consideration, and disposition and provide a standard form that may be used to petition any agency. Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with this chapter.

(2) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, and the petition alleges that the rule is not within the intent of the legislature or was not adopted in accordance with all applicable provisions of law, the person may petition for review of the rule by the joint administrative rules review committee under RCW 34.05.655.

(3) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The governor shall immediately file notice of the appeal with the code reviser for publication in the Washington state register. Within forty-five days after receiving the appeal, the governor shall either (a) deny the petition in writing, stating (i) his or her reasons for the denial, specifically addressing the concerns raised by the petitioner, and, (ii) where appropriate, the alternative means by which he or she will address the concerns raised by the petitioner; (b) for agencies listed in RCW 43.17.010, direct the agency to initiate rule-making proceedings in accordance with this chapter; or (c) for agencies not listed in RCW 43.17.010, recommend that the agency initiate rule-making proceedings in accordance with this chapter. The governor's response to the appeal shall be published in the Washington state register and copies shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

~~((3))~~ (4) In petitioning for repeal or amendment of a rule under this section, a person is encouraged to address, among other concerns:

- (a) Whether the rule is authorized;
- (b) Whether the rule is needed;
- (c) Whether the rule conflicts with or duplicates other federal, state, or local laws;
- (d) Whether alternatives to the rule exist that will serve the same purpose at less cost;
- (e) Whether the rule applies differently to public and private entities;
- (f) Whether the rule serves the purposes for which it was adopted;
- (g) Whether the costs imposed by the rule are unreasonable;

- (h) Whether the rule is clearly and simply stated; ~~((and))~~  
 (i) Whether the rule is different than a federal law applicable to the same activity or subject matter without adequate justification; and  
(j) Whether the rule was adopted according to all applicable provisions of law.

~~((4))~~ (5) The business assistance center and the office of financial management shall coordinate efforts among agencies to inform the public about the existence of this rules review process.

~~((5))~~ (6) The office of financial management shall initiate the rule making required by subsection (1) of this section by September 1, 1995.

Sec. 2. RCW 34.05.610 and 1988 c 288 s 601 are each amended to read as follows:

(1) There is hereby created a joint administrative rules review committee which shall be a bipartisan committee consisting of four senators and four representatives from the state legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house may be from the same political party. The appointing authorities shall also appoint one alternate member from each caucus of each house. All appointments to the committee are subject to approval by the caucuses to which the appointed members belong.

(2) Members and alternates shall be appointed as soon as possible after the legislature convenes in regular session in an odd-numbered year, and their terms shall extend until their successors are appointed and qualified at the next regular session of the legislature in an odd-numbered year or until such ~~((members))~~ persons no longer serve in the legislature, whichever occurs first. Members and alternates may be reappointed to ~~((a))~~ the committee.

(3) The president of the senate shall appoint the chairperson in even-numbered years and the vice chairperson in odd-numbered years from among committee membership. The speaker of the house shall appoint the chairperson in odd-numbered years and the vice chairperson in even-numbered years from among committee membership. Such appointments shall be made in January of each year as soon as possible after a legislative session convenes.

(4) The chairperson of the committee shall cause all meeting notices and committee documents to be sent to the members and alternates. A vacancy ~~((on the committee))~~ shall be filled by appointment of a legislator from the same political party as the original appointment. The appropriate appointing authority shall make the appointment within thirty days of the vacancy occurring.

Sec. 3. RCW 34.05.620 and 1994 c 249 s 17 are each amended to read as follows:

~~((Whenever a majority of the members of the rules review committee determines))~~ If the rules review committee finds by a majority vote of its members that a proposed rule is not within the intent of the legislature as

expressed in the statute which the rule implements, or that an agency may not be adopting a proposed rule in accordance with all applicable provisions of law, ~~((including section 4 of this act and chapter 19.85 RCW,))~~ the committee shall give the affected agency written notice of its decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to RCW 34.05.320. The notice shall include a statement of the review committee's findings and the reasons therefor. When the agency holds a hearing on the proposed rule, the agency shall consider the review committee's decision.

Sec. 4. RCW 34.05.630 and 1994 c 249 s 18 are each amended to read as follows:

(1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review by the legislature.

(2) ~~((The rules review committee may review an agency's use of policy statements, guidelines, and issuances that are of general applicability, or their equivalents to determine whether or not an agency has failed to adopt a rule or whether they are within the intent of the legislature as expressed by the governing statute))~~ All agency policy and interpretive statements are subject to selective review by the legislature.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, ~~((including section 4 of this act if the rule was adopted after the effective date of section 4 of this act and chapter 19.85 RCW,))~~ or (c) that an agency is using a policy or interpretive statement~~((, guideline, or issuance))~~ in place of a rule, ~~((or (d) that the policy statement, guideline, or issuance is outside of legislative intent,))~~ the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, ~~((including section 4 of this act if the rule was adopted after the effective date of section 4 of this act and chapter 19.85 RCW,))~~ or (c) whether the agency is using a policy or interpretive statement~~((, guideline, or issuance))~~ in place of a rule~~((, or (d)~~



~~whether the policy statement, guideline, or issuance is within the legislative intent)).~~

Sec. 5. RCW 34.05.640 and 1994 c 249 s 19 are each amended to read as follows:

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its intended action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules. ~~((If the rules review committee determines, by a majority vote of its members, that the agency has failed to provide for the required hearings or notice of its action to the committee, the committee may file notice of its objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.))~~

(2) If the rules review committee finds((;)) by a majority vote of its members: (a) That the proposed or existing rule in question ~~((has not been))~~ will not be modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, ~~((or))~~ (b) that an existing rule was not adopted in accordance with all applicable provisions of law, ~~((including section 4 of this act if the rule was adopted after the effective date of section 4 of this act and chapter 19.85 RCW;))~~ or (c) that the agency ~~((is using a policy statement, guideline, or issuance in place of a rule, or that the policy statement, guideline, or issuance is outside of the legislative intent))~~ will not replace the policy or interpretive statement with a rule, the rules review committee may, within thirty days from notification by the agency of its intended action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3) If the rules review committee makes an adverse finding regarding an existing rule under subsection (2) (a) or (b) of this section, the committee may, by a majority vote of its members, recommend suspension of ~~((an existing))~~ the rule. Within seven days of such vote the committee shall transmit to the appropriate standing committees of the legislature, the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(4) ~~((If the governor disapproves the recommendation of the rules review committee to suspend the rule, the transmittal of such decision, along with the findings of the rules review committee, shall be treated by the agency as a petition by the rules review committee to repeal the rule under RCW 34.05.330.~~

—~~(5))~~) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection ~~((1),)~~ (2)~~((,))~~ or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

~~((6))~~ (5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.

NEW SECTION. Sec. 6. RCW 34.05.645 and 1995 c 403 s 501 are each repealed.

Sec. 7. RCW 34.05.655 and 1995 c 403 s 502 are each amended to read as follows:

(1) Any person may petition the rules review committee for a review of ~~((that rule))~~ a proposed or existing rule or a policy or interpretive statement. Within thirty days of the receipt of the petition, the rules review committee shall acknowledge receipt of the petition and describe any initial action taken. If the rules review committee rejects the petition, a written statement of the reasons for rejection shall be included.

(2) A person may petition the rules review committee under subsection (1) of this section requesting review of an existing rule only if the person has petitioned the agency to amend or repeal the rule under RCW 34.05.330(1) and such petition was denied.

(3) A petition for review of a rule under subsection (1) of this section shall:

(a) Identify with specificity the proposed or existing rule to be reviewed;

(b) Identify the specific statute identified by the agency as authorizing the rule, the specific statute which the rule interprets or implements, and, if applicable, the specific statute the department is alleged not to have followed in adopting the rule;

(c) State the reasons why the petitioner believes that the rule is not within the intent of the legislature, or that its adoption was not or is not in accordance with law, and provide documentation to support these statements;

(d) Identify any known judicial action regarding the rule or statutes identified in the petition.

A petition to review an existing rule shall also include a copy of the agency's denial of a petition to amend or repeal the rule issued under RCW 34.05.330(1) and, if available, a copy of the governor's denial issued under RCW 34.05.330(3).

(4) A petition for review of a policy or interpretive statement under subsection (1) of this section shall:

- (a) Identify the specific statement to be reviewed;  
(b) Identify the specific statute which the rule interprets or implements;  
(c) State the reasons why the petitioner believes that the statement meets the definition of a rule under RCW 34.05.010 and should have been adopted according to the procedures of this chapter;  
(d) Identify any known judicial action regarding the statement or statutes identified in the petition.  
 (5) Within ninety days of receipt of the petition, the rules review committee shall make a final decision on the rule for which the petition for review was not previously rejected.

*\*Sec. 8. RCW 34.05.660 and 1988 c 288 s 606 are each amended to read as follows:*

(1) Except as provided in subsection (2) of this section, it is the express policy of the legislature that establishment of procedures for review of administrative rules by the legislature and the notice of objection required by RCW 34.05.630(2) and 34.05.640(2) in no way serves to establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceedings interpreting such rules.

(2) If the joint administrative rules review committee recommends to the governor that an existing rule be suspended because it does not conform with the intent of the legislature, the recommendation shall establish a rebuttable presumption in any proceeding challenging the validity of the rule that the rule is invalid. The burden of demonstrating the rule's validity is then on the adopting agency.

\*Sec. 8 was vetoed. See message at end of chapter.

Passed the Senate February 12, 1996.

Passed the House February 23, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 8, Engrossed Senate Bill No. 6702 entitled:

"AN ACT Relating to clarifying and streamlining procedures of the joint administrative rules review committee;"

The Joint Administrative Rules Review Committee (JARRC) plays an important role in providing a bipartisan forum for selective review of agency rules. This legislation clarifies a number of JARRC's procedures. I commend the members of the legislature for their continuing hard work.

I however, section 8 of Engrossed Senate Bill No. 6702 includes language that I have vetoed from two other bills in prior legislative sessions. This section would give JARRC the ability, by a simple majority vote of committee members, to establish a rebuttable presumption in judicial proceedings that a rule does not comply with the legislature's intent. The burden of proof to establish that a rule was within legislative intent would be shifted to the state agency rather than placed on the individual bringing the challenge. This would mean that five legislators out of a total of 147 could determine legislative intent. These five individual legislators would have this ability regardless of their

participation in the policy committees that developed the underlying legislation upon which the rule is based.

I have serious concerns about the constitutionality of this kind of authority. Article II, section 22 and Article III, section 12 of the state constitution require that legislative acts be passed by a majority of the members elected to each house of the legislature, with presentment to the governor for approval. This section violates these provisions. Moreover, section 8 of Engrossed Senate Bill No. 6702 violates the separation of powers doctrine in that it intrudes unduly into those constitutional powers reserved for the executive and judicial branches of government.

For these reasons, I have vetoed section 8 of Engrossed Senate Bill No. 6702.

With the exception of section 8, Engrossed Senate Bill No. 6702 is approved."

## CHAPTER 319

[Substitute Senate Bill 6767]

### COMPENSATION MODIFICATIONS FOR STATE EMPLOYEES UNDER CHAPTER 41.06 RCW—PROCEDURES

AN ACT Relating to establishing procedures for compensation modifications for state employees under chapter 41.06 RCW; amending RCW 41.06.150, 41.06.070, and 41.06.500; 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) The board shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150(15) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to such criteria as are developed by the board consistent with RCW 41.06.150(15)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of

financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.150(15) that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

**Sec. 2.** RCW 41.06.150 and 1995 2nd sp.s. c 18 s 911 are each amended to read as follows:

The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

- (1) The reduction, dismissal, suspension, or demotion of an employee.
- (2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;
- (3) Examinations for all positions in the competitive and noncompetitive service;
- (4) Appointments;
- (5) Training and career development;
- (6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;
- (7) Transfers;
- (8) Sick leaves and vacations;
- (9) Hours of work;
- (10) Layoffs when necessary and subsequent reemployment, both according to seniority;
- (11) Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective

bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position.

(a) The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services,

and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Beginning July 1, 1995, through June 30, 1997, in addition to the requirements of (a) of this subsection:

~~((a))~~ (i) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:

~~((#))~~ (A) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW;

~~((#))~~ (B) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or

~~((#))~~ (C) The implementation is a result of emergent conditions. Emergent conditions are defined as ~~((newly mandated programs for which moneys are not appropriated;))~~ emergency situations requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare, ~~((and related issues))~~ which do not exceed \$250,000 of the moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

~~((b) The board may approve the implementation of salary increases resulting from adjustments to the classification plan for implementation in the 1997-99 fiscal biennium only if the implementation will not result in additional net costs or the implementation has been approved by the legislature in the omnibus appropriations act or other legislation.~~

—(e)) (ii) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.

~~((d))~~ (iii) Adjustments made to the higher education hospital special pay plan are exempt from ~~((a) through (e))~~ (b)(i) through (ii) of this subsection;

(c) Reclassifications, class studies, and salary adjustments to be implemented during the 1997-99 and subsequent fiscal biennia are governed by (a) of this subsection and section 1 of this act.

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject

to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(21) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.

**Sec. 3.** RCW 41.06.070 and 1995 c 163 s 1 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:



(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant

to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1)(w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the Washington personnel resources board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for

classified salary increases resulting from adjustments to the classification plan as outlined in section 1 of this act.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**Sec. 4.** RCW 41.06.500 and 1993 c 281 s 9 are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted by the board for other employees, and to the extent that the rules adopted apply only to managers shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system consistent with the policy set forth in RCW 41.06.150(17). The system shall provide flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

Passed the Senate February 29, 1996.

Passed the House March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 320

[Engrossed Substitute House Bill 2537]

### BOARDS OF JOINT CONTROL

AN ACT Relating to the creation, operation, and management of boards of joint control; amending RCW 87.80.010, 87.80.020, 87.80.030, 87.80.050, 87.80.060, 87.80.090, 87.80.100, 87.80.110, 87.80.120, 87.80.130, 87.80.140, 87.80.160, 87.80.190, 87.80.200, 87.03.440, 90.03.380, 43.83B.050, and 43.99E.030; adding new sections to chapter 87.80 RCW; and repealing RCW 87.80.170, 87.80.180, and 87.80.210.

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

Sec. 1. RCW 87.80.010 and 1949 c 56 s 1 are each amended to read as follows:

A board of joint control may be created as provided in this chapter to administer: (1) The construction, operation, maintenance, betterments, and regulations of the ((water works, main, and branch canals, if any, and water lines and other water facilities)) joint use facilities, including reservoirs, canals, hydroelectric facilities within the works of the irrigation water supply system, pumping stations, drainage works, reserved works, and system interconnections, of two or more irrigation ((districts and others)) entities which are the owners of, have an ownership interest in, or are trustees for owners of water rights having the same ((natural)) source ((and)) or which use ((the same)) common works for the diversion and either transportation, or drainage, or both, of all or any part of their respective irrigation water supplies((, --may be created as hereinafter provided)); and (2) activities and programs that promote more effective and

efficient water management for the benefit of member entities of a board of joint control.

**NEW SECTION. Sec. 2.** A new section is added to chapter 87.80 RCW to read as follows:

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

(1) "Area of jurisdiction" means all lands within the exterior boundary of the composite area served by the irrigation entities that comprise the board of joint control as the boundary is represented on the map filed under RCW 87.80.030.

(2) "Irrigation entity" means an irrigation district or an operating entity for a division within a federal reclamation project.

(3) "Joint use facilities" means those works, including reservoirs, canals, hydroelectric facilities, pumping stations, drainage works, reserved works as may be transferred by contracts with the United States, and system interties that are determined by the board of joint control to provide common benefit to its members.

(4) "Ownership interest" means the irrigation entity holds water rights in its name for the benefit of its water users or, in federal reclamation projects, the irrigation entity has a contractual responsibility for delivery of water to its individual water users.

(5) "Source of water" means a hydrological distinct river or aquifer system from which board of joint control member entities appropriate water.

**Sec. 3.** RCW 87.80.020 and 1949 c 56 s 2 are each amended to read as follows:

(1) For the purpose of creating ~~((such))~~ a board of joint control petition signed by ~~((three))~~ two or more ~~((owners of))~~ entities that are owners of or hold an ownership interest in water rights having the same ~~((natural))~~ source of water ~~((and which owners))~~ or use common works for the diversion ~~((and))~~, transportation, or drainage of all or any part of their respective irrigation water supplies, ~~((as aforesaid, shall))~~ must be filed with the board of county commissioners of the county in which the greater part of the land irrigated from ~~((said))~~ the source of water supply is situated. ~~((No irrigation district shall be represented on said petition without the signatures of the entire membership of its board of directors.))~~

(2) The petition shall also be filed with the board of commissioners of each county containing lands irrigated from the source of water supply of the entities signing the petition. The board of county commissioners making the review under RCW 87.80.090 shall consider any comments of other boards of county commissioners provided within the public hearing and comment period on the petition.

**Sec. 4.** RCW 87.80.030 and 1949 c 56 s 3 are each amended to read as follows:

The petition for the creation of a board of joint control shall be addressed to the board of county commissioners, shall describe generally the ~~((water works, main, and branch canals, if any, and water lines and other water facilities involved))~~ relationship, if any, of the irrigation entities to an established federal reclamation project, the primary water works of the entities including reservoirs, main canals, hydroelectric facilities, pumping stations, and drainage facilities, giving them their local names, if any they have, and shall show generally the physical relationship of the lands being watered from the ~~((common use of said water works, canals, lines and other))~~ water facilities~~((: PROVIDED, That))~~. However, lands included in any irrigation ~~((district))~~ entity involved need not be described individually but shall be included by stating the name of the irrigation ~~((district))~~ entity and all the irrigable lands in the irrigation ~~((district))~~ entity named shall by that method be deemed to be involved unless otherwise specifically stated in the petition. Further, the petition must propose the formula for board of joint control apportionment of costs among its members, and may propose the composition of the board of joint control as to membership, chair, and voting structure. The petition shall also state generally the reasons for the creation of a board of joint control and any other matter the petitioners deem material, and shall allege that it is in the public interest and to the benefit of all the owners of the lands receiving water ~~((from said common source))~~ within the area of jurisdiction, that ((said)) the board of joint control be created and ((pray)) request that the board of county commissioners consider ((said)) the petition and take the necessary steps provided by law for the creation of a board of joint control. The petition shall be accompanied by a map showing the area of jurisdiction and the general location of the water ~~((works, main, and branch canals, if any, and water lines and other water))~~ supply and distribution facilities.

Sec. 5. RCW 87.80.050 and 1988 c 127 s 66 are each amended to read as follows:

Notice of the hearing on ~~((said))~~ the petition shall be given by the clerk of the board of county commissioners by publishing the same, at the cost of the board of control, if created, otherwise at the cost of the petitioners, in the official newspaper of ~~((the))~~ each county containing lands irrigated from the source of supply of the entities signing the petition. The notice shall be published in at least three weekly issues thereof~~((: PROVIDED, That))~~. However, the time of the hearing shall not be less than thirty days from the date of the first publication of ~~((said))~~ the notice. A copy of ~~((said))~~ the notice shall be posted at the regular meeting place of the board of directors of each irrigation ~~((district))~~ entity concerned in the granting or denial of ~~((said))~~ the petition and a copy of the notice shall be mailed to the department of ecology at Olympia at least thirty days prior to the day of ~~((said))~~ the hearing.

Sec. 6. RCW 87.80.060 and 1949 c 56 s 6 are each amended to read as follows:

The notice of the hearing on ~~((said))~~ the petition shall state that a petition ~~((praying for))~~ requesting the creation of a board of joint control to administer the ~~((operation, maintenance, betterments and regulation of the water works, main, and branch canals, if any, and water lines, naming them, if named in the petition, and other water facilities involved))~~ facilities and activities, naming them if named in the petition, has been filed with the board of county commissioners of the county ~~((naming it))~~, naming the county; that ~~((said))~~ the board of joint control, if it is created, will have authority to provide for ~~((assessments))~~ apportionment of costs to carry out the objects of its creation ~~((against the irrigable lands in the several irrigation districts))~~ among the member irrigation entities (naming them) ~~((and against any other lands involved if set out in the petition (describing them)))~~; shall state the day, hour, and place of the hearing on the petition; shall state that any person interested in the creation of ~~((said))~~ the board of joint control may appear on or before the day of hearing on ~~((said))~~ the petition, and show cause in writing, if any ~~((he has))~~, why the same should not be granted, and the notice shall be over the name of the clerk of the board of county commissioners.

**Sec. 7.** RCW 87.80.090 and 1949 c 56 s 8 are each amended to read as follows:

If the board of county commissioners determine that the creation of a board of joint control is in the public interest ~~((and is))~~, of benefit to the ~~((lands))~~ irrigation entities and individual water uses within those entities concerned, ((#)) and will not be detrimental to water right interests outside the proposed board of joint control area of jurisdiction: Then the county board shall so find and adopt a resolution creating the board of joint control, designating it (((give [giving] the)) name of county) County Joint Control Board No. (specify number), and the county board at the same time shall appoint ((the president of the board of directors of each irrigation district involved and the resident owner of each individual tract of land involved or such other person as any said landowner shall designate in writing, as)) the first members of ((said)) the board of joint control based on the board composition proposed in the petition and ((said)) the board of joint control shall consist of ((said)) this membership. A copy of ((said)) the resolution creating the board of joint control certified by the clerk of the county board shall be filed with the county assessor of the county in which the board of joint control was created and with the county assessor in any other county in the state in which any lands involved are situated, within five days after ((said)) the resolution is adopted.

**Sec. 8.** RCW 87.80.100 and 1949 c 56 s 9 are each amended to read as follows:

The principal office and place of business of the board of joint control shall be at a place to be designated by the board in the county in which the board was created. Each member of the board before entering on the duties of his or her office shall subscribe a written oath for the faithful discharge of his or her duties



as ~~((such))~~ a member and file the ~~((same))~~ oath with the county clerk of ~~((said))~~ the county. The filing of ~~((such))~~ the oath shall be without clerk's fee. The term of office of members of the board ~~((shall be))~~ is for one year or a fraction thereof ending on the first Monday in March next following their selection and until their respective successors are selected as ~~((herein))~~ provided in this section. The term of the first members of the board shall also be as above stated. In January of each year the board of directors of each irrigation ~~((district))~~ entity concerned shall designate in writing and deliver to the board of joint control, the name or names of the person or persons who constitute the entity's membership and who shall represent the ~~((district))~~ entity on the board of joint control for the ensuing year. ~~((Likewise, the owners of land concerned but not in the irrigation district, shall each designate in writing a person to represent their respective lands and file the same with the board of joint control and that board shall select from the list of persons so filed, one person to represent the lands outside any irrigation district on the board of joint control for the ensuing year.))~~ The persons ~~((so selected as aforesaid shall))~~ designated under this section constitute the board of joint control for ~~((such))~~ the year and until their respective successors are selected and have qualified. Any irrigation ~~((district or owner of land not in a district as the case may be, which))~~ entity that fails to designate its ~~((or his))~~ representative and to file the same as ~~((above))~~ provided ((shall)) in this section is not ~~((be))~~ entitled to representation on the board unless and until ~~((such))~~ the requirements are complied with.

Sec. 9. RCW 87.80.110 and 1949 c 56 s 10 are each amended to read as follows:

In the month of March, or another time as determined by the board of joint control, in each year the members of the board of joint control shall meet and organize as a board for the ensuing year and shall select a ~~((chairman))~~ chair from their number and appoint a secretary who may, but need not, be a member of the board, and who shall keep a record of their proceedings, and perform ~~((such))~~ other duties as the board ~~((shall))~~ prescribes. Business of the board shall be transacted at meetings thereof and a majority of the qualified membership of the board ~~((shall))~~ constitutes a quorum for the transaction of business and in all matters requiring action by the board there shall be a concurrence of at least a majority of the members present. However, if an alternative voting structure was proposed in the petition and adopted in the board of county commissioners' resolution, this structure will govern the voting procedures of the board of joint control. All meetings of the board shall be public.

Sec. 10. RCW 87.80.120 and 1949 c 56 s 11 are each amended to read as follows:

Each member of the board of joint control shall ~~((receive not to exceed ten dollars per day in attending meetings of the board to be determined by the board, and such compensation, not exceeding ten dollars per day for other services previously authorized and rendered the board, and in addition thereto, the~~

~~members shall receive necessary expenses in attending meetings or when otherwise engaged on the business of the board)) be compensated for services in accordance with the provisions of RCW 87.03.460. The amount must be fixed by resolution and entered in the minutes of the proceedings of the board. The board shall fix the compensation to be paid the secretary and all other agents and employees of the board.~~

Sec. II. RCW 87.80.130 and 1949 c 56 s 12 are each amended to read as follows:

(1) A board of joint control created under the provisions of this chapter shall have full authority within its area of jurisdiction to enter into and perform any and all necessary contracts~~((;))~~; to accept grants and loans, including, but not limited to, those provided under chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the necessary officers, agents, and employees~~((;))~~; to sue and be sued as a board but without personal liability of the members thereof in any and all matters in which all the irrigation ~~((districts and others))~~ entities represented on the board as a whole have a common interest without making ~~((such districts and other parties))~~ the irrigation entities parties to the suit; to represent ~~((said districts and others))~~ the entities in all matters of common interest as a whole within the scope of this chapter; and to do any and all lawful acts required and expedient to carry out the purposes of this chapter~~((; PROVIDED, That nothing in this chapter contained shall be held or construed to give the board of joint control authority to abridge, increase or modify the water rights of any irrigation district or others represented on the board or the privileges or burdens incident thereto or connected therewith and in the apportionment of expenses and outlays chargeable to the respective irrigation districts and others, the board shall be bound by their respective water rights and appurtenant privileges and burdens))~~.

(2) A board of joint control is authorized and encouraged to pursue conservation and system efficiency improvements to optimize the use of appropriated waters and to either redistribute the saved water within its area of jurisdiction, or, transfer the water to others, or both. A redistribution of saved water as an operational practice internal to the board of joint control's area of jurisdiction, may be authorized if it can be made without detriment or injury to rights existing outside of the board of control's area of jurisdiction, including instream flow water rights established under state or federal law. Prior to undertaking a water conservation or system efficiency improvement project which will result in a redistribution of saved water, the board of joint control must consult with the department of ecology and if the board's jurisdiction is within a United States reclamation project the board must obtain the approval of the bureau of reclamation. The purpose of such consultation is to assure that the proposal will not impair the rights of other water holders or bureau of reclamation contract water users. A board of control does not have the power to authorize a change of any water right that would change the point or points of diversion, purpose of use, or place of use outside the board's area of jurisdiction.

without the approval of the department of ecology pursuant to RCW 90.03.380 and if the board's jurisdiction is within a United States reclamation project, the approval of the bureau of reclamation.

(3) A board of joint control is authorized to design, construct, and operate either drainage projects, or water quality enhancement projects, or both.

(4) Where the board of joint control area of jurisdiction is totally within a federal reclamation project, the board is authorized to accept operational responsibility for federal reserved works.

(5) Nothing contained in this chapter gives a board of joint control the authority to abridge the existing rights, responsibilities, and authorities of an individual irrigation entity or others within the area of jurisdiction; nor in a case where the board of joint control consists of representatives of two or more divisions of a federal reclamation project shall the board of joint control abridge any powers of an existing board of control created through federal contract; nor shall a board of joint control have any authority to abridge or modify a water right benefitting lands within its area of jurisdiction without consent of the party holding the ownership interest in the water right.

(6) A board of joint control created under this chapter may not use any authority granted to it by this chapter or by RCW 90.03.380 to authorize a transfer of or change in a water right or to authorize a redistribution of saved water before July 1, 1997.

**Sec. 12.** RCW 87.80.140 and 1949 c 56 s 13 are each amended to read as follows:

In September of each year the board of joint control shall prepare a budget of its estimated expenses and outlay for the ensuing calendar year and the apportionment thereof chargeable against the several irrigation (~~(districts and others)~~) entities coming within the jurisdiction of the board and shall fix a time and place when (~~(said)~~) the budget shall be considered and adopted by the board. Notice of the hearing of the budget signed by the secretary of the board shall be published in at least two weekly issues of a newspaper of general circulation in each county in which any lands chargeable with (~~(said)~~) the expense and outlay of the board are situated. The date of the first publication of (~~(such)~~) the notice shall be not less than ten days prior to the day of (~~(said)~~) the hearing.

**Sec. 13.** RCW 87.80.160 and 1949 c 56 s 15 are each amended to read as follows:

Immediately after final adoption of the budget the secretary of the board shall mail or deliver a copy thereof showing the apportionment of the charge to each irrigation (~~(district)~~) entity, to the secretary of each irrigation (~~(district)~~) entity coming under the jurisdiction of the board of joint control and it shall be the duty of each irrigation (~~(district)~~) entity to include in its levy for the ensuing year, the amount apportioned and charged to it in the budget.

**Sec. 14.** RCW 87.80.190 and 1949 c 56 s 18 are each amended to read as follows:

There is (~~hereby~~) created in the county treasurer's office of the county in which the board of joint control was created, a special fund to be designated Control Fund of the (naming the county) County Joint Control Board No. (specifying the number). The county treasurer shall distribute all collections for this fund to (~~said~~) the control fund. The treasurer of any other county collecting assessments for this fund shall remit the (~~same~~) assessments monthly to the county treasurer of the county in which the board of joint control was created. However, at the option of the board of joint control, a treasurer other than the county treasurer may be designated under RCW 87.03.440.

**Sec. 15.** RCW 87.80.200 and 1949 c 56 s 19 are each amended to read as follows:

When the county treasurer serves as treasurer for the board of joint control, the board of joint control shall issue vouchers for its operations against (~~said~~) the control fund and the county treasurer shall pay out moneys from (~~said~~) the fund upon warrants drawn by the county auditor of said county.

NEW SECTION. **Sec. 16.** A new section is added to chapter 87.80 RCW to read as follows:

A board of joint control created under this chapter is limited to the membership, area of jurisdiction, and other terms and conditions contained in the resolution of the board of county commissioners filed under RCW 87.80.090. Amendments may be proposed at any time by the board of joint control to the board of county commissioners and acted upon through the petition process contained in RCW 87.80.030 through 87.80.090.

NEW SECTION. **Sec. 17.** A new section is added to chapter 87.80 RCW to read as follows:

An irrigation entity under contract with an agency of the federal government for the construction or operation of its irrigation system may not participate in a board of joint control under this chapter if this action is in conflict with provisions of the subject contract. If a responsible official of the federal agency notifies the board of county commissioners in writing on or before the day of hearing provided under RCW 87.80.060 of a conflict in contract provisions and evidences the conflict, the board of county commissioners must deny the irrigation entity's proposed participation. If subsequent to formation of a board of joint control, a judicial decision determines a conflict in contract conditions, the irrigation entity must not participate in a project or activity inconsistent with the court determination.

**Sec. 18.** RCW 87.03.440 and 1993 c 449 s 12 are each amended to read as follows:

The treasurer of the county in which is located the office of the district shall be ex officio treasurer of the district, and any county treasurer handling district funds shall be liable upon his or her official bond and to criminal prosecution for malfeasance and misfeasance, or failure to perform any duty as county or district treasurer. The treasurer of each county in which lands of the district are located

shall collect and receipt for all assessments levied on lands within his or her county. There shall be deposited with the district treasurer all funds of the district. The district treasurer shall pay out such funds upon warrants issued by the county auditor against the proper funds of the district, except the sums to be paid out of the bond fund for interest and principal payments on bonds: PROVIDED, That in those districts which designate their own treasurer, the treasurer may issue the warrants or any checks when the district is authorized to issue checks. All warrants shall be paid in the order of their issuance. The district treasurer shall report, in writing, on the first Monday in each month to the directors, the amount in each fund, the receipts for the month preceding in each fund, and file the report with the secretary of the board. The secretary shall report to the board, in writing, at the regular meeting in each month, the amount of receipts and expenditures during the preceding month, and file the report in the office of the board.

The preceding paragraph of this section notwithstanding, the board of directors or board of control of an irrigation district which lies in more than one county and which had assessments in each of two of the preceding three years equal to at least five hundred thousand dollars, or a board of joint control created under chapter 87.80 RCW, may designate some other person having experience in financial or fiscal matters as treasurer of the district. In addition, the board of directors of an irrigation district which lies entirely within one county may designate some other person having experience in financial or fiscal matters as treasurer of the district if the board has the approval of the county treasurer to designate some other person. If the board designates a 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 it finds from time to time will protect the district against loss. The premium on the bond shall be paid by the district. The designated treasurer shall collect and receipt for all irrigation district assessments on lands within the district and shall act with the same powers and duties and be under the same restrictions as provided by law for county treasurers acting in matters pertaining to irrigation districts, except the powers, duties, and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to be those of county treasurers.

In those districts which have designated their own treasurers, the provisions of law pertaining to irrigation districts which require certain acts to be done and which refer to and involve a county treasurer or the office of a county treasurer or the county officers charged with the collection of irrigation district assessments, except RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve the designated district treasurer or the office of the designated district treasurer.

Any claim against the district for which it is liable under existing laws shall be presented to the board as provided in RCW 4.96.020 and upon allowance it shall be attached to a voucher and approved by the chairman and signed by the secretary and directed to the proper official for payment: PROVIDED, That in

the event claimant's claim is for crop damage, the claimant in addition to filing his or her claim within the applicable period of limitations within which an action must be commenced and in the manner specified in RCW 4.96.020 must file with the secretary of the district, or in the secretary's absence one of the directors, not less than three days prior to the severance of the crop alleged to be damaged, a written preliminary notice pertaining to the crop alleged to be damaged. Such preliminary notice, so far as claimant is able, shall advise the district; that the claimant has filed a claim or intends to file a claim against the district for alleged crop damage; shall give the name and present residence of the claimant; shall state the cause of the damage to the crop alleged to be damaged and the estimated amount of damage; and shall accurately locate and describe where the crop alleged to be damaged is located. Such preliminary notice may be given by claimant or by anyone acting in his or her behalf and need not be verified. No action may be commenced against an irrigation district for crop damages unless claimant has complied with the provisions of RCW 4.96.020 and also with the preliminary notice requirements of this section.

Sec. 19. RCW 90.03.380 and 1991 c 347 s 15 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 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 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 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.

If an application for change proposes to transfer water rights from one irrigation district to another, the department shall, before publication of notice, receive concurrence from each of the irrigation districts that such transfer or change will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of either of the districts.

A change in place of use by an individual water user or users of water provided by an irrigation district need only receive approval for the change from the board of directors of the district if the use of water continues within the irrigation district, and when water is provided by an irrigation entity that is a member of a board of joint control created under chapter 87.80 RCW, approval need only be received from the board of joint control if the use of water continues within the area of jurisdiction of the joint board and the change can be made without detriment or injury to existing rights.

This section shall not apply to trust water rights acquired by the state through the funding of water conservation projects under chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

**Sec. 20.** RCW 43.83B.050 and 1975 c 18 s 1 are each amended to read as follows:

As used in this chapter, the term "water supply facilities" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal, industrial, or agricultural water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, a board of joint control, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington.

**Sec. 21.** RCW 43.99E.030 and 1979 ex.s. c 234 s 5 are each amended to read as follows:

As used in this chapter, the term "water supply facilities" means domestic, municipal, industrial, and agricultural (and any associated fishery, recreational, or other beneficial use) water supply or distribution systems including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; a board of joint control; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington.

NEW SECTION. **Sec. 22.** A new section is added to chapter 87.80 RCW to read as follows:

A board of joint control created among irrigation entities utilizing waters of the Yakima river and tributaries shall, when undertaking water conservation

projects, fully coordinate those projects with federal and state programs adopted under the Yakima river basin water enhancement project, P.L. 103-434. The projects shall be developed and implemented, consistent with the board's development schedule, within the framework of the Yakima river basin water enhancement project policies and procedures provided by the state and federal governments, as funds are available to the board of joint control for the projects. However, should there be no reasonable prospect of funding for construction by the federal and state government within three years of the date of the publication of the Yakima river basin conservation plan under P.L. 103-434, the board of joint control may pursue the projects under alternative funding programs and conditions.

**NEW SECTION.** Sec. 23. A new section is added to chapter 87.80 RCW to read as follows:

This chapter shall not affect the final decree of a general adjudication conducted under RCW 90.03.110 through 90.03.245.

**NEW SECTION.** Sec. 24. The following acts or parts of acts are each repealed:

- (1) RCW 87.80.170 and 1949 c 54 s 16;
- (2) RCW 87.80.180 and 1949 c 56 s 17; and
- (3) RCW 87.80.210 and 1949 c 56 s 20.

Passed the House March 4, 1996.

Passed the Senate February 29, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 321

[Engrossed House Bill 2613]

### SCHOOL DISCIPLINE

AN ACT Relating to school discipline; and amending RCW 28A.225.225, 28A.305.160, and 28A.635.090.

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

*\*Sec. 1. RCW 28A.225.225 and 1995 c 52 s 3 are each amended to read as follows:*

*(1) All districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications ((by June 30, 1990)). The policy may include rejection of nonresident students if acceptance of these students would result in the district experiencing a financial hardship, or if the nonresident student's disciplinary record indicates a history of behavior that has been disruptive to the educational process.*



*(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).*

\*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 28A.305.160 and 1975-'76 2nd ex.s. c 97 s 1 are each amended to read as follows:

(1) The state board of education shall adopt and distribute to all school districts lawful and reasonable rules (~~((and—regulations))~~) prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules (~~((and—regulations))~~) shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the state board deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

Sec. 3. RCW 28A.635.090 and 1990 c 33 s 540 are each amended to read as follows:

It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, person under contract with the school or school district, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. Any such interference by force or violence committed by a student shall be grounds for immediate suspension or expulsion of the student.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Engrossed House Bill No. 2613 entitled:

"AN ACT Relating to school discipline;"

Engrossed House Bill No. 2613 specifies that use of force or violence against school personnel is grounds for a student's immediate suspension or expulsion and allows school districts to impose a temporary suspension or expulsion for up to ten days pending an appeal.

Section 1 of Engrossed House Bill No. 2613 contains a provision that would allow school districts to deny an application for admission from a nonresident student if the student's disciplinary record indicates a history of behavior that has been disruptive to the educational process.

I understand that several school districts are seeking this authority because they have been unable, in the past, to deny admission to nonresident students with long histories of serious disciplinary problems. While I appreciate the frustration of these districts in such cases, I am concerned that this broadly-worded provision would authorize school districts across the state to deny admission to nonresident students with any kind of disciplinary record. Such authority is clearly inappropriate and inconsistent with the responsibility of our public school system to provide educational services for all our children. A more targeted approach is necessary to address the concerns raised by these school districts.

For these reasons, I have vetoed section 1 of Engrossed House Bill No. 2613.

With the exception of section 1, Engrossed House Bill No. 2613 is approved."

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**CHAPTER 322**

[House Bill 2716]

**WASTE DISCHARGE PERMITS—EXEMPTION FROM STATE ENVIRONMENTAL POLICY ACT PROVISION FOR EXISTING DISCHARGES**

AN ACT Relating to review of renewal of waste discharge permits; and adding a new section to chapter 43.21C RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C RCW to read as follows:

The issuance, reissuance, or modification of a waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules is not subject to the requirements of RCW 43.21C.030(2)(c). This exemption applies to existing discharges only and does not apply to new source discharges.

Passed the House February 6, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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**CHAPTER 323**

[Engrossed Substitute House Bill 2828]

**PERSONAL WIRELESS SERVICE FACILITIES**

AN ACT Relating to personal wireless service facilities; adding a new section to chapter 43.21C RCW; adding a new section to chapter 80.36 RCW; adding a new section to chapter 19.27A RCW; adding a new section to chapter 70.92 RCW; adding new sections to chapter 43.70 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 concerns have been raised over possible health effects from exposure to some wireless telecommunications facilities, and that exposures from these facilities should be kept as low as reasonably achievable while still allowing the operation of these networks.

The legislature further finds that the department of health should serve as the state agency that follows the issues and compiles information pertaining to potential health effects from wireless telecommunications facilities.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.21C RCW to read as follows:

(1) Decisions pertaining to applications to site personal wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a)(i) The facility to be sited is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school; or (ii) the facility includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or a school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agricultural zone; or (iii) the siting project involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone; and

(b) The project is not in a designated environmentally sensitive area; and

(c) The project does not consist of a series of actions: (i) Some of which are not categorically exempt; or (ii) that together may have a probable significant adverse environmental impact.

(2) The department of ecology shall adopt rules to create a categorical exemption for microcells and other personal wireless service facilities that meet the conditions set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Personal wireless service facilities" means facilities for the provision of personal wireless services.

(c) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

**NEW SECTION.** Sec. 3. A new section is added to chapter 80.36 RCW to read as follows:

(1) If a personal wireless service provider applies to site several microcells in a single geographical area:

(a) If one or more of the microcells are not exempt from the requirements of RCW 43.21C.030(2)(c), local governmental entities are encouraged: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents required by chapter 43.21C RCW that will apply to all the microcells to be sited;

and (ii) to render decisions under chapter 43.21C RCW regarding all the microcells in a single administrative proceeding; and

(b) Local governmental entities are encouraged: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents for land use permits that will apply to all the microcells to be sited; and (ii) to render decisions regarding land use permits for all the microcells in a single administrative proceeding.

(2) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

**NEW SECTION.** Sec. 4. A new section is added to chapter 19.27A RCW to read as follows:

(1) The state building code council shall exempt equipment shelters of personal wireless service facilities from building envelope insulation requirements.

(2) For the purposes of this section, "personal wireless service facilities" means facilities for the provision of personal wireless services.

**NEW SECTION.** Sec. 5. A new section is added to chapter 70.92 RCW to read as follows:

(1) The state building code council shall amend its rules under chapter 70.92 RCW, to the extent practicable while still maintaining the certification of those regulations under the federal Americans with disabilities act, to exempt personal wireless services equipment shelters, or the room or enclosure housing equipment for personal wireless service facilities, that meet the following conditions: (a) The shelter is not staffed; and (b) to conduct maintenance activities, employees who visit the shelter must be able to climb.

(2) For the purposes of this section, "personal wireless service facilities" means facilities for the provision of personal wireless services.

**NEW SECTION.** Sec. 6. A new section is added to chapter 43.70 RCW to read as follows:

When funds are appropriated for this purpose, the department shall conduct a survey of scientific literature regarding the possible health effects of human exposure to the radio frequency part of the electromagnetic spectrum (300Hz to 300GHz). The department shall submit the survey results to the legislature, prepare a summary of that survey, and make the summary available to the public. The department shall update the survey and summary periodically.

**NEW SECTION.** Sec. 7. A new section is added to chapter 43.70 RCW to read as follows:

Unless this section is preempted by applicable federal statutes, the department may require that in residential zones or areas, all providers of personal wireless services, as defined in section 1 of this act, provide random test results on power density analysis for the provider's licensed frequencies showing radio frequency levels before and after development of the personal wireless service antenna facilities, following national standards or protocols of the federal communications commission or other federal agencies. This section shall not apply to microcells as defined in section 3 of this act. The department may adopt rules to implement this section.

Passed the House March 6, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

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## CHAPTER 324

[Senate Bill 6171]

### SPECIAL PURPOSE DISTRICT ELECTIONS—CERTAIN PRIMARIES ELIMINATED

AN ACT Relating to special purpose district elections; and amending RCW 29.21.015, 36.69.090, 68.52.140, and 68.52.155.

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

**Sec. 1.** RCW 29.21.015 and 1990 c 59 s 90 are each amended to read as follows:

(1) No primary may be held for any single position in any city, town, or district, as required by RCW 29.21.010, if, after the last day allowed for candidates to withdraw, there are no more than two candidates filed for the position. The county auditor shall, as soon as possible, notify all the candidates so affected that the office for which they filed will not appear on the primary ballot.

(2) No primary may be held for the office of commissioner of a park and recreation district or for the office of cemetery district commissioner.

(3) Names of candidates (~~so notified~~) for offices that do not appear on the primary ballot shall be printed upon the general election ballot in the manner specified by RCW 29.30.025.

**Sec. 2.** RCW 36.69.090 and 1994 c 223 s 45 are each amended to read as follows:

A park and recreation district shall be governed by a board of five commissioners. Except for the initial commissioners, all commissioners shall be elected to staggered four-year terms of office and shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. Candidates shall run for specific commissioner positions.

Elections for park and recreation district commissioners shall be held biennially in conjunction with the general election in each odd-numbered year. Elections shall be held in accordance with the provisions of Title 29 RCW

dealing with general elections, except that there shall be no primary to nominate candidates. All persons filing and qualifying shall appear on the general election ballot and the person receiving the largest number of votes for each position shall be elected.

Sec. 3. RCW 68.52.140 and 1994 c 223 s 75 are each amended to read as follows:

The county legislative authority shall have full authority to hear and determine the petition, and if it finds that the formation of the district will be conducive to the public welfare and convenience, it shall by resolution so declare, otherwise it shall deny the petition. If the county legislative authority finds in favor of the formation of the district, it shall designate the name and number of the district, fix the boundaries thereof, and cause an election to be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this chapter, and for the purpose of electing its first cemetery district commissioners. At the same election three cemetery district commissioners shall be elected, but the election of the commissioners shall be null and void if the district is not created. No primary shall be held for the office of cemetery district commissioner. A special filing period shall be opened as provided in RCW 29.15.170 and 29.15.180. Candidates shall run for specific commissioner positions. The person receiving the greatest number of votes for each commissioner position shall be elected to that commissioner position. The terms of office of the initial commissioners shall be as provided in RCW 68.52.220.

Sec. 4. RCW 68.52.155 and 1994 c 223 s 73 are each amended to read as follows:

Cemetery district elections shall conform with general election laws, except that there shall be no primary to nominate candidates. All persons filing and qualifying shall appear on the general election ballot and the person receiving the largest number of votes for each position shall be elected.

A vacancy on a board of cemetery district commissioners shall occur and shall be filled as provided in chapter 42.12 RCW.

Passed the Senate February 5, 1996.

Passed the House March 1, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.

## CHAPTER 325

[Substitute Senate Bill 6637]

### GROWTH MANAGEMENT HEARINGS BOARD—LIMITATIONS ON DISCRETION

AN ACT Relating to limitations on growth management hearings board discretion; and amending RCW 36.70A.270, 36.70A.280, 36.70A.300, 36.70A.320; adding a new section to chapter 36.70A RCW; and declaring an emergency.

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

**Sec. 1.** RCW 36.70A.270 and 1994 c 257 s 1 are each amended to read as follows:

Each growth ((planning)) management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may appoint one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been

formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and decisions they render and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, shall govern the ((administrative rules of)) practice and procedure ((adopted by)) of the boards.

(8) A board member or hearing examiner is subject to disqualification ~~((for bias, prejudice, interest, or any other cause for which a judge is disqualified))~~ under chapter 34.05 RCW. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

Sec. 2. RCW 36.70A.280 and 1995 c 347 s 108 are each amended to read as follows:

(1) A growth management hearings board shall hear and determine only those petitions alleging either:

(a) That a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter((;)); (b) a person who has ((either appeared)) participated orally or in writing before the county or city regarding the matter on which a review is being requested ((or)); (c) a person who is certified by the governor



within sixty days of filing the request with the board((;)); or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

***\*Sec. 3. RCW 36.70A.300 and 1995 c 347 s 110 are each amended to read as follows:***

***(1) The board shall issue a final order within one hundred eighty days of receipt of the petition for review, or, when multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated. Such a final order shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to plans, development regulations, and amendments thereto, adopted under RCW 36.70A.040 or chapter 90.58 RCW. In the final order, the board shall either: (a) Find that the state agency, county, or city is in compliance with the requirements of this chapter or chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs; or (b) find that the state agency, county, or city is not in compliance with the requirements of this chapter or chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, in which case the board shall remand the matter to the affected state agency, county, or city and specify a reasonable time not in excess of one hundred eighty days within which the state agency, county, or city shall comply with the requirements of this chapter.***

***(2) A finding of noncompliance and an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand(~~(, unless the board's)~~). In addition, the board may issue a determination of invalidity as part of its final order (~~(also)~~) of noncompliance which shall:***

(a) ~~Include((s)) a determination, supported by findings of fact and conclusions of law, that the continued validity of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and~~

(b) ~~((Specifies)) Specify the particular part or parts of the plan or regulation that are determined to be invalid, the geographic area or areas where the determination of invalidity is applicable, if appropriate, and the reasons for their invalidity.~~

(3) A determination of invalidity shall~~((+~~

~~—(a)) not take effect until at least ninety days after the determination of invalidity was made, during which period the board shall review the progress of the county or city. If, after holding a hearing on the matter, the board finds that the county or city is making substantial progress toward adopting a plan or regulations or taking other actions under this chapter, relating to the order, that would not be determined to be invalid under subsection (2) of this section, the board shall extend the ninety-day period for a reasonable period and continue its jurisdiction over the matter. If, after holding a hearing on the matter, the board finds that substantial progress is not being made, the board shall enter an order effectuating the determination of invalidity. The hearing must be held prior to the ninetieth day. Another hearing shall be held prior to the end of any extension granted by the board. Any order effectuating the determination of invalidity shall be prospective in effect and shall not extinguish rights that ((vested)) vest under state or local law before or after the date of the board's order((; and~~

~~—(b) Subject)) effectuating the determination of invalidity. Any order effectuating the determination of invalidity shall not affect the validity of the comprehensive plan, development regulations, or other actions taken under this chapter, except that any ((development)) application for the division of land under chapter 58.17 RCW, in any geographic area or areas where the determination of invalidity is applicable, that would otherwise vest after the date of the board's order effectuating the determination of invalidity, shall vest to the local ordinance or resolution that ((both is enacted in response to the order of remand and determined by the board pursuant to RCW 36.70A.330 to comply with the requirements of this chapter)) the county or city adopts in response to the order effectuating the determination of invalidity after the board determines that the response would not be invalidated under subsection (2) of this section. Boundary line adjustments that do not increase the number of lots are not affected by an order effectuating a determination of invalidity. The board shall hold a hearing before removing the order effectuating its determination of invalidity.~~

(4) ~~((If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (2) of this section whether the prior policies or regulations are valid during the period of remand.)) A~~

county or city for which a determination of invalidity was made prior to the effective date of this act may petition the board for a stay of the determination of invalidity, based on a showing under the procedures of subsection (3) of this section that it is making substantial progress toward adopting a plan or development regulations, or taking other actions under this chapter, relating to the order, that would not otherwise be declared invalid under subsection (2) of this section. After holding a hearing, the board shall enter an order rescinding, staying, modifying, or continuing the prior determination of invalidity.

(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board. The court shall conduct an independent review of the board's legal conclusions.

\*Sec. 3 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 36.70A RCW to read as follows:

The court shall provide expedited review of a determination of invalidity or an order effectuating a determination of invalidity made or issued under RCW 36.70A.300. The matter must be set for hearing within sixty days of the date set for submitting the board's record, absent a showing of good cause for a different date or a stipulation of the parties.

\*Sec. 5. RCW 36.70A.320 and 1995 c 347 s 111 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, designations, comprehensive plans (and), development regulations, and other actions required by this chapter, and amendments thereto, adopted under this chapter are presumed valid upon adoption. In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the board shall not substitute its judgment for that of a county or city regarding the exercise of such discretion. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board has no discretion to prioritize, balance, or rank the goals set forth in RCW 36.70A.020, all of which shall be used by counties and cities as provided in RCW 36.70A.020.

(b) The burden of proof shall be on the petitioner. The board shall find compliance unless it finds ((by a preponderance of the evidence that the state agency, county, or city erroneously interpreted or applied this chapter)) that: (i) The state agency, county, or city erroneously interpreted this chapter; or (ii) the action of the state agency, county, or city is not supported by evidence that is substantial when reviewed in light of the whole record before the board.

*(2) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.*

\*Sec. 5 was vetoed. See message at end of chapter.

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, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 7, 1996.

Passed the House March 7, 1996.

Approved by the Governor March 30, 1996, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 3 and 5, Substitute Senate Bill No. 6637 entitled:

"AN ACT Relating to limitations on growth management hearings board discretion;"

Substitute Senate Bill No. 6637 clarifies the statutes dealing with the Growth Management Hearings Boards.

Sections 1 and 2 of this bill are simple clarifications of current law governing board actions and are not controversial. Section 4 provides for expedited judicial review of board actions in cases in which a board issues a determination of invalidity and such a determination is appealed. While the authority of the legislature to direct the courts to expedite review is not clear, it is reasonable to encourage prompt consideration by the courts of such board actions within their civil dockets given the significant impacts that may be involved in the invalidation of local land use ordinances.

Section 3 of this bill has two major elements, one changing provisions regarding invalidity, the other addressing how courts should review board decisions.

The legislature acted in 1995 to respond to uncertainty regarding the vesting status of projects in jurisdictions in which boards had found comprehensive plans or development regulations out of compliance with the Growth Management Act. Prior to 1995, there was concern that the result might be an effective moratorium on development. The legislature provided that projects vest under a local land use statute, even if it has been found out of compliance, unless and until a board issues a determination of invalidity. Such a determination must meet a higher standard than is needed to find noncompliance. For a board to issue a determination of invalidity, it must find that the continued validity of the plan or regulation would "substantially interfere with the fulfillment of the goals" of the act. After a determination of invalidity, new projects vest under whatever ordinance is eventually adopted in compliance with the act.

Since this change in 1995, there has been significant controversy regarding the use of this authority by the boards. Some have argued that boards have used the authority to respond to repeated refusal by a small minority of local governments to pass statutes that complied with the act. Others have argued that the use of this power has created temporary chaos rather than greater certainty and that the use of this power has altered the "bottom up" nature of growth planning. The legislature responded by revisiting the 1995 sections in this bill.

Substitute Senate Bill No. 6637 requires that when a board makes a determination of invalidity, it must specify the provisions to which the determination would apply and must wait ninety days before effectuating the order. Additional time must be granted to

the local government if it is making "substantial progress" toward adopting a plan or regulations.

During this period, all projects vest to the local ordinance which has been found to substantially interfere with fulfillment of the goals of the act. After this period, the board may issue an order effectuating the determination of invalidity. When such an order is issued, it provides that divisions of land vest to new ordinances ultimately found in compliance by the boards. Other development continues to vest to the provisions which have been found invalid by the boards, until new ordinances have been enacted. The concept that projects should vest to provisions of law that substantially interfere with fulfillment of the goals of the act is not wise.

This was an honest attempt to develop a compromise in a difficult area of the law. I commend the legislature for its efforts, but as drafted, Substitute Senate Bill No. 6637 is not without significant flaws.

To permit vesting to a plan or regulation that has been found to substantially interfere with fulfillment of the goals of the act is an incentive for local governments to continue to remain out of compliance with legitimate board orders. Despite the local nature of growth planning, the act reflects statewide concerns. The boards are intended to ensure that local solutions remain within the requirements and goals of the act. If board determinations are ignored, the boards are nothing more than a time-consuming annoyance on the way to court. Meanwhile traffic congestion worsens, sprawl continues, air quality degrades, habitat is lost, the public's ability to pay for infrastructure is strained and frustration mounts.

The section also provides that in appeals of Growth Management Hearing Board decisions, the court is to conduct an independent review of the board's legal conclusions. It is unclear whether this merely clarifies the current court practice of independently reviewing the actions of quasi-judicial boards as to their legal conclusions or whether it directs the courts to grant no deference to the board's specialized expertise. At best, this lack of clarity makes the court's task in reviewing board decisions more difficult than would already be the case. At worst, these provisions render the decisions of the boards meaningless and prolong the resolution of underlying dispute.

I am aware of criticism of a few board actions, but in the vast majority of the appeals brought to the boards, they have been successful in achieving prompt resolution of the issues in dispute. The boards were established to resolve difficult land use planning disputes, including those between local governments, to reflect regional differences, to bring more expertise to these issues, and to resolve issues more quickly than court action would require.

I believe that this provision is a message by the legislature to the boards directing them to use discretion in their authority to invalidate local ordinances. I echo this message. There are some situations in which local actions are so far out of compliance with the requirements and goals of the act that severe action is appropriate. However, overuse of this authority will only serve to weaken both the authority of the boards and the act itself.

I am requesting that the Land Use Study Commission, established in 1995, make recommendations to the 1997 Legislature and to the governor proposing how to clarify and simplify the law in this area. Such recommendations should propose how to establish greater certainty in local growth planning and encourage local planning and actions to comply with the requirements and goals of the Growth Management Act.

Section 5 of Substitute Senate Bill No. 6637 recognizes the broad range of discretion that may be exercised by local governments under the Growth Management Act. In the act, the legislature specified a set of goals and a related series of procedural and substantive requirements towards achieving them. While requiring compliance, the legislature recognized the diversity of the state and the power inherent in local land use decision-making. Consistent with these requirements, local governments retain broad discretion.

However, local discretion must be exercised in a manner that is consistent with the requirements of the act. The boards have the difficult responsibility of interpreting the legislative meaning of the act in specific local disputes without substituting their judgment

for that of local governments. This is among the most difficult challenges facing the boards and local governments.

Section 5 of this bill states that the boards are not to prioritize, balance or rank the goals of the Growth Management Act. This provision appears to prevent the boards from evaluating whether local governments have been guided by the goals or whether, in meeting the requirements of the act, they have reflected the value content of the goals. Such a limitation would reduce the boards to a purely procedural role. If this provision were to become law, most local disputes would require court action for resolution. The boards can only function effectively if they have the authority, when resolving disputes, to ensure that local governments are complying with the requirements and not substantially interfering with fulfillment of the goals of the act.

This section also clarifies that in cases heard by Growth Management Hearings Boards, the burden of proof is on the petitioner. This principle was understood at the establishment of the boards. The boards have adopted rules which include this standard.

Section 5 of Substitute Senate Bill No. 6637 clarifies the standard of review to be used by the boards to judge cases. In matters of law, the bill directs the boards to find compliance unless they find that a state agency or local government erroneously interpreted the chapter. In issues of fact, compliance is to be found if the action of the state agency or local government is not supported by evidence that is substantial when reviewed in light of the whole record before the board.

In reviewing legal questions, the boards must determine whether local governments have been right or wrong in their legal interpretation of the provisions of the Growth Management Act as evidenced by their application of the act. The standard for reviewing questions of fact directs the boards to defer somewhat to local governments as long as they present enough evidence to allow a reasonable person to act. This is similar to the direction by the boards to local governments to "show your work", stating that local governments deserve deference if they establish a rational basis for making complex land use decisions.

I believe the boards should grant deference to local governments in how they plan for growth consistent with the requirements and goals of the act. Local comprehensive plans and development regulations require local governments to balance priorities and options for action in full consideration of local circumstances. While the act requires that local action take place within a state framework, the local land use process is not aimed at perfection but at allowing local communities to make choices about their future.

The legislature attempted to clarify the standard that boards must use to resolve disputes between local governments and affected parties. With one exception, I believe that they succeeded. However, the prohibition against board action regarding the goals of the act appears to prevent the boards from ensuring that the goals have their intended effect. I cannot approve this. After six years, implementation of the act is forcing us again to consider how to maintain local control within a framework of state goals and requirements. In many jurisdictions, plans have been adopted and many are fully involved in implementing their plans. In these jurisdictions, we can see the results of good planning. But in some jurisdictions, the distance between traditional development patterns and practices and the dramatic changes required by the act have divided communities and resulted in angry disputes between local governments and the boards.

People acting in good faith have come to very different conclusions about how best to manage growth. The state must revisit the issue of how to resolve these disputes. I am requesting that the Land Use Study Commission make recommendations to the legislature and to the governor regarding improvements to our dispute resolution structure.

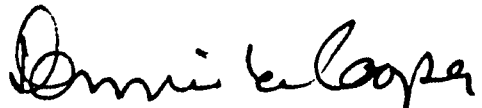
For these reasons, I have vetoed sections 3 and 5 of Substitute Senate Bill No. 6637.

With the exception of sections 3 and 5, Substitute Senate Bill No. 6637 is approved."

## AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by 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 1996 session (54th Legislature), chapters 200 through 325, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 12th day of April, 1996.

A handwritten signature in black ink, appearing to read "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D" and "C".

DENNIS W. COOPER  
Code Reviser





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ESSB 6168	231	SB 6339	311	
SSB 6169	155	SB 6366	65	
SB 6171	324	SSB 6379	99	
SSB 6173	282	SB 6380	100	
SB 6174	305	ESSB 6392	312	
SB 6177	97	ESSB 6398	27	
SB 6181	24	SB 6401	170	
SSB 6188	156	SB 6403	161	
SSB 6189	221	ESB 6413	238	
SSB 6197	306	SB 6414	28	
SSB 6198	56	SSB 6422	239	
ESSB 6204	307	ESB 6423	250	
ESSB 6211	308	SB 6425	66	
		ESSB 6427	4	
		SB 6428	313	

"PV" Denotes partial veto by Governor [ 1733 ]

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Number	Chapter Number Laws of 1996		Number	Chapter Number Laws of 1996
SSB	6430			<b>HOUSE</b>
SB	6441		SHB	1008
SSB	6466		SHB	1018
SB	6467		E2SHB	1078
SB	6476		2SHB	1182
SSB	6487		2SHB	1229
SB	6489		ESHB	1231
SSB	6510		2SHB	1289
SB	6511		HB	1302
SSB	6514	PV	HB	1339
ESSB	6521		3SHB	1381
SB	6526		ESHB	1556
SSB	6529		HB	1601
SSB	6533		HB	1627
ESB	6544		EHB	1647
SSB	6551		2EHB	1659
ESSB	6554		ESHB	1704
E2SSB	6556		HB	1712
ESB	6566		2SHB	1860
SSB	6572		SHB	1964
SSB	6576		2ESHB	1967
SSB	6579		SHB	1990
SSB	6583	PV	4SHB	2009
SB	6615		2SHB	2031
SB	6617		SHB	2075
ESB	6631		EHB	2115
ESB	6635		SHB	2119
SSB	6636		SHB	2125
SSB	6637	PV	HB	2126
ESB	6651		EHB	2132
SSR	6656	PV	EHB	2133
ESSB	6666		HB	2134
SB	6672		HB	2136
SSB	6673		HB	2137
ESSB	6680	PV	SHR	2140
SB	6684		ESHB	2150
SSB	6694		SHB	2151
SSB	6699		HB	2152
ESB	6702	PV	SHB	2167
E2SSB	6705		HB	2172
SB	6718		SHB	2179
SSB	6725		SHB	2186
SSB	6748		HB	2187
ESSB	6753		SHB	2188
SB	6757		HB	2190
SSB	6767		SHB	2191
ESB	6776		SHB	2192
			SHB	2195
			ESHB	2214

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Number		Chapter Number Laws of 1996		Number	Chapter Number Laws of 1996		
E2SHB	2217	133	PV	ESHB	2485	296	
E2SHB	2222	288	PV	SHB	2487	130	
ESHB	2227	199		HB	2490	297	
HB	2250	174		HB	2494	83	
EIIB	2254	139		HB	2495	84	
SHB	2256	119		SHB	2498	147	
HB	2259	40		ESHB	2509	3	
HB	2290	166		SHB	2513	85	
HB	2291	253	PV	SHB	2518	114	
2SHB	2292	41		SHB	2520	86	
2SHB	2293	142		HB	2531	10	
SHB	2294	107		SHB	2533	298	
ESHB	2309	200		SHB	2535	213	
SHB	2310	201	PV	ESHB	2537	320	
SHB	2311	202		HB	2538	214	
SIIB	2320	289	PV	SHB	2545	215	
HB	2322	8		IIB	2551	87	
2SHB	2323	203		HB	2559	216	
HB	2333	42		HB	2567	254	
HB	2337	290	PV	SHB	2579	123	
SHB	2338	204	PV	SHB	2580	124	
SHB	2339	205		HB	2589	45	
HB	2340	82		SHB	2590	148	
HB	2341	291		HB	2591	88	
ESHB	2343	165	PV	ESHB	2592	149	
SHB	2358	122		HB	2593	150	
HB	2365	292		HB	2595	89	
SHB	2371	293		SHB	2605	46	
SHB	2376	294		EHB	2613	321	PV
SHB	2386	206		HB	2623	255	
SHB	2388	43		HB	2628	47	
HB	2389	44		HB	2636	217	
HB	2392	9		ESHB	2637	110	
EHB	2396	207		HB	2638	74	
HB	2414	143		ESHB	2640	134	
SHB	2420	295	PV	HB	2652	125	
SIIB	2431	144		SHB	2656	218	
HB	2440	145		ESHB	2657	168	
SHB	2444	136		HB	2659	90	
SHB	2446	208		HB	2660	91	
EHB	2452	209		HB	2661	256	PV
HB	2457	146		SHB	2664	257	
HB	2459	116		EHB	2672	252	
SHB	2463	210		SHB	2682	258	
HB	2467	167		HB	2687	92	
SHB	2468	211		SHB	2689	259	PV
EHB	2472	248		HB	2691	11	
SHB	2478	212		HB	2692	93	
HB	2484	247	PV	ESHB	2703	260	

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Number	Chapter Number Laws of 1996
SHB 2708	299
HB 2716	322
SHB 2720	261
SHB 2724	151
HB 2726	48
SHB 2727	262
HB 2729	49
SHB 2730	94
SHB 2733	12
EHB 2735	50
SHB 2746	95
SHB 2755	51
SHB 2757	263
SHB 2758	152
SHB 2762	264
SHB 2772	265
SHB 2778	117
ESHB 2781	300
SHB 2785	219
HB 2789	111
HB 2791	266
ESHB 2793	267
HB 2810	13
HB 2811	268
HB 2814	220
ESHB 2828	323
ESHB 2832	129
HB 2836	52
EHB 2837	269
EHB 2838	270
HB 2849	271
2SHB 2856	131
HB 2861	272
ESHB 2875	138
E2SHB 2909	273
HB 2913	53
SHB 2939	274

PV

## RCW SECTIONS AFFECTED BY 1996 STATUTES

LEGEND				RCW	CH.	SEC.	
ADD	=	Add a new section		9.46.010	AMD	101	2
AMD	=	Amend existing law		9.46.0269	AMD	252	2
DECD	=	Decodify existing law		9.46.0281	AMD	314	1
REEN	=	Reenact existing law		9.73.095	AMD	197	1
REMD	=	Reenact and amend		9.73.145	REP	197	3
REP	=	Repeal existing law		9.91.140	AMD	78	1
				9.92.010	AMD	44	2
				9.92.060	AMD	298	5
				9.94A	ADD	44	1
				9.94A	ADD	232	2
				9.94A.030	REMD	275	5
				9.94A.030	REMD	289	1
				9.94A.040	AMD	232	1
				9.94A.060	AMD	232	3
				9.94A.120	AMD	93	1
				9.94A.120	AMD	199	1
				9.94A.120	AMD	215	5
				9.94A.120	AMD	275	2
				9.94A.150	AMD	199	2
				9.94A.154	AMD	205	4
				9.94A.155	REMD	215	4
				9.94A.205	AMD	275	3
				9.94A.207	AMD	275	4
				9.94A.310	AMD	205	5
				9.94A.320	REMD	36	2
				9.94A.320	REMD	205	3
				9.94A.320	REMD	302	6
				9.94A.370	AMD	248	1
				9.94A.390	AMD	121	1
				9.94A.390	AMD	248	2
				9.94A.400	AMD	199	3
				9.94A.440	AMD	93	2
				9.95	ADD	298	1,2
				9.95.062	AMD	275	9
				9.95.210	AMD	298	3
				9.95.214	AMD	298	4
				9A.36	ADD	248	3
				9A.36.031	AMD	266	1
				9A.42	ADD	302	2-5
				9A.42.010	AMD	302	1
				9A.44.130	REMD	275	11
				9A.44.140	AMD	275	12
				9A.48.090	AMD	35	1
				9A.52.020	AMD	15	1
				10.05.020	AMD	24	1
				10.19	ADD	181	1
				10.31.100	REMD	248	4
				10.64.025	AMD	275	10
				10.64.120	AMD	298	6
				10.95.180	AMD	251	1
				10.99.020	AMD	248	5

RCW	CH.	SEC.
1.16.080	AMD	231
2	ADD	221
2.08	ADD	249
2.08.061	AMD	208
2.08.062	AMD	208
2.08.065	AMD	208
2.10.146	AMD	175
2.14.080	AMD	39
2.14.110	AMD	42
2.16.050	AMD	82
2.48	ADD	293
2.56	ADD	134
2.56	ADD	249
2.56.030	AMD	249
2.68	ADD	171
3.34.130	AMD	16
4.08.050	AMD	134
4.08.060	AMD	249
4.24.190	AMD	35
4.24.550	AMD	215
4.28.080	AMD	223
4.44.120	AMD	40
5.60.060	AMD	156
7.68.035	AMD	122
7.68.060	AMD	122
7.68.070	AMD	122
7.70.110	AMD	270
8.25.270	AMD	249
9.41.010	REMD	295
9.41.040	REMD	295
9.41.047	REMD	295
9.41.050	AMD	295
9.41.060	AMD	295
9.41.070	AMD	295
9.41.090	REMD	295
9.41.0975	AMD	295
9.41.098	AMD	295
9.41.170	AMD	295
9.41.280	AMD	295
9.41.800	AMD	295
9.46	ADD	101
9.46	ADD	252

## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.	
10.99.030	AMD	248	6	15.58.040	AMD 188	4
10.99.040	AMD	248	7	16.57	ADD 105	2,3
10.99.050	AMD	248	8	16.57.010	AMD 105	1
11.16.083	AMD	249	7	16.70.040	AMD 188	5
11.88.030	AMD	249	8	17.21	ADD 260	3
11.88.045	AMD	249	9	18	ADD 179	1-15
11.88.090	AMD	249	10	18.04	ADD 293	2
11.92.190	AMD	249	11	18.06.120	AMD 191	3
13.04.035	AMD	284	1	18.08	ADD 293	3
13.32A	ADD	133	3	18.11	ADD 293	4
13.32A.030	AMD	133	9	18.16	ADD 293	5
13.32A.050	AMD	133	10	18.19.070	AMD 191	4
13.32A.060	AMD	133	11	18.19.100	AMD 191	5
13.32A.065	AMD	133	12	18.19.170	AMD 191	6
13.32A.070	AMD	133	13	18.20	ADD 293	6
13.32A.082	AMD	133	14	18.22.120	AMD 191	7
13.32A.090	AMD	133	7	18.25.020	AMD 191	8
13.32A.095	AMD	133	15	18.25.070	AMD 191	9
13.32A.100	AMD	133	16	18.27	ADD 293	7
13.32A.110	AMD	133	17	18.27.030	AMD 147	1
13.32A.120	AMD	133	18	18.27.100	AMD 147	2
13.32A.130	AMD	133	8	18.28	ADD 293	8
13.32A.140	AMD	133	19	18.29.021	AMD 191	10
13.32A.150	AMD	133	20	18.29.071	AMD 191	11
13.32A.152	AMD	133	21	18.30.110	REP 191	90
13.32A.160	AMD	133	22	18.30.120	AMD 191	12
13.32A.170	AMD	133	23	18.30.130	AMD 191	13
13.32A.179	AMD	133	24	18.32	ADD 187	1
13.32A.190	AMD	133	25	18.32.020	AMD 259	1
13.32A.192	AMD	133	26	18.32.110	AMD 191	14
13.32A.194	AMD	133	27	18.32.120	REP 191	90
13.32A.250	AMD	133	28	18.32.170	AMD 191	15
13.34	ADD	249	17	18.32.180	AMD 191	16
13.34.100	AMD	249	13	18.32.220	AMD 191	17
13.34.120	AMD	249	14	18.34.120	AMD 191	18
13.34.165	AMD	133	29	18.35	ADD 200	1,16
13.40	ADD	9	1			21
13.40.025	AMD	232	4	18.35.010	AMD 200	2
13.40.027	REP	232	9	18.35.020	AMD 200	3
13.40.030	AMD	232	5	18.35.030	AMD 200	4
13.40.0357	AMD	205	6	18.35.040	AMD 200	5
13.40.080	AMD	124	1	18.35.050	AMD 200	6
13.40.190	AMD	124	2	18.35.060	AMD 191	19
13.50.010	AMD	232	6	18.35.060	AMD 200	7
15.17	ADD	188	2	18.35.070	AMD 200	8
15.17.020	AMD	188	1	18.35.080	AMD 191	20
15.36.021	AMD	188	3	18.35.080	AMD 200	9
15.36.111	AMD	189	1	18.35.085	AMD 200	10
15.36.451	AMD	189	2	18.35.090	AMD 191	21



## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
18.35.090	AMD	200	11	18.53.070	AMD 191 30
18.35.095	AMD	200	12	18.55.030	AMD 191 31
18.35.100	AMD	200	13	18.55.040	AMD 191 32
18.35.105	AMD	200	14	18.55.050	AMD 191 33
18.35.110	AMD	178	1	18.57.001	AMD 178 2
18.35.110	AMD	200	15	18.57.035	AMD 191 34
18.35.120	AMD	200	17	18.57.045	AMD 191 35
18.35.140	AMD	200	18	18.57.050	AMD 191 36
18.35.150	AMD	200	19	18.57.080	AMD 191 37
18.35.161	AMD	200	20	18.57.130	REMD 191 38
18.35.170	REP	200	33	18.57.140	AMD 178 3
18.35.172	AMD	200	22	18.57A.020	AMD 191 39
18.35.175	AMD	200	23	18.59.110	AMD 191 41
18.35.180	AMD	200	24	18.64.040	AMD 191 42
18.35.185	AMD	200	25	18.64.043	AMD 191 43
18.35.190	AMD	200	26	18.64.045	AMD 191 44
18.35.195	AMD	200	27	18.64.046	AMD 191 45
18.35.205	AMD	200	28	18.64.047	AMD 191 46
18.35.230	AMD	200	29	18.64.140	AMD 191 47
18.35.240	AMD	200	30	18.64.205	AMD 191 48
18.35.250	AMD	200	31	18.64.310	AMD 191 49
18.36A.130	AMD	191	22	18.64.360	AMD 109 1
18.36A.140	AMD	191	23	18.64A.030	AMD 191 50
18.39	ADD	293	9	18.64A.060	AMD 191 51
18.39.035	AMD	217	1	18.64A.065	REP 191 90
18.39.045	AMD	217	2	18.71.019	AMD 195 1
18.39.070	AMD	217	3	18.71.030	AMD 178 4
18.39.100	AMD	217	4	18.71.055	AMD 178 5
18.39.130	REMD	217	5	18.71.080	AMD 191 52
18.39.160	REP	217	10	18.71.085	AMD 191 53
18.39.175	AMD	217	6	18.71.095	AMD 191 54
18.39.181	AMD	217	7	18.71.205	AMD 178 6
18.39.190	REP	217	10	18.71.205	AMD 191 55
18.39.250	AMD	217	8	18.71.400	AMD 191 56
18.39.800	AMD	217	9	18.71A.020	AMD 191 57
18.43	ADD	293	10	18.71A.040	AMD 191 40
18.44	ADD	293	11	18.71A.040	AMD 191 58
18.46	ADD	293	12	18.74.050	AMD 191 59
18.48	ADD	81	3,6	18.74.060	AMD 191 60
18.48.010	AMD	81	2	18.74.070	AMD 191 61
18.48.020	AMD	81	4	18.76	ADD 293 13
18.50.050	AMD	191	24	18.76.020	AMD 178 7
18.50.102	AMD	191	25	18.76.060	AMD 178 8
18.52.071	AMD	271	1	18.79.200	AMD 191 62
18.52.110	AMD	191	26	18.79.210	AMD 191 63
18.52.130	AMD	191	27	18.79.220	REP 191 90
18.52C.030	AMD	191	28	18.83.060	AMD 191 64
18.53.050	AMD	191	29	18.83.072	AMD 191 65
18.53.055	REP	191	90	18.83.080	AMD 191 66

## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
18.83.082	AMD	191	67	18.155.040	AMD	191	86
18.83.090	AMD	191	68	18.155.080	AMD	191	87
18.83.100	REP	191	90	18.160	ADD	293	21
18.83.105	AMD	191	69	18.165	ADD	293	22
18.83.170	AMD	191	70	18.170	ADD	293	23
18.84.100	AMD	191	71	18.175	ADD	293	24
18.84.110	AMD	191	72	18.180	ADD	293	25
18.84.120	AMD	191	73	18.185	ADD	242	2,4
18.85	ADD	293	14	18.185	ADD	293	26
18.85.230	AMD	179	18	18.185.010	AMD	242	1
18.88A.120	AMD	191	74	18.185.100	AMD	242	3
18.88A.130	AMD	191	75	19	ADD	250	101-
18.89.110	AMD	191	76				502
18.89.120	AMD	191	77				603
18.89.140	AMD	191	78				604
18.92.140	AMD	191	79	19.27	ADD	157	2
18.92.145	AMD	191	80	19.27.015	AMD	157	1
18.96	ADD	293	15	19.27.190	AMD	186	501
18.100.050	AMD	22	1	19.27A	ADD	323	4
18.104	ADD	293	16	19.27A.020	AMD	186	502
18.104.043	AMD	12	2	19.27A.055	REP	186	524
18.106	ADD	293	17	19.28	ADD	241	1,2
18.106.100	AMD	147	3	19.28.123	AMD	147	6
18.106.180	AMD	147	4	19.28.125	AMD	241	3
18.106.200	AMD	147	5	19.28.210	AMD	241	4
18.108.060	AMD	191	81	19.28.310	AMD	241	5
18.108.085	AMD	154	1	19.28.350	AMD	147	7
18.120.020	REMD	178	9	19.28.510	AMD	241	6
18.130	ADD	293	18	19.28.540	AMD	147	8
18.130.040	REMD	81	5	19.28.550	AMD	241	7
18.130.040	REMD	200	32	19.28.620	AMD	147	9
18.135.050	AMD	191	82	19.80.005	AMD	231	2
18.135.055	AMD	191	83	19.80.010	AMD	231	3
18.138.040	AMD	191	84	19.138.021	AMD	180	1
18.138.060	AMD	191	85	19.138.030	AMD	180	2
18.140	ADD	182	11,12	19.138.040	AMD	180	3
18.140	ADD	293	19	19.138.055	REP	180	9
18.140.005	AMD	182	1	19.138.100	AMD	180	4
18.140.010	AMD	182	2	19.138.110	AMD	180	5
18.140.020	AMD	182	3	19.138.130	AMD	180	6
18.140.030	AMD	182	4	19.138.140	AMD	180	7
18.140.085	REP	182	13	19.146.220	AMD	103	1
18.140.090	AMD	182	5	19.150.060	AMD	220	1
18.140.130	AMD	182	6	19.150.080	AMD	220	2
18.140.140	AMD	182	7	19.150.110	AMD	220	3
18.140.150	AMD	182	8	23.86	ADD	32	1
18.140.160	AMD	182	9	23B.01.400	AMD	155	4
18.140.170	AMD	182	10	23B.02.020	AMD	155	5
18.145	ADD	293	20	23B.17.020	REP	155	6

## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
23B.19.020	AMD	155	1	28A.225.020	AMD	134	2
23B.19.030	AMD	155	2	28A.225.025	AMD	134	9
23B.19.040	AMD	155	3	28A.225.030	AMD	134	3
24.06	ADD	32	2	28A.225.035	AMD	133	31
25.04.720	AMD	231	4	28A.225.035	AMD	134	4
25.10.020	AMD	76	1	28A.225.090	AMD	133	32
25.10.330	AMD	76	2	28A.225.090	AMD	134	6
25.10.440	AMD	76	3	28A.225.151	AMD	134	5
25.15	ADD	231	11,12	28A.300	ADD	273	1,4
25.15.010	AMD	231	5	28A.300.020	AMD	25	2
25.15.020	AMD	231	6	28A.300.130	AMD	273	5
25.15.045	AMD	22	2	28A.305.110	AMD	25	1
25.15.045	AMD	231	7	28A.305.130	AMD	83	1
25.15.150	AMD	231	8	28A.305.160	AMD	321	2
25.15.270	AMD	231	9	28A.305.250	AMD	201	4
25.15.325	AMD	231	10	28A.400	ADD	126	3,5
26.09.030	AMD	23	1	28A.405	ADD	135	4
26.09.191	AMD	303	1	28A.405.210	AMD	201	1
26.09.240	AMD	177	1	28A.405.220	AMD	201	2
26.09.300	AMD	248	9	28A.405.230	AMD	201	3
26.10.160	AMD	303	2	28A.410	ADD	293	27
26.10.220	AMD	248	10	28A.410.020	AMD	309	1
26.12	ADD	249	18	28A.410.090	AMD	126	2
26.12.175	AMD	249	15	28A.415.270	AMD	233	1
26.19.080	AMD	216	1	28A.415.280	AMD	233	2
26.26.138	AMD	248	11	28A.515.320	AMD	186	503
26.33	ADD	243	2	28A.530.020	AMD	48	1
26.33.330	AMD	243	3	28A.535.020	AMD	48	2
26.33.343	AMD	243	4	28A.630.830	AMD	288	26
26.44.020	REMD	178	10	28A.635.090	AMD	321	3
26.44.030	AMD	278	2	28B	ADD	253	401-
26.44.053	AMD	249	16				408
26.50.030	AMD	248	12	28B.06.040	AMD	11	1
26.50.060	AMD	248	13	28B.06.050	AMD	11	2
26.50.070	AMD	248	14	28B.10	ADD	17	2
26.50.100	AMD	248	15	28B.10.029	AMD	110	5
26.50.110	AMD	248	16	28B.10.821	AMD	107	1
26.50.115	AMD	248	17	28B.15	ADD	142	1
27.04.045	AMD	171	6	28B.15.031	AMD	142	2
27.15.020	AMD	258	1	28B.15.067	AMD	212	1
27.15.050	AMD	258	2	28B.15.535	AMD	6	1
27.34	ADD	65	1	28B.15.558	AMD	305	3
28A.155	ADD	135	2,3	28B.15.615	AMD	142	3
28A.160.150	AMD	279	1	28B.15.628	AMD	169	1
28A.160.160	AMD	279	2	28B.15.762	AMD	107	2
28A.160.180	AMD	279	3	28B.20.382	AMD	288	27
28A.190.010	AMD	84	1	28B.25	ADD	110	3,4
28A.225	ADD	134	11	28B.25.020	AMD	110	1
28A.225.010	AMD	134	1	28B.25.030	AMD	110	2

**RCW SECTIONS AFFECTED BY 1996 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
28B.25.033	AMD	110	6	31.12A.130	REP	5	7
28B.25.080	REP	110	7	31.12A.140	REP	5	7
28B.30	ADD	186	201	31.12A.900	REP	5	7
			202	31.12A.910	REP	5	7
28B.50	ADD	120	1-3	31.12A.920	REP	5	7
28B.80.330	AMD	174	1	31.12A.930	REP	5	7
28B.80.600	AMD	137	9	31.12A.940	REP	5	7
28B.85.020	AMD	305	1	31.45.040	AMD	13	1
28B.85.040	AMD	97	1	31.45.050	AMD	13	2
28B.85.200	REP	100	2	32.04	ADD	2	22
28B.85.210	REP	100	2	32.04.020	AMD	2	20
28B.102.020	AMD	53	1	32.04.030	REMD	2	21
28B.102.060	AMD	53	2	32.08	ADD	2	26
28B.120.010	AMD	41	1	32.08.140	AMD	2	23
28B.120.020	AMD	41	2	32.08.142	AMD	2	24
28B.120.040	AMD	41	3	32.08.146	AMD	2	25
28C.18.005	AMD	99	1	32.12.020	AMD	2	27
28C.18.010	AMD	99	2	32.32.500	REMD	2	28
28C.18.030	AMD	99	3	34.05.230	AMD	206	12
28C.18.060	AMD	99	4	34.05.330	AMD	318	1
28D	ADD	137	1-8	34.05.370	AMD	102	2
29.13.060	AMD	202	1	34.05.610	AMD	318	2
29.21.015	AMD	324	1	34.05.620	AMD	318	3
30	ADD	2	10-18	34.05.630	AMD	318	4
30.04	ADD	2	6,7	34.05.640	AMD	318	5
30.04.010	AMD	2	2	34.05.645	REP	318	6
30.04.232	AMD	2	3	34.05.655	AMD	318	7
30.04.280	AMD	2	4	35.13.090	AMD	286	1
30.08.140	AMD	2	5	35.13.100	AMD	286	2
30.20.060	AMD	2	8	35.13.900	AMD	230	6
30.40.020	REP	2	29	35.16.020	REP	286	9
30.49	ADD	2	9	35.16.050	AMD	286	3
31.12	ADD	5	5,6	35.17.260	AMD	286	4
31.12A	ADD	5	4	35.17.270	AMD	286	5
31.12A.005	REP	5	7	35.20	ADD	16	3
31.12A.010	REP	5	7	35.20.200	AMD	16	2
31.12A.020	REP	5	7	35.21	ADD	32	3
31.12A.030	REP	5	7	35.21	ADD	206	6
31.12A.040	REP	5	7	35.21	ADD	286	6
31.12A.050	AMD	5	2	35.22	ADD	18	1
31.12A.050	REP	5	7	35.22	ADD	254	2
31.12A.060	REP	5	7	35.23.352	REMD	18	2
31.12A.070	REP	5	7	35.58.570	AMD	230	1602
31.12A.080	REP	5	7	35.63	ADD	239	3
31.12A.090	AMD	5	3	35.63	ADD	254	3
31.12A.090	REP	5	7	35.68.010	AMD	19	1
31.12A.100	REP	5	7	35.69.010	AMD	19	2
31.12A.110	REP	5	7	35.69.020	AMD	19	3
31.12A.120	REP	5	7	35.70.010	AMD	19	4

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RCW	CH.	SEC.	RCW	CH.	SEC.		
35.70.020	AMD	19	5	39.19.030	AMD	69	5
35.97.050	AMD	230	1603	39.19.060	AMD	288	28
35A.01.040	AMD	286	7	39.29.016	AMD	288	29
35A.14.901	AMD	230	1604	39.29.018	AMD	288	30
35A.21	ADD	32	4	39.29.025	AMD	288	31
35A.21	ADD	206	7	39.29.040	AMD	2	19
35A.29.170	AMD	286	8	39.29.055	AMD	288	32
35A.56.010	AMD	230	1605	39.34	ADD	308	1
35A.63	ADD	239	4	39.35.030	AMD	186	402
35A.63	ADD	254	4	39.35.050	AMD	186	403
35A.70.010	AMD	230	1606	39.35.060	AMD	186	404
36.01.070	AMD	298	7	39.35C.010	AMD	186	405
36.16.030	AMD	108	1	39.35C.020	AMD	186	406
36.18.010	AMD	143	1	39.35C.030	AMD	186	407
36.18.012	AMD	211	1	39.35C.040	AMD	186	408
36.18.016	AMD	56	5	39.35C.050	AMD	186	409
36.18.020	REMD	211	2	39.35C.060	AMD	186	410
36.22	ADD	245	1	39.35C.070	AMD	186	411
36.24	ADD	108	2	39.35C.080	AMD	33	4
36.29	ADD	153	3	39.35C.080	AMD	186	412
36.29.160	AMD	230	1607	39.35C.090	AMD	186	413
36.32	ADD	219	2	39.35C.100	AMD	186	414
36.32.240	AMD	219	1	39.35C.110	AMD	186	415
36.32.250	AMD	18	3	39.35C.120	REP	186	524
36.69.090	AMD	324	2	39.35C.130	AMD	186	416
36.70	ADD	206	8	39.58	ADD	256	18
36.70	ADD	239	2	39.58.010	AMD	256	1
36.70	ADD	254	5	39.58.020	AMD	256	2
36.70A	ADD	167	2	39.58.040	AMD	256	3
36.70A	ADD	239	5	39.58.050	AMD	256	4
36.70A	ADD	325	4	39.58.060	AMD	256	5
36.70A.070	REMD	239	1	39.58.065	AMD	256	6
36.70A.270	AMD	325	1	39.58.070	AMD	256	7
36.70A.280	AMD	325	2	39.58.080	AMD	256	8
36.70B	ADD	206	9	39.58.085	AMD	256	9
36.70B	ADD	254	6	39.58.090	AMD	256	10
36.70B.130	AMD	254	1	39.58.100	AMD	256	11
36.77.040	AMD	18	4	39.58.105	AMD	256	12
36.83	ADD	292	3-7	39.58.108	AMD	256	13
36.83.010	AMD	292	1	39.58.130	AMD	256	14
36.83.020	AMD	292	2	39.58.135	AMD	256	15
36.93.090	AMD	230	1608	39.58.140	AMD	256	16
36.93.800	AMD	313	2	39.58.150	AMD	256	17
36.94.420	AMD	230	1609	39.58.150	RECD	256	18
39.04	ADD	198	5,6	39.58.160	RECD	256	18
39.04	ADD	257	1	39.58.170	RECD	256	18
39.04.220	AMD	18	5	39.58.180	RECD	256	18
39.10.060	AMD	18	6	40.14.010	AMD	71	1
39.19.020	AMD	69	4	40.14.025	AMD	245	3

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RCW	CH.	SEC.	RCW	CH.	SEC.		
40.14.027	AMD	245	4	41.50	ADD	175	1
41.04.005	AMD	300	1	41.50.075	AMD	39	16
41.04.190	AMD	230	1610	41.50.110	AMD	39	17
41.04.660	AMD	175	2	41.50.670	AMD	39	18
41.04.665	AMD	176	1	41.54	ADD	55	1,2
41.05.011	AMD	39	21	41.54.030	AMD	39	19
41.05.065	AMD	140	1	41.54.030	AMD	55	3
41.05.080	AMD	39	22	41.54.030	AMD	55	4
41.06	ADD	319	1	41.54.035	REP	39	24
41.06.070	AMD	186	109	41.54.040	REMD	55	5
41.06.070	AMD	288	33	41.54.070	AMD	55	6
41.06.070	AMD	319	3	42.17	ADD	80	3
41.06.081	REP	186	524	42.17	ADD	102	1
41.06.150	AMD	319	2	42.17	ADD	188	6
41.06.500	AMD	319	4	42.17.2401	REMD	186	504
41.24.150	AMD	57	1	42.17.310	AMD	80	1
41.24.160	AMD	57	2	42.17.310	AMD	191	88
41.26	ADD	226	1	42.17.310	AMD	253	302
41.26.030	REMD	38	2	42.17.310	AMD	305	2
41.26.030	REMD	178	11	42.23.030	REMD	246	1
41.26.450	AMD	38	3	42.48.060	AMD	288	34
41.26.460	AMD	175	3	42.52.010	AMD	213	1
41.26.520	AMD	61	1	42.52.020	AMD	213	2
41.32	ADD	39	8,9	42.52.030	AMD	213	3
			11	42.52.050	AMD	213	4
41.32.010	REMD	39	1	42.52.110	AMD	213	5
41.32.530	AMD	175	4	42.52.120	AMD	213	6
41.32.785	AMD	175	5	42.52.160	AMD	213	7
41.32.810	AMD	61	2	43	ADD	253	201-
41.32.817	AMD	39	2				205
41.32.818	AMD	39	3	43.05.030	AMD	206	2
41.32.831	AMD	39	10	43.05.060	AMD	206	3
41.32.840	AMD	39	4	43.05.090	AMD	206	4
41.32.855	AMD	39	5	43.05.100	AMD	206	5
41.32.865	AMD	61	3	43.06.115	AMD	186	505
41.32.875	AMD	39	6	43.07	ADD	253	105
41.32.885	REP	39	24				301
41.32.890	REP	39	24	43.08	ADD	3	2
41.32.895	AMD	39	7	43.08.250	AMD	283	901
41.34	ADD	39	12	43.09	ADD	256	18
41.34.020	AMD	39	13	43.09.310	AMD	288	35
41.34.040	AMD	39	14	43.17	ADD	261	2
41.34.060	AMD	39	15	43.19	ADD	18	7
41.40.093	DECD	38	4	43.19	ADD	186	401
41.40.188	AMD	175	6	43.19.1911	AMD	69	2
41.40.270	AMD	227	2	43.19.680	AMD	186	506
41.40.660	AMD	175	7	43.19A.020	AMD	198	1
41.40.710	AMD	61	4	43.19A.050	AMD	198	2
41.50	ADD	56	1-4	43.19A.090	REP	198	7

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RCW	CH.	SEC.	RCW	CH.	SEC.	
43.19A.100	REP	198	43.88B.031	REP	317	12
43.20B.335	AMD	125	43.88B.040	REP	317	12
43.20B.345	AMD	125	43.88B.050	REP	317	12
43.21A.660	AMD	190	43.88B.900	REP	317	12
43.21C	ADD	4	43.88B.901	REP	317	12
43.21C	ADD	322	43.99E.030	AMD	320	21
43.21C	ADD	323	43.99F.020	AMD	230	1611
43.21F.025	AMD	186	43.99F.040	AMD	37	1
43.21F.035	REP	186	43.101	ADD	203	1,3
43.21F.045	AMD	186	43.105	ADD	171	1,2,5
43.21F.055	AMD	186				12,13
43.21F.060	AMD	186	43.105.032	AMD	137	10
43.21F.065	REP	186	43.105.041	AMD	137	11
43.21F.090	AMD	186	43.105.041	AMD	137	12
43.21G.010	AMD	186	43.105.041	AMD	171	7
43.21J.800	AMD	288	43.105.041	AMD	171	8
43.23	ADD	80	43.105.160	AMD	171	9
43.31.621	AMD	186	43.105.170	AMD	137	13
43.41.175	REP	186	43.105.170	AMD	171	10
43.43	ADD	226	43.105.180	AMD	137	14
43.43.277	AMD	185	43.105.180	AMD	171	11
43.43.830	AMD	178	43.105.190	AMD	137	15
43.51	ADD	129	43.110	ADD	206	10
43.51	ADD	263	43.121.020	AMD	10	1
43.51.405	AMD	129	43.131	ADD	221	7,8
43.70	ADD	191	43.131.050	AMD	288	43
43.70	ADD	323	43.131.060	AMD	288	44
43.70.250	AMD	191	43.131.070	AMD	288	45
43.70.280	AMD	191	43.131.080	AMD	288	46
43.78.170	AMD	198	43.131.110	AMD	288	47
43.79.270	AMD	288	43.131.353	REP	74	1
43.79.280	AMD	288	43.131.354	REP	74	1
43.79A.040	REMD	253	43.131.386	AMD	168	5
43.83B.050	AMD	320	43.140.040	AMD	186	510
43.84.092	REMD	262	43.140.050	AMD	186	107
43.88.020	AMD	288	43.140.050	AMD	186	511
43.88.030	AMD	288	43.155.010	AMD	168	1
43.88.090	AMD	317	43.155.020	AMD	168	2
43.88.160	AMD	288	43.155.070	AMD	168	3
43.88.195	AMD	186	43.160.010	AMD	51	1
43.88.205	AMD	288	43.160.020	AMD	51	2
43.88.230	AMD	288	43.160.030	AMD	51	3
43.88.310	AMD	288	43.160.050	AMD	51	4
43.88.510	AMD	288	43.160.060	AMD	51	5
43.88B.005	REP	317	43.160.070	AMD	51	6
43.88B.007	REP	317	43.160.076	AMD	51	7
43.88B.010	REP	317	43.160.090	AMD	51	8
43.88B.020	REP	317	43.160.200	AMD	51	9
43.88B.030	REP	317	43.160.210	AMD	51	10

## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
43.160.210	AMD	290	1	46.04	ADD	225	2-5
43.160.212	AMD	168	4	46.10.040	AMD	164	1
43.163.210	AMD	310	1	46.12	ADD	225	6-9
43.165.010	AMD	290	2	46.12.005	AMD	26	1
43.168.020	AMD	290	3	46.12.050	AMD	26	2
43.180.160	AMD	310	2	46.12.075	AMD	26	3
43.250.010	AMD	268	1	46.16	ADD	139	1,2
43.250.020	AMD	268	2	46.16	ADD	225	10,11
43.250.040	AMD	268	3	46.16	ADD	315	4
43.250.080	AMD	288	48	46.16.010	AMD	184	1
43.280.010	AMD	123	2	46.16.063	AMD	237	1
43.280.020	AMD	123	3	46.16.160	AMD	184	2
43.280.050	AMD	123	4	46.16.313	AMD	165	506
43.280.060	AMD	123	5	46.20.021	REMD	307	5
43.300.030	REP	267	34	46.20.091	AMD	287	5
43.300.040	AMD	267	33	46.20.205	AMD	30	4
43.330	ADD	186	101	46.20.285	AMD	199	5
43.330	ADD	206	11	46.20.435	REP	89	3
44.28	ADD	288	2,9	46.25.010	AMD	30	1
			10	46.25.080	AMD	30	2
			13-15	46.25.090	AMD	30	3
			55	46.32.090	AMD	86	1
44.28.010	AMD	288	3	46.37	ADD	225	12
44.28.020	AMD	288	4	46.37.480	AMD	34	1
44.28.030	AMD	288	5	46.44.042	AMD	116	1
44.28.040	AMD	288	6	46.44.096	AMD	92	1
44.28.060	AMD	288	7	46.44.105	AMD	92	2
44.28.080	AMD	288	11	46.52.030	AMD	183	1
44.28.085	REP	288	57	46.52.130	AMD	183	2
44.28.086	REP	288	57	46.52.130	AMD	307	4
44.28.087	AMD	288	18	46.55.113	AMD	89	1
44.28.087	RECD	288	55	46.55.120	AMD	89	2
44.28.100	AMD	288	19	46.61.410	AMD	52	1
44.28.120	AMD	288	20	46.61.440	AMD	114	1
44.28.130	AMD	288	21	46.61.5055	AMD	307	3
44.28.140	AMD	288	8	46.61.520	AMD	199	7
44.28.140	RECD	288	55	46.61.522	AMD	199	8
44.28.150	AMD	288	22	46.61.525	AMD	307	1
44.28.180	AMD	288	12	46.63.020	REMD	31	3
44.28.180	RECD	288	55	46.63.020	REMD	87	21
44.40.020	AMD	129	9	46.63.020	REMD	93	3
44.40.025	AMD	288	49	46.63.020	REMD	287	7
44.68	ADD	171	4	46.63.020	REMD	307	6
46	ADD	87	4-16	46.68	ADD	184	6
46.01	ADD	315	3	46.68	ADD	262	3
46.01.140	AMD	315	1	46.68.010	AMD	31	1
46.01.260	AMD	199	4	46.68.110	REMD	94	1
46.01.320	AMD	315	2	46.68.170	AMD	237	2
46.04	ADD	87	1-3	46.70.011	AMD	194	1



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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
46.70.023	AMD	282	1	50.13.060	AMD	79	1
46.70.051	AMD	282	2	50.13.080	AMD	79	2
46.70.070	AMD	194	2	50.20	ADD	28	2
46.70.101	AMD	282	3	50.29.062	AMD	238	1
46.70.120	AMD	282	4	51.12	ADD	8	1
46.70.130	AMD	282	5	51.14.090	AMD	58	1
46.70.180	AMD	194	3	51.16.155	AMD	60	1
46.72	ADD	87	17,19	51.32.040	AMD	47	1
			20	51.32.095	AMD	59	1
46.72.010	AMD	87	18	51.32.095	AMD	151	1
46.74.010	AMD	244	2	51.32.190	AMD	58	2
46.74.030	AMD	244	3	51.48.070	REP	60	2
46.87.150	AMD	91	1	51.60	ADD	59	2
46.87.310	AMD	91	2	52.14	ADD	18	10
46.87.330	AMD	91	3	53.08.130	AMD	18	11
47.01	ADD	186	301	53.36.030	AMD	66	1
47.06.110	AMD	186	512	54.04	ADD	32	5
47.26.121	AMD	49	1	54.04.080	AMD	18	12
47.26.140	AMD	49	2	54.28.040	AMD	149	16
47.28.100	AMD	18	8	54.28.060	AMD	149	12
47.28.220	AMD	198	4	56.02.010	REP	230	1702
47.38	ADD	172	1	56.02.030	RECD	230	1701
47.38.050	AMD	237	3	56.02.040	REP	230	1702
47.46.030	AMD	280	1	56.02.050	REP	230	1702
47.60.778	AMD	18	9	56.02.055	REP	230	1702
47.66.030	AMD	49	3	56.02.060	REP	230	1702
47.68.255	AMD	184	3	56.02.070	AMD	230	106
47.76.250	AMD	73	2	56.02.070	RECD	230	1701
48.12.160	AMD	297	1	56.02.080	RECD	230	1701
48.18.230	AMD	95	1	56.02.100	AMD	230	107
48.32A.020	AMD	98	1	56.02.100	RECD	230	1701
48.32A.030	AMD	98	2	56.02.110	AMD	230	103
48.32A.040	AMD	98	3	56.02.110	RECD	230	1701
48.36A	ADD	236	4-10	56.02.120	REP	230	1702
48.36A.100	AMD	236	1	56.04.001	REP	230	1702
48.36A.290	AMD	236	2	56.04.020	REP	230	1702
48.36A.300	REP	236	11	56.04.030	REP	230	1702
48.36A.310	AMD	236	3	56.04.040	REP	230	1702
48.43	ADD	281	1	56.04.050	REP	230	1702
48.43	ADD	304	1	56.04.060	REP	230	1702
48.43	ADD	312	1-5	56.04.065	REP	230	1702
48.46.170	AMD	178	13	56.04.070	REP	230	1702
48.48.060	AMD	161	1	56.04.080	AMD	230	208
48.66.020	AMD	269	1	56.04.080	RECD	230	1701
49	ADD	127	1-16	56.04.090	REP	230	1702
49.17	ADD	260	2	56.04.120	AMD	230	211
49.70.117	REP	260	5	56.04.120	RECD	230	1701
49.78.020	AMD	178	14	56.04.130	AMD	230	212
50.04	ADD	182	14	56.04.130	RECD	230	1701

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
56.08.010	REP	230	1702	56.16.090	REP 230 1702
56.08.012	AMD	230	315	56.16.100	REP 230 1702
56.08.012	RECD	230	1701	56.16.110	REP 230 1702
56.08.013	REP	230	1702	56.16.115	REP 230 1702
56.08.014	REP	230	1702	56.16.130	REP 230 1702
56.08.015	REP	230	1702	56.16.135	REP 230 1702
56.08.020	REP	230	1702	56.16.140	REP 230 1702
56.08.030	AMD	230	502	56.16.150	REP 230 1702
56.08.030	RECD	230	1701	56.16.160	REP 230 1702
56.08.040	REP	230	1702	56.16.165	REP 230 1702
56.08.050	REP	230	1702	56.16.170	REP 230 1702
56.08.060	AMD	230	309	56.20.010	REP 230 1702
56.08.060	RECD	230	1701	56.20.015	REP 230 1702
56.08.065	REP	230	1702	56.20.020	REP 230 1702
56.08.070	AMD	18	13	56.20.030	AMD 230 605
56.08.070	REP	230	1702	56.20.030	RECD 230 1701
56.08.075	REP	230	1702	56.20.032	REP 230 1702
56.08.080	REP	230	1702	56.20.033	REP 230 1702
56.08.090	REP	230	1702	56.20.040	REP 230 1702
56.08.092	REP	230	1702	56.20.050	REP 230 1702
56.08.100	REP	230	1702	56.20.060	REP 230 1702
56.08.105	REP	230	1702	56.20.070	REP 230 1702
56.08.110	REP	230	1702	56.20.080	REP 230 1702
56.08.120	REP	230	1702	56.20.090	REP 230 1702
56.08.130	REP	230	1702	56.20.120	REP 230 1702
56.08.140	REP	230	1702	56.22.010	REP 230 1702
56.08.150	REP	230	1702	56.22.020	REP 230 1702
56.08.160	REP	230	1702	56.22.030	REP 230 1702
56.08.170	RECD	230	1701	56.22.040	REP 230 1702
56.08.180	REP	230	1702	56.22.050	REP 230 1702
56.08.190	REP	230	1702	56.24.001	REP 230 1702
56.08.200	REP	230	1702	56.24.070	REP 230 1702
56.12.010	REP	230	1702	56.24.080	REP 230 1702
56.12.015	REP	230	1702	56.24.090	REP 230 1702
56.12.020	REP	230	1702	56.24.100	REP 230 1702
56.12.030	REP	230	1702	56.24.110	REP 230 1702
56.12.040	REP	230	1702	56.24.120	REP 230 1702
56.12.050	REP	230	1702	56.24.130	REP 230 1702
56.16.010	REP	230	1702	56.24.140	REP 230 1702
56.16.020	REP	230	1702	56.24.150	REP 230 1702
56.16.030	REP	230	1702	56.24.180	REP 230 1702
56.16.035	REP	230	1702	56.24.190	REP 230 1702
56.16.040	REP	230	1702	56.24.200	REP 230 1702
56.16.050	REP	230	1702	56.24.205	REP 230 1702
56.16.060	REP	230	1702	56.24.210	REP 230 1702
56.16.065	REP	230	1702	56.24.900	REP 230 1702
56.16.070	REP	230	1702	56.28.001	REP 230 1702
56.16.080	REP	230	1702	56.28.010	REP 230 1702
56.16.085	REP	230	1702	56.28.020	REP 230 1702



## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
57.16.090	AMD	230	609	57.28.060	AMD 230 1008
57.16.100	AMD	230	608	57.28.070	AMD 230 1009
57.16.110	AMD	230	610	57.28.080	AMD 230 1010
57.16.140	AMD	230	504	57.28.090	AMD 230 1011
57.16.150	AMD	230	611	57.28.100	AMD 230 1012
57.20	ADD	230	1701	57.28.110	AMD 230 1013
57.20.015	AMD	230	702	57.32.001	AMD 230 1101
57.20.020	AMD	230	706	57.32.010	AMD 230 1102
57.20.023	AMD	230	707	57.32.020	AMD 230 1103
57.20.025	AMD	230	708	57.32.021	AMD 230 1104
57.20.027	AMD	230	709	57.32.022	AMD 230 1105
57.20.030	AMD	230	710	57.32.023	AMD 230 1106
57.20.080	AMD	230	711	57.32.024	AMD 230 1107
57.20.090	AMD	230	712	57.32.130	AMD 230 1108
57.20.100	REP	230	1703	57.32.160	AMD 230 1109
57.20.110	AMD	230	713	57.36	ADD 230 1701
57.20.120	AMD	230	714	57.36.001	AMD 230 1201
57.20.130	AMD	230	715	57.36.010	AMD 230 1202
57.20.135	AMD	230	716	57.36.020	AMD 230 1203
57.20.140	AMD	230	717	57.36.030	AMD 230 1204
57.20.150	AMD	230	718	57.36.040	AMD 230 1205
57.20.160	AMD	230	719	57.36.050	AMD 230 1207
57.20.165	AMD	230	720	57.40.100	REP 230 1703
57.20.170	AMD	230	721	57.40.110	REP 230 1703
57.22.010	AMD	230	801	57.40.120	REP 230 1703
57.22.020	AMD	230	802	57.40.130	REP 230 1703
57.22.030	AMD	230	803	57.40.135	AMD 230 1206
57.22.040	AMD	230	804	57.40.135	RECD 230 1701
57.22.050	AMD	230	805	57.40.140	REP 230 1703
57.24.001	AMD	230	901	57.40.150	REP 230 1703
57.24.010	AMD	230	902	57.42.010	AMD 230 1301
57.24.020	AMD	230	903	57.42.020	AMD 230 78
57.24.040	AMD	230	904	57.42.030	AMD 230 1303
57.24.050	AMD	230	905	57.46.010	AMD 230 1401
57.24.070	AMD	230	906	57.46.020	AMD 230 1402
57.24.090	AMD	230	907	57.46.030	AMD 230 1403
57.24.170	AMD	230	908	57.90.001	AMD 230 1501
57.24.180	AMD	230	909	57.90.010	AMD 230 1502
57.24.190	AMD	230	910	57.90.020	AMD 230 1503
57.24.200	AMD	230	911	57.90.030	AMD 230 1504
57.24.210	AMD	230	912	57.90.040	AMD 230 1505
57.24.220	AMD	230	913	57.90.050	AMD 230 1506
57.28.001	AMD	230	1001	57.90.100	AMD 230 1507
57.28.010	AMD	230	1002	58.04	ADD 160 1-5
57.28.020	AMD	230	1003	58.04.010	REP 160 6
57.28.030	AMD	230	1004	58.04.020	AMD 160 8
57.28.035	AMD	230	1005	59.22.060	REP 88 1
57.28.040	AMD	230	1006	60	ADD 43 1-3
57.28.050	AMD	230	1007	60	ADD 235 3,4

## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
62A.1-201	REMD	77	1	69.50.101	AMD	178	18
62A.2-511	AMD	77	2	69.50.401	AMD	205	2
62A.3-112	AMD	77	3	69.50.403	AMD	255	1
62A.9-203	AMD	77	4	69.50.406	AMD	205	7
62A.9-206	AMD	77	5	69.50.415	AMD	205	8
62A.9-302	AMD	77	6	69.50.435	AMD	14	2
62A.9-312	AMD	77	7	70	ADD	158	1-8
63	ADD	235	1,2	70.05.050	AMD	178	19
63.29.100	AMD	45	1	70.08.030	AMD	178	20
63.29.170	AMD	45	2	70.28.010	AMD	209	1
63.29.220	AMD	45	3	70.28.031	AMD	178	21
63.29.340	AMD	45	4	70.28.031	AMD	209	2
63.29.340	AMD	149	11	70.28.032	AMD	209	3
64.06.020	AMD	301	2	70.28.033	AMD	209	4
64.06.030	AMD	301	3	70.28.035	AMD	209	5
64.06.040	AMD	301	4	70.38.105	AMD	50	1
64.06.050	AMD	301	5	70.38.115	AMD	178	22
64.06.070	AMD	301	6	70.44.140	AMD	18	15
65.04	ADD	143	2,3	70.48.470	AMD	215	2
65.04.015	AMD	229	1	70.79.080	AMD	72	1
65.04.030	AMD	229	2	70.92	ADD	323	5
65.04.040	AMD	229	3	70.93.060	AMD	263	1
65.04.050	AMD	143	4	70.93.070	AMD	263	2
65.04.080	AMD	229	4	70.94	ADD	204	2
65.04.090	AMD	229	5	70.94	ADD	294	1
65.04.110	AMD	229	6	70.94.152	AMD	29	1
66.08.026	AMD	291	3	70.94.152	AMD	67	1
66.16.040	AMD	291	1	70.94.154	AMD	29	2
66.20.300	AMD	218	2	70.94.527	AMD	186	513
66.20.310	AMD	218	3	70.94.537	AMD	186	514
66.20.310	AMD	311	1	70.94.541	AMD	186	515
66.20.320	AMD	311	2	70.94.551	AMD	186	516
66.24	ADD	75	1	70.94.960	AMD	186	517
66.24	ADD	218	1	70.95.520	AMD	283	902
66.24	ADD	224	2	70.96A	ADD	133	5
66.24.210	AMD	118	1	70.96A.020	AMD	133	33
66.24.420	AMD	218	4	70.96A.020	AMD	178	23
66.28.010	AMD	106	1	70.96A.095	AMD	133	34
66.28.010	AMD	224	3	70.120.210	AMD	186	518
67.28	ADD	159	1-3	70.120.220	AMD	186	519
67.28.210	AMD	159	4	70.124.020	AMD	178	24
67.70.100	AMD	228	2	70.125	ADD	123	9
67.70.310	AMD	288	50	70.125.030	AMD	123	6
68.50.530	AMD	178	15	70.125.080	AMD	123	7
68.52.140	AMD	324	3	70.128.120	AMD	81	1
68.52.155	AMD	324	4	70.146.030	AMD	37	2
69.41.010	AMD	178	16	70.190	ADD	132	4,5,9
69.41.030	AMD	178	17	70.190.010	AMD	132	2
69.50	ADD	205	1	70.190.060	AMD	132	3

## RCW SECTIONS AFFECTED BY 1996 STATUTES

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
70.190.080	AMD	132	6	75.24.090	AMD 267 26
70.190.090	AMD	132	7	75.25.095	AMD 20 1
70.190.130	AMD	132	8	75.28.040	AMD 267 27
71.09	ADD	27	1	75.28.110	AMD 267 28
71.34	ADD	133	6	75.28.315	AMD 267 29
71.34.035	AMD	133	36	75.28.323	AMD 267 30
72.09.300	AMD	232	7	75.28.690	AMD 267 31
72.09.340	AMD	215	3	76.09	ADD 136 1
72.09.450	AMD	277	1	76.12	ADD 264 1
74.13	ADD	130	3	77	ADD 54 1-9
74.13	ADD	133	39	77	ADD 222 1-5
74.13.036	AMD	133	37	77.04.020	AMD 267 32
74.13.112	AMD	130	1	77.04.090	AMD 267 35
74.13.115	AMD	130	2	77.08	ADD 101 4
74.14B	ADD	123	10	77.08.010	AMD 207 2
74.14B.060	AMD	123	8	77.12	ADD 101 5,6
74.14C.010	AMD	240	2	77.12.170	AMD 101 7
74.14C.020	AMD	240	3	77.12.265	REP 54 12
74.14C.030	AMD	240	4	77.12.270	REP 54 12
74.18.150	AMD	7	1	77.12.280	REP 54 12
74.20A.055	AMD	21	1	77.12.290	REP 54 12
74.39A.080	AMD	193	1	77.12.300	REP 54 12
75.08.011	AMD	267	2	77.12.700	REP 101 13
75.08.230	AMD	267	3	77.12.720	AMD 96 1
75.10.010	REMD	267	4	77.16.020	AMD 207 3
75.10.020	AMD	267	5	77.32	ADD 234 2
75.10.030	AMD	267	6	77.32.025	AMD 20 2
75.10.040	AMD	267	7	77.32.050	AMD 101 8
75.10.050	AMD	267	8	77.32.060	AMD 101 9
75.10.100	AMD	267	9	77.32.090	AMD 101 10
75.10.110	AMD	267	10	77.32.230	AMD 101 11
75.10.120	AMD	267	11	77.32.250	AMD 101 12
75.10.130	AMD	267	12	77.32.360	AMD 234 1
75.10.140	AMD	267	13	78.44.085	AMD 70 1
75.10.150	AMD	267	14	79.01	ADD 163 1
75.10.170	AMD	267	15	79.01.006	AMD 261 1
75.10.180	AMD	267	16	79.01.006	AMD 288 51
75.10.190	AMD	267	17	79.01.805	AMD 46 1
75.10.200	AMD	267	18	79.08.275	AMD 129 8
75.12.020	AMD	267	19	80.04	ADD 33 2
75.12.070	AMD	267	20	80.28.260	AMD 186 520
75.12.100	AMD	267	21	80.36	ADD 323 3
75.12.115	AMD	267	22	80.50	ADD 4 2,3
75.12.420	AMD	267	23	80.50.010	AMD 4 1
75.12.650	AMD	267	24	80.50.030	REMD 186 108
75.20	ADD	192	2	80.62.010	REP 33 3
75.20	ADD	276	1	80.62.020	REP 33 3
75.20.130	AMD	276	2	80.62.030	REP 33 3
75.24.050	AMD	267	25	80.62.040	REP 33 3

## RCW SECTIONS AFFECTED BY 1996 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
80.62.050	REP	33	3	82.08	ADD	166	1
80.62.060	REP	33	3	82.08	ADD	170	1
80.62.070	REP	33	3	82.08	ADD	247	4
80.62.080	REP	33	3	82.08	ADD	272	2
80.62.900	REP	33	3	82.08.02565	AMD	173	3
80.62.910	REP	33	3	82.08.02565	AMD	247	2
81.24.010	AMD	196	1	82.08.0283	AMD	162	1
81.66.010	AMD	244	1	82.08.0287	AMD	244	4
81.66.070	REP	244	8	82.12	ADD	63	2
81.90.010	REP	87	23	82.12	ADD	113	2
81.90.020	REP	87	23	82.12	ADD	117	2
81.90.030	REP	87	23	82.12	ADD	141	2
81.90.040	REP	87	23	82.12	ADD	166	2
81.90.050	REP	87	23	82.12	ADD	170	2
81.90.060	REP	87	23	82.12	ADD	247	5
81.90.070	REP	87	23	82.12	ADD	272	3
81.90.080	REP	87	23	82.12.020	AMD	148	5
81.90.090	REP	87	23	82.12.02565	AMD	247	3
81.90.100	REP	87	23	82.12.0277	AMD	162	2
81.90.110	REP	87	23	82.12.0282	AMD	88	4
81.90.120	REP	87	23	82.12.035	AMD	148	6
81.90.130	REP	87	23	82.12.045	AMD	149	19
81.90.140	REP	87	23	82.14.210	AMD	64	1
81.90.150	REP	87	23	82.16.010	AMD	150	1
81.90.160	REP	87	23	82.16.020	AMD	150	2
82	ADD	152	1,2,4	82.16.040	AMD	111	4
82.02.020	AMD	230	1612	82.16.048	AMD	128	3
82.04	ADD	1	4	82.16.049	AMD	128	4
82.04	ADD	112	3	82.16.053	AMD	145	1
82.04	ADD	128	5	82.23A	ADD	88	3
82.04	ADD	272	1	82.24.120	AMD	149	7
82.04.010	AMD	93	4	82.24.180	AMD	149	8
82.04.050	AMD	112	1	82.24.270	AMD	149	9
82.04.050	AMD	148	1	82.24.280	AMD	149	10
82.04.060	AMD	148	3	82.32.030	REMD	111	2
82.04.190	AMD	112	2	82.32.045	AMD	111	3
82.04.190	AMD	148	4	82.32.050	AMD	149	2
82.04.190	AMD	173	2	82.32.090	AMD	149	15
82.04.2201	AMD	112	4	82.32.105	AMD	149	17
82.04.255	AMD	1	1	82.32.190	AMD	149	3
82.04.260	REMD	115	1	82.32.200	AMD	149	4
82.04.260	REMD	148	2	82.32.330	AMD	184	5
82.04.290	AMD	1	2	82.35.020	AMD	186	521
82.04.4453	AMD	128	1	82.35.080	AMD	186	522
82.04.4454	AMD	128	2	82.36.030	AMD	104	1
82.08	ADD	63	1	82.36.045	AMD	104	2
82.08	ADD	113	1	82.36.060	AMD	104	3
82.08	ADD	117	1	82.36.070	AMD	104	4
82.08	ADD	141	1	82.36.160	AMD	104	5

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
82.36.285	AMD	244	5	87.80.050	AMD 320 5
82.36.390	AMD	104	6	87.80.060	AMD 320 6
82.38.030	AMD	104	7	87.80.090	AMD 320 7
82.38.060	AMD	90	1	87.80.100	AMD 320 8
82.38.080	AMD	244	6	87.80.110	AMD 320 9
82.38.110	AMD	104	8	87.80.120	AMD 320 10
82.38.120	AMD	104	9	87.80.130	AMD 320 11
82.38.140	AMD	90	2	87.80.140	AMD 320 12
82.38.140	AMD	104	10	87.80.160	AMD 320 13
82.38.150	AMD	104	11	87.80.170	REP 320 24
82.38.170	AMD	104	12	87.80.180	REP 320 24
82.38.190	AMD	91	4	87.80.190	AMD 320 14
82.42.020	AMD	104	13	87.80.200	AMD 320 15
82.42.040	AMD	104	14	87.80.210	REP 320 24
82.42.060	AMD	104	15	88.02	ADD 3 1
82.42.080	AMD	104	16	88.02.055	AMD 31 2
82.44	ADD	139	3	88.02.070	AMD 315 5
82.44	ADD	262	1,2	88.02.118	AMD 184 4
82.44.015	AMD	244	7	88.12.155	AMD 36 1
82.45.100	AMD	149	5	88.16.070	AMD 144 1
82.45.150	AMD	149	6	90	ADD 138 1-10
82.60.020	AMD	290	4		13-15
82.62.010	AMD	290	5	90	ADD 285 2-5
82.62.030	AMD	1	3	90.03	ADD 285 6
82.80.020	AMD	139	4	90.03	ADD 306 1
83.100	ADD	149	18	90.03.247	AMD 186 523
83.100.070	AMD	149	13	90.03.380	AMD 320 19
83.100.130	AMD	149	14	90.03.510	AMD 230 1616
84.09.030	AMD	230	1613	90.03.525	AMD 230 1617
84.36.381	AMD	146	1	90.03.525	AMD 285 1
84.38.020	AMD	230	1614	90.44	ADD 306 2
84.41.030	AMD	254	7	90.48.465	AMD 37 3
84.48.065	AMD	296	1	90.50A.030	AMD 37 4
84.52.052	AMD	230	1615	90.58	ADD 62 1
84.56.020	REMD	153	1	90.58.030	REMD 265 1
84.56.340	AMD	153	2	90.60	ADD 254 8
84.69.020	AMD	296	2	90.70.027	RECD 138 13
85.08.850	AMD	313	1	90.70.065	REP 138 12
86.26.007	AMD	283	903	90.70.075	REP 138 12
87.03	ADD	214	3	90.70.090	REP 138 12
87.03.440	AMD	214	1	90.70.100	REP 138 12
87.03.440	AMD	320	18	90.70.902	RECD 138 13
87.76.040	AMD	214	2	91.08.530	AMD 18 16
87.80	ADD	320	2,16		
			17,22		
			23		
87.80.010	AMD	320	1		
87.80.020	AMD	320	3		
87.80.030	AMD	320	4		



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<u>LAWS 1992</u>			<u>LAWS 1996</u>		<u>LAWS 1995 2ND SP.S.</u>			<u>LAWS 1996</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
67	3	REP	12	3	14	302	AMD	165	302
					14	303	AMD	165	303
					14	401	AMD	165	401
					14	402	AMD	165	402
					14	403	AMD	165	403
					14		ADD	165	404
					14	404	AMD	165	405
					14	408	AMD	165	406
					14		ADD	165	407
					14	224	REP	165	501
					14		ADD	165	502
					14		ADD	165	503
					14		ADD	165	504
					14		ADD	165	505
					14		ADD	165	507
					14		ADD	165	508
					14		ADD	165	509
					18	101	AMD	283	101
					18	102	AMD	283	102
					18	103	AMD	283	103
					18	106	AMD	283	104
					18	110	AMD	283	105
					18	111	AMD	283	106
					18	112	AMD	283	107
					18	113	AMD	283	108
					18	114	AMD	283	109
					18		ADD	283	110
					18	115	AMD	283	111
					18		ADD	283	112
					18	117	AMD	283	113
					18	118	AMD	283	114
					18	121	AMD	283	115
					18	122	AMD	283	116
					18	119	AMD	283	117
					18	120	AMD	283	118
					18	124	AMD	283	119
					18	125	AMD	283	120
					18	126	AMD	283	121
					18		ADD	283	122
					18	127	AMD	283	123
					18	128	AMD	283	124
					18	130	AMD	283	125
					18	134	AMD	283	126
					18	135	AMD	283	127
					18	137	AMD	283	128
					18	138	AMD	283	129
					18	139	AMD	283	130
					18	143	AMD	283	131
					18		ADD	283	132
					18	149	AMD	283	133

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<u>LAWS 1995 2ND SP.S.</u>			<u>LAWS 1996</u>		<u>LAWS 1995 2ND SP.S.</u>			<u>LAWS 1996</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
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18	152	AMD	283	135	18	606	AMD	283	606
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# HISTORY OF INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS

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# HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 1 (State-wide Prohibition)—Filed January 2, 1914. Refiled as Initiative Measure No. 3.
- INITIATIVE MEASURE No. 2 (Eight Hour Law)—Filed January 3, 1914. Refiled as Initiative Measure No. 5.
- \*INITIATIVE MEASURE No. 3 (State-Wide Prohibition)—Filed January 8, 1914. Submitted to the voters at the state general election held on November 3, 1914. Measure approved into law by the following vote: For—189,840 Against—171,208. Act is now identified as Chapter 2, Laws of 1915.
- INITIATIVE MEASURE No. 4 (Drugless Healers)—Filed January 13, 1914. No petition filed.
- INITIATIVE MEASURE No. 5 (Eight Hour Law)—Filed January 15, 1914. No petition filed. See Initiative Measure No. 13, covering same subject.
- INITIATIVE MEASURE No. 6 (Blue Sky Law)—Filed January 30, 1914. Submitted to voters at the state general election held on November 3, 1914. Failed to pass by the following vote: For—142,017 Against—147,298.
- INITIATIVE MEASURE No. 7 (Abolishing Bureau of Inspection)—Filed January 30, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: For—117,882 Against—167,080.
- \*INITIATIVE MEASURE No. 8 (Abolishing Employment Offices)—Filed January 30, 1914. Submitted to the voters at the state general election held on November 3, 1914. Measure approved into law by the following vote: For—162,054 Against—144,544. Act is now identified as Chapter 1, Laws of 1915.
- INITIATIVE MEASURE No. 9 (First Aid to Injured)—Filed January 29, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: For—143,738 Against—154,166.
- INITIATIVE MEASURE No. 10 (Convict Labor Road Measure)—Filed January 29, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: For—111,805 Against—183,726.
- INITIATIVE MEASURE No. 11 (Fish Code)—Filed January 29, 1914. Petition failed. Not enough valid signatures obtained to place the measure on the November 3, 1914 state general election ballot.
- INITIATIVE MEASURE No. 12 (Abolishing Tax Commission)—Filed January 29, 1914. Petition failed. Not enough valid signatures obtained to place the measure on the November 3, 1914 state general election ballot.
- INITIATIVE MEASURE No. 13 (Eight Hour Law)—Filed February 10, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: For—118,881 Against—212,935.
- INITIATIVE MEASURE No. 14 (Legislative Reapportionment)—Filed May 13, 1914. No petition filed.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 15 (Fundamental Reform Act)—Filed May 15, 1914. No petition filed.
- INITIATIVE MEASURE No. 16 (Legislative Reapportionment)—Filed May 20, 1914. No petition filed.
- INITIATIVE MEASURE No. 17 (State Road Measure)—Filed June 13, 1914. No petition filed.
- INITIATIVE MEASURE No. 18 (Brewers' Hotel Bill)—Filed December 14, 1914. The 1915 Legislature failed to take action, and as provided by the state constitution the measure then was submitted to the voters for final decision at the November 7, 1916 state general election. Measure was defeated by the following vote: For—48,354 Against—263,390.
- (This initiative was erroneously numbered since it was actually an initiative to the Legislature. Now renumbered as Initiative to the Legislature No. 1A.)
- INITIATIVE MEASURE No. 19 (Nonpartisan Election and Presidential Primary)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 20 (First Aid)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 21 (Home Rule)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 22 (Fisheries Code)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 23 (Politicians' Code)—Filed March 29, 1916. No petition filed.
- INITIATIVE MEASURE No. 24 (Brewers' Bill)—Filed April 20, 1916. Submitted to the voters at the state general election held on November 7, 1916. Failed to pass by the following vote: For—98,843 Against—245,399.
- INITIATIVE MEASURE No. 25 (Repealing State-Wide Prohibition)—Filed May 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 26 (Making the State a Prohibition District)—Filed October 13, 1916. No petition filed.
- INITIATIVE MEASURE No. 27 (Repealing Chapter 57, Laws of 1915, Relating to Regulation of Common Carriers)—Filed October 13, 1916. No petition filed.
- INITIATIVE MEASURE No. 28 (Nonpartisan Elections)—Filed October 26, 1916. No petition filed.
- INITIATIVE MEASURE No. 29 (Capitol Removal Bill)—Filed November 27, 1916. No petition filed.
- INITIATIVE MEASURE No. 30 (Eight Hour Law)—Filed January 9, 1918. No petition filed.
- INITIATIVE MEASURE No. 31 (Municipal Marketing Measure)—Filed February 5, 1918. No petition filed.
- INITIATIVE MEASURE No. 32 (Picketing Measure)—Filed February 5, 1918. No petition filed.
- INITIATIVE MEASURE No. 33 (Nonpartisan Elections and Presidential Primary)—Filed February 5, 1918. No petition filed.
- INITIATIVE MEASURE No. 34 (Relating to Salmon Fishing)—Filed February 8, 1918. No petition filed.
- INITIATIVE MEASURE No. 35 (Repealing Chapter 174, Laws of 1919, Relating to Prevention of Criminal Syndicalism)—Filed October 7, 1920. Insufficient number of signatures on petition; failed.
- INITIATIVE MEASURE No. 36 (Municipal Marketing Measure)—Filed November 16, 1920. No petition filed.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 37 (Relating to Ownership of Land by Aliens)—Filed November 19, 1920. No petition filed.
- INITIATIVE MEASURE No. 38 (Repealing Chapter 209, Laws of 1907, Relating to the Nomination of Candidates for Public Office)—Filed January 11, 1922. No petition filed.
- INITIATIVE MEASURE No. 39 (Repealing Chapter 138, Laws of 1913, Relating to the Initiative Procedure)—Filed January 11, 1922. No petition filed.
- \*INITIATIVE MEASURE No. 40 (Repealing Chapter 174, Laws of 1921, Relating to the Poll Tax)—Filed January 18, 1922. Submitted to the voters at the state general election held on November 7, 1922. Measure approved into law by the following vote: **For**—193,356 **Against**—63,494. Act is now identified as Chapter 1, Laws of 1923.
- INITIATIVE MEASURE No. 41 (Nonpartisan Elections)—Filed January 18, 1922. No petition filed.
- INITIATIVE MEASURE No. 42 (Workmen's Compensation Measure)—Filed January 24, 1922. Same as Initiative Measure No. 47; no petition filed.
- INITIATIVE MEASURE No. 43 (Relating to Injunctions in Labor Disputes)—Filed January 24, 1922. No petition filed.
- INITIATIVE MEASURE No. 44 (Relating to Municipal Ownership)—Filed January 28, 1922. No petition filed.
- INITIATIVE MEASURE No. 45 (Legislative Reapportionment)—Filed February 14, 1922. No petition filed.
- INITIATIVE MEASURE No. 46 ("30-10" School Plan)—Filed February 21, 1922. Submitted to the voters at the state general election held on November 7, 1922. Failed to pass by the following vote: **For**—99,150 **Against**—150,114.
- INITIATIVE MEASURE No. 47 (Workmen's Compensation Measure)—Filed March 27, 1922. No petition filed.
- INITIATIVE MEASURE No. 48 (Compulsory School Attendance)—Filed January 7, 1924. No petition filed.
- INITIATIVE MEASURE No. 49 (Compulsory School Attendance)—Filed January 15, 1924. Submitted to the voters at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—158,922 **Against**—221,500.
- INITIATIVE MEASURE No. 50 (Limitation of Taxation)—Filed February 21, 1924. Submitted to the voters at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—128,677 **Against**—211,948.
- INITIATIVE MEASURE No. 51 (Pertaining to Salmon Fishing)—Filed April 2, 1924. No petition filed.
- INITIATIVE MEASURE No. 52 (Electric Power Measure)—Filed April 8, 1924. Submitted to the voters at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—139,492 **Against**—217,393.
- INITIATIVE MEASURE No. 53 (Relating to Sanipractic)—Filed February 4, 1926. No petition filed.
- INITIATIVE MEASURE No. 54 (State Commission to License and Regulate Horse-Racing, Pool-Selling, etc.—Parimutuel Measure)—Filed February 5, 1926. No petition filed.
- INITIATIVE MEASURE No. 55 (Prohibiting Use of Purse Seines, Fish Traps, Fish Wheels, etc.)—Filed February 16, 1928. No petition filed.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 56 (Redistricting State For Legislative Purposes)—Filed April 24, 1930. Refiled as Initiative Measure No. 57.
- \*INITIATIVE MEASURE No. 57 (Redistricting State for Legislative Purposes)—Filed April 25, 1930. Submitted to the voters at the state general election held on November 4, 1930. Measure approved into law by the following vote: **For—116,436 Against—115,641**. Act is now identified as Chapter 2, Laws of 1931.
- \*INITIATIVE MEASURE No. 58 (Permanent Registration)—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For—372,061 Against—75,381**. Act is now identified as Chapter 1, Laws of 1933.
- INITIATIVE MEASURE No. 59 (Tax Free Homes)—Filed January 9, 1932. No petition filed.
- INITIATIVE MEASURE No. 60 (Licensing of Mercantile Establishments)—Filed January 9, 1932. No petition filed.
- \*INITIATIVE MEASURE No. 61 (Relating to Intoxicating Liquors)—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For—341,450 Against—208,211**. Act is now identified as Chapter 2, Laws of 1933.
- \*INITIATIVE MEASURE No. 62 (Creating Department of Game)—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For—270,421 Against—231,863**. Act is now identified as Chapter 3, Laws of 1933.
- INITIATIVE MEASURE No. 63 (Exemption of Homes from Taxation)—Filed January 9, 1932. No petition filed.
- \*INITIATIVE MEASURE No. 64 (Limits Tax Levy on Real and Personal Property to 40 Mills)—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For—303,384 Against—190,619**. Act is now identified as Chapter 4, Laws of 1933.
- INITIATIVE MEASURE No. 65 (Cascade Mountain Tunnel)—Filed February 19, 1932. No petition filed.
- INITIATIVE MEASURE No. 66 (Scientific Birth Control)—Filed February 26, 1932. No petition filed.
- INITIATIVE MEASURE No. 67 (Abolishes Excise Tax on Butter Substitutes)—Filed March 7, 1932. No petition filed.
- INITIATIVE MEASURE No. 68 (Unemployment Insurance)—Filed March 21, 1932. No petition filed.
- \*INITIATIVE MEASURE No. 69 (Income Tax Measure)—Filed March 22, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For—322,919 Against—136,983**. Act is now identified as Chapter 5, Laws of 1933.
- INITIATIVE MEASURE No. 70 (Compulsory Military Training Prohibited)—Filed April 4, 1932. No petition filed.
- INITIATIVE MEASURE No. 71 (Liquor Control)—Filed January 8, 1934. No petition filed.
- INITIATIVE MEASURE No. 72 (Distribution of Highway Funds)—Filed January 8, 1934. No petition filed.
- INITIATIVE MEASURE No. 73 (Catching of Fish)—Filed January 8, 1934. No petition filed.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 74 (Tax Free Homes)—Filed January 8, 1934. No petition filed.
- INITIATIVE MEASURE No. 75 (Unemployment Insurance)—Filed January 19, 1934. No petition filed.
- INITIATIVE MEASURE No. 76 (Tax Free Homes)—Filed January 22, 1934. No petition filed.
- \*INITIATIVE MEASURE No. 77 (Fish Traps and Fishing Regulations)—Filed February 1, 1934. Submitted to the voters at the state general election held on November 6, 1934. Measure approved into law by the following vote: For—275,507 Against—153,811. Act is now identified as Chapter 1, Laws of 1935.
- INITIATIVE MEASURE No. 78 (Distribution of Highway Funds)—Filed February 9, 1934. No petition filed.
- INITIATIVE MEASURE No. 79 (Liquor Control)—Filed February 20, 1934. No petition filed.
- INITIATIVE MEASURE No. 80 (Liquor Control)—Filed February 24, 1934. No petition filed.
- INITIATIVE MEASURE No. 81 (Liquor Control)—Filed February 28, 1934. No petition filed.
- INITIATIVE MEASURE No. 82 (Fishing Regulations)—Filed March 10, 1934. No petition filed.
- INITIATIVE MEASURE No. 83 (State Sale of Gasoline)—Filed March 16, 1934. No petition filed.
- INITIATIVE MEASURE No. 84 (Blanket Primary)—Filed March 17, 1934. No petition filed.
- INITIATIVE MEASURE No. 85 (State Fire Insurance)—Filed March 17, 1934. No petition filed.
- INITIATIVE MEASURE No. 86 (State Fire Insurance)—Filed March 21, 1934. No petition filed.
- INITIATIVE MEASURE No. 87 (Workmen's Compensation)—Filed March 22, 1934. No petition filed.
- INITIATIVE MEASURE No. 88 (Liquor Control)—Filed March 24, 1934. No petition filed.
- INITIATIVE MEASURE No. 89 (One Man Grand Jury)—Filed March 30, 1934. No petition filed.
- INITIATIVE MEASURE No. 90 (Criminal Appeals)—Filed March 30, 1934. No petition filed.
- INITIATIVE MEASURE No. 91 (Regulating Motor Carriers)—Filed March 31, 1934. No petition filed.
- INITIATIVE MEASURE No. 92 (Regulating Motor Carriers)—Filed April 9, 1934. No petition filed.
- INITIATIVE MEASURE No. 93 (Distribution of Highway Funds)—Filed May 10, 1934. Insufficient number of signatures on petition; failed.
- \*INITIATIVE MEASURE No. 94 (40-Mill Tax Limit)—Filed May 18, 1934. Submitted to the voters at the state general election held on November 6, 1934. Measure approved into law by the following vote: For—219,635 Against—192,168. Act is now identified as Chapter 2, Laws of 1935.
- INITIATIVE MEASURE No. 95 (Liquor Control)—Filed May 26, 1934. No petition filed.
- INITIATIVE MEASURE No. 96 (Repeal of Business Occupation Tax)—Filed June 4, 1934. No petition filed.
- INITIATIVE MEASURE No. 97 (Dog Racing)—Filed June 7, 1934. Insufficient number of signatures on petition; failed.
- INITIATIVE MEASURE No. 98 (Business and Occupation Tax)—Filed January 4, 1936. No petition filed.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 99 (Distribution of Highway Funds)—Filed January 4, 1936. No petition filed.
- INITIATIVE MEASURE No. 100 (40-Mill Tax Limit)—Filed January 4, 1936. No petition filed.
- INITIATIVE MEASURE No. 101 (Civil Service)—Filed January 14, 1936. Submitted to the voters at the state general election held on November 3, 1936. Failed to pass by the following vote: For—208,904 Against—300,274.
- INITIATIVE MEASURE No. 102 (Creating "State Government Bank" Department)—Filed January 21, 1936. No petition filed.
- INITIATIVE MEASURE No. 103 (Old Age Pension)—Filed January 17, 1936. No petition filed.
- INITIATIVE MEASURE No. 104 (Tax on Gasoline)—Filed February 27, 1936. No petition filed.
- INITIATIVE MEASURE No. 105 (Relating to Gill Nets)—Filed March 3, 1936. No petition filed.
- INITIATIVE MEASURE No. 106 (Voter's Identification Certificate)—Filed March 3, 1936. No petition filed.
- INITIATIVE MEASURE No. 107 (Tax on Gasoline)—Filed March 7, 1936. No petition filed.
- INITIATIVE MEASURE No. 108 (40-Mill Tax Limit)—Filed March 12, 1936. No petition filed.
- INITIATIVE MEASURE No. 109 (Admission of Sick to Hospitals)—Filed March 14, 1936. No petition filed.
- INITIATIVE MEASURE No. 110 (Annuity for Crippled and Blind)—Filed March 27, 1936. No petition filed.
- INITIATIVE MEASURE No. 111 (Admission of Sick to Hospitals)—Filed April 8, 1936. No petition filed.
- INITIATIVE MEASURE No. 112 (Abolishing Compulsory Military Training)—Filed April 9, 1936. No petition filed.
- INITIATIVE MEASURE No. 113 (Tax on Gasoline)—Filed April 15, 1936. No petition filed.
- \*INITIATIVE MEASURE No. 114 (40-Mill Tax Limit)—Filed April 21, 1936. Submitted to the voters at the state general election held on November 3, 1936. Measure approved into law by the following vote: For—417,641 Against—120,478. Act is now identified as Chapter 1, Laws of 1937.
- INITIATIVE MEASURE No. 115 (Old Age Pension)—Filed April 21, 1936. Submitted to the voters at the state general election held on November 3, 1936. Failed to pass by the following vote: For—153,551 Against—354,162.
- INITIATIVE MEASURE No. 116 (Tax on Gasoline)—Filed April 24, 1936. No petition filed.
- INITIATIVE MEASURE No. 117 (Production for Use)—Filed May 1, 1936. No petition filed.
- INITIATIVE MEASURE No. 118 (Liens for Labor)—Filed May 5, 1936. No petition filed.
- INITIATIVE MEASURE No. 119 (Production for Use)—Filed May 9, 1936. Submitted to the voters at the state general election held on November 3, 1936. Failed to pass by the following vote: For—97,329 Against—370,140.
- INITIATIVE MEASURE No. 120 (Tax on Gasoline)—Filed May 11, 1936. No petition filed.
- INITIATIVE MEASURE No. 121 (Beer on Sunday)—Filed May 14, 1936. No petition filed.
- INITIATIVE MEASURE No. 122 (Pertaining to Bribery and Grafting)—Filed May 21, 1936. No petition filed.
- INITIATIVE MEASURE No. 123 (Business and Occupation Tax)—Filed January 27, 1938. No petition filed.



## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 124 (Distribution of Highway Funds)—Filed February 9, 1938. No petition filed.
- INITIATIVE MEASURE No. 125 (Tax on Intoxicating Liquors)—Filed February 15, 1938. No petition filed.
- \*INITIATIVE MEASURE No. 126 (Nonpartisan School Election)—Filed February 24, 1938. Submitted to the voters at the state general election held on November 8, 1938. Measure approved into law by the following vote: For—293,202 Against—153,142. Act is now identified as Chapter 1, Laws of 1939.
- INITIATIVE MEASURE No. 127 (Distribution of Highway Funds)—Filed March 14, 1938. No petition filed.
- INITIATIVE MEASURE No. 128 (Civil Service)—Filed March 14, 1938. No petition filed.
- \*INITIATIVE MEASURE No. 129 (40-Mill Tax Limit)—Filed March 18, 1938. Submitted to the voters at the state general election held on November 8, 1938. Measure approved into law by the following vote: For—340,296 Against—149,534. Act is now identified as Chapter 2, Laws of 1939.
- INITIATIVE MEASURE No. 130 (Regulation of Labor Disputes)—Filed April 6, 1938. Submitted to the voters at the state general election held on November 8, 1938. Failed by the following vote: For—268,848 Against—295,431.
- INITIATIVE MEASURE No. 131 (Civil Service)—Filed April 7, 1938. No petition filed.
- INITIATIVE MEASURE No. 132 (Old Age Assistance)—Filed April 12, 1938. No petition filed.
- INITIATIVE MEASURE No. 133 (Relating to Licensing Gambling)—Filed April 15, 1938. No petition filed.
- INITIATIVE MEASURE No. 134 (Old Age Assistance)—Filed April 19, 1938. No petition filed.
- INITIATIVE MEASURE No. 135 (40-Mill Tax Limit)—Filed May 14, 1938. Insufficient number of signatures on petition; failed.
- INITIATIVE MEASURE No. 136 (Relating to Retail Beer and Wine Licenses)—Filed June 3, 1938. No petition filed.
- INITIATIVE MEASURE No. 137 (Relating to Gambling)—Filed June 9, 1938. No petition filed.
- INITIATIVE MEASURE No. 138 (Relating to Gambling)—Filed June 13, 1938. No petition filed.
- INITIATIVE MEASURE No. 139 (P. U. D. Bonds)—Filed January 5, 1940. Submitted to the voters at the state general election held on November 5, 1940. Failed by the following vote: For—253,318 Against—362,508.
- INITIATIVE MEASURE No. 140 (Liquor Control)—Filed January 9, 1940. No petition filed.
- \*INITIATIVE MEASURE No. 141 (Old Age Pension)—Filed January 11, 1940. Submitted to the voters at the state general election held on November 5, 1940. Measure approved into law by the following vote: For—358,009 Against—258,819. Act is now identified as Chapter 1, Laws of 1941.
- INITIATIVE MEASURE No. 142 (Chain Store Tax)—Filed January 16, 1940. No petition filed.
- INITIATIVE MEASURE No. 143 (Relating to State Sale of Gas and Oil)—Filed February 2, 1940. No petition filed.
- INITIATIVE MEASURE No. 144 (Unicameral Legislature)—Filed February 23, 1940. Withdrawn. Refiled as Initiative Measure No. 147.
- INITIATIVE MEASURE No. 145 (Government Reorganization)—Filed March 18, 1940. No petition filed.

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- INITIATIVE MEASURE No. 146 (Relating to Sabbath Breaking)—Filed March 22, 1940. No petition filed.
- INITIATIVE MEASURE No. 147 (Unicameral Legislature)—Filed April 9, 1940. No petition filed.
- INITIATIVE MEASURE No. 148 (Liquor Control)—Filed May 18, 1940. No petition filed.
- INITIATIVE MEASURE No. 149 (Anti-Subversive Activities)—Filed May 23, 1940. No petition filed.
- INITIATIVE MEASURE No. 150 (Intoxicating Liquor Sold by the Drink)—Filed January 3, 1942. No petition filed.
- INITIATIVE MEASURE No. 151 (Old Age Assistance)—Filed January 3, 1942. Submitted to the voters at the state general election held on November 3, 1942. Failed to pass by the following vote: **For—160,084 Against—225,027.**
- INITIATIVE MEASURE No. 152 (Creating State Elective Offices of Director of Labor and Industries, Director of Social Security and Director of Agriculture)—Filed January 27, 1942. No petition filed.
- INITIATIVE MEASURE No. 153 (Reconstitution of Board of State Land Commissioners)—Filed February 24, 1942. No petition filed.
- INITIATIVE MEASURE No. 154 (After Discharge Benefits to Persons in the Armed Forces)—Filed April 28, 1942. No petition filed.
- INITIATIVE MEASURE No. 155 (Washington Employment Peace Act)—Filed January 10, 1944. No petition filed.
- INITIATIVE MEASURE No. 156 (Liberalization of Old Age Assistance Laws)—Filed February 19, 1944. Refiled as Initiative Measure No. 157.
- INITIATIVE MEASURE No. 157 (Liberalization of Old Age Assistance Laws)—Filed March 3, 1944. Submitted to the voters at the state general election November 7, 1944. Failed to pass by the following vote: **For—240,565 Against—403,756.**
- INITIATIVE MEASURE No. 158 (Liberalization of Old Age Assistance Laws by the Townsend Clubs of Washington)—Filed March 28, 1944. Submitted to the voters at the state general election November 7, 1944. Failed to pass by the following vote: **For—184,405 Against—437,502.**
- INITIATIVE MEASURE No. 159 (Increase of Injured Workmen's Compensation)—Filed January 5, 1946. Insufficient signatures presented July 10, 1946, and measure not certified to general election ballot.
- INITIATIVE MEASURE No. 160 (Increase of Injured Workmen's Compensation)—Filed January 5, 1946. No petition filed.
- INITIATIVE MEASURE No. 161 (Changing Form of General Election Ballot to Conform with Primary Election Ballot)—Filed January 5, 1946. No petition filed.
- INITIATIVE MEASURE No. 162 (Prohibiting the Governor from Employing Members of the Legislature During the Term for Which He Shall Have Been Elected)—Filed January 5, 1946. No petition filed.
- INITIATIVE MEASURE No. 163 (Prohibiting the Sale of Beer or Wine by any Person other than the State of Washington)—Filed January 9, 1946. Insufficient signatures presented July 6, 1946, and measure not certified to general election ballot.
- INITIATIVE MEASURE No. 164 (Prohibiting the Sale of Fortified Wines)—Filed February 25, 1946. No petition filed.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 165 (Providing for the Sale of Liquor by the Drink)—Filed March 1, 1946. Insufficient signatures presented July 8, 1946, and measure not certified to general election ballot.
- INITIATIVE MEASURE No. 166 (Relating to Public Utility Districts; requiring approval of voters as prerequisite to acquisition of any operating electrical utility properties, etc.)—Filed April 24, 1946. Signature petitions filed June 29, 1946, submitted to the voters at the state general election held on November 5, 1946. Failed by the following vote: For—220,239 Against—367,836.
- INITIATIVE MEASURE No. 167 (Providing Liquor by the Drink at Licensed Establishments)—Filed January 2, 1948. Insufficient valid signatures presented July 6, 1948, and measure not certified to state general election ballot.
- INITIATIVE MEASURE No. 168 (Providing Liquor by the Drink for Consumption on Premises Where Sold)—Filed January 2, 1948. No signature petitions presented for checking.
- \*INITIATIVE MEASURE No. 169 (Providing Bonus to Veterans of World War II)—Filed January 2, 1948. Signature petitions filed July 9, 1948, and found sufficient. Submitted to the voters at the state general election held on November 2, 1948. Measure approved into law by the following vote: For—438,518 Against—337,410. However, State Supreme Court ruled measure unconstitutional February 4, 1949. As consequence similar measure passed into law by 1949 Legislature (Chapter 180, Laws of 1949).
- INITIATIVE MEASURE No. 170 (Relating to Liberalization of Social Security Laws)—Filed January 13, 1948. Because sponsor desired changes in text of proposed law, measure refiled as Initiative Measure No. 172.
- \*INITIATIVE MEASURE No. 171 (Providing Liquor by the Drink with Certain Restrictions)—Filed January 19, 1948. Signature petitions filed July 7, 1948, and found sufficient. Submitted to the voters at the state general election held on November 2, 1948. Measure approved into law by the following vote: For—416,227 Against—373,418. Act is now identified as Chapter 5, Laws of 1949.
- \*INITIATIVE MEASURE No. 172 (Relating to Liberalization of Social Security Laws)—Filed February 26, 1948. Signature petitions filed July 9, 1948, and found sufficient. Submitted to the voters at the state general election held on November 2, 1948. Measure approved into law by the following vote: For—420,751 Against—352,642. Act is now identified as Chapter 6, Laws of 1949.
- INITIATIVE MEASURE No. 173 (Providing for the Observance of Daylight Saving Time in the State of Washington)—Filed May 20, 1948. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 174 (Making application to Congress to call a Convention for the sole purpose of proposing an amendment to the Constitution of the United States to expedite and insure participation of the United States in a world federal government)—Filed January 16, 1950. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 175 (Establishing a Department of Youth Protection to operate the Washington State Training School and the State School for Girls under nonpartisan control)—Filed March 31, 1950. No signature petitions presented for canvassing. Essential provisions of this measure enacted by the 1951 Legislature (Chapter 234, Laws of 1951).
- INITIATIVE MEASURE No. 176 (Increasing to sixty-five dollars monthly the minimum grant for certain categories of public assistance, otherwise extending the social security program, and making an appropriation)—Filed April 20, 1950. Submitted to the voters at the state general election held on November 7, 1950. Failed to pass by the following vote: For—159,400 Against—534,689.

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INITIATIVE MEASURE No. 177—Filed May 1, 1950. Refiled May 5, 1950, as Initiative Measure No. 178.

\*INITIATIVE MEASURE No. 178 (Modifying the Citizens' Security Act of 1948 (Initiative Measure No. 172) and transferring the public assistance medical program to the State Department of Health)—Filed May 5, 1950. Submitted to the voters at the state general election held on November 7, 1950. Measure approved into law by the following vote: For—394,261 Against—296,290. Act is now identified as Chapter 1, Laws of 1951.

INITIATIVE MEASURE No. 179 (Liberalizing unemployment compensation benefits and repealing that portion of the Unemployment Compensation Act providing for employer experience rating)—Filed May 5, 1950. No signature petitions presented for checking.

\*INITIATIVE MEASURE No. 180 (Authorizing the Manufacture, Sale and Use of Colored Oleomargarine)—Filed February 4, 1952. Submitted to the voters at the state general election held on November 4, 1952. Measure approved into law by the following vote: For—836,580 Against—163,752. Act is now identified as Chapter 1, Laws of 1953.

\*INITIATIVE MEASURE No. 181 (Prescribing the Observance of Standard Time)—Filed February 27, 1952. Submitted to the voters at the state general election held on November 4, 1952. Measure approved into law by the following vote: For—597,558 Against—397,928. Act is now identified as Chapter 2, Laws of 1953.

INITIATIVE MEASURE No. 182 (Repealing Sunday Blue Laws)—Filed March 24, 1952. No signature petitions presented for checking.

INITIATIVE MEASURE No. 183 (Petitioning Congress to declare a policy of the United States to live in peaceful coexistence with other nations and to call a conference of the heads of leading nations to negotiate a settlement of existing differences)—Filed March 26, 1952. No signature petitions presented for checking.

INITIATIVE MEASURE No. 184 (Liberalizing Old Age Pension Laws)—Filed April 3, 1952. Submitted to the voters at the state general election held on November 4, 1952. Failed by the following vote: For—265,193 Against—646,534.

INITIATIVE MEASURE No. 185 (Liberalizing Old Age Pension Laws)—Filed April 11, 1952. No signature petitions presented for checking.

INITIATIVE MEASURE No. 186 (Providing a Civil Service System for Employees of County Sheriffs)—Filed April 14, 1952. No signature petitions presented for checking.

INITIATIVE MEASURE No. 187 (Permitting a Modified Coloring of Oleomargarine)—Filed May 15, 1952. No signature petitions presented for checking.

INITIATIVE MEASURE No. 188 (Raising Standards for Chiropractic Examinations)—Filed January 4, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: For—320,179 Against—493,108.

INITIATIVE MEASURE No. 189 (Legislative Reapportionment)—Filed January 4, 1954. No signature petitions presented for checking.

INITIATIVE MEASURE No. 190 (Presidential Preference Primary)—Filed January 6, 1954. No signature petitions presented for checking.

INITIATIVE MEASURE No. 191 (Attorneys' Fees in Probate)—Filed January 21, 1954. No signature petitions presented for checking.

INITIATIVE MEASURE No. 192 (Regulation of Commercial Salmon Fishing)—Filed February 16, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: For—237,004 Against—555,151.

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- INITIATIVE MEASURE No. 193 (State-Wide Daylight Saving Time)—Filed February 23, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: For—370,005 Against—457,529.
- INITIATIVE MEASURE No. 194 (Restricting Television Alcoholic Beverage Advertising)—Filed March 26, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: For—207,746 Against—615,794.
- INITIATIVE MEASURE No. 195 (State Toll Commission)—Filed March 30, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 196 (the Unemployment Compensation Act)—Filed April 23, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 197 (Restricting Dams: Columbia River Tributaries)—Filed May 12, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 198 (Affecting Employer-Employee Relations)—Filed January 19, 1956. Submitted to the voters at the state general election held on November 6, 1956. Failed to pass by the following vote: For—329,653 Against—704,903.
- \*INITIATIVE MEASURE No. 199 (Legislative Reapportionment and Redistricting)—Filed February 16, 1956. Submitted to the voters at the November 6, 1956 state general election. Measure approved into law by the following vote: For—448,121 Against—406,287. However, 1957 Legislature extensively amended this act by passing Chapter 289, Laws of 1957 by two-thirds approval of both branches of the Legislature.
- INITIATIVE MEASURE No. 200 (Increasing Public Assistance Benefits)—Filed February 27, 1956. No signature petitions submitted for checking.
- INITIATIVE MEASURE No. 201 (Washington Fair Labor Standards Act)—Filed March 2, 1956. No signature petitions submitted for checking.
- INITIATIVE MEASURE No. 202 (Restricting Labor Agreements)—Filed January 6, 1958. Signature petitions filed July 3, 1958 and found sufficient. Submitted to voters at the state general election held on November 4, 1958. Failed by the following vote: For—339,742 Against—596,949.
- INITIATIVE MEASURE No. 203 (Wood Pulp Waste Tax)—Filed February 28, 1959. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 204 (Civil Service for State Employees)—Filed January 8, 1960. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 205 (Authorizing Tavern Spirituous Liquor Licenses)—Filed January 8, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Failed by the following vote: For—357,455 Against—799,643.
- INITIATIVE MEASURE No. 206 (Authorizing and Licensng "Dentistry")—Filed January 11, 1960. No signature petitions presented for checking.
- \*INITIATIVE MEASURE No. 207 (Civil Service for State Employees)—Filed January 13, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Measure approved into law by the following vote: For—606,511 Against—471,730. Act is now identified as Chapter 1, Laws of 1961.
- \*INITIATIVE MEASURE No. 208 (Authorizing Joint Tenancies in Property)—Filed January 13, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Measure approved into law by the

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following vote: For—647,529 Against—430,698. Act is now identified as Chapter 2, Laws of 1961.

INITIATIVE MEASURE No. 209 (Minimum Old Age Assistance Grants)—Filed February 8, 1960. No signature petitions presented for checking.

\*INITIATIVE MEASURE No. 210 (State-Wide Daylight Saving Time)—Filed April 15, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Measure approved into law by the following vote: For—596,135 Against—556,623. Act is now identified as Chapter 3, Laws of 1961.

INITIATIVE MEASURE No. 211 (State Legislative Reapportionment and Redistricting)—Filed January 8, 1962 by the League of Women Voters of Washington. Signature petitions filed on June 29, 1962 and as of August 22, 1962 it was determined that the necessary number of valid signatures had been submitted to certify measure to the voters for decision at the 1962 state general election. Measure was rejected by the voters by the vote: For—396,419 Against—441,085.

INITIATIVE MEASURE No. 212 (Repealing Certain 1961 Tax Laws)—Filed January 8, 1962 by the Citizens' Tax Revolt Group. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.

INITIATIVE MEASURE No. 213 (Authorizing and Licensing "Dentistry")—Filed January 8, 1962 by the Washington Society of Denturists. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.

INITIATIVE MEASURE No. 214 (Restricting the Legislature's Tax Power)—Filed February 19, 1962 by the Citizens' Tax Revolt Group. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.

\*INITIATIVE MEASURE No. 215 (Marine Recreation Land Act)—Filed January 3, 1964 by the Citizens for Outdoor Recreation—Marvin B. Durning, Chairman. Signature petitions filed July 3, 1964 and found sufficient. Submitted to the voters at the November 3, 1964 state general election. Measure approved into law by the following vote: For—665,737 Against—381,743. Act is now identified as Chapter 5, Laws of 1965.

INITIATIVE MEASURE No. 216 (Repeal—County, Regional Planning Act)—Filed January 3, 1964 by the Committee for Private Property Rights—Joseph W. Shott, Chairman. No signature petitions presented for checking.

INITIATIVE MEASURE No. 217 (Election of State Game Commissioners)—Filed January 8, 1964 by the Washington State Wild Life Council, Inc.—Theodore E. Lohman, Vice President. Refiled as Initiative Measure No. 221.

INITIATIVE MEASURE No. 218 (Automotive Repair Regulatory Act)—Filed January 10, 1964 by the Car Owners Association of Washington—John S. Kelly, President. No signature petitions presented for checking.

INITIATIVE MEASURE No. 219 (Repeal of Metro Enabling Act)—Filed January 20, 1964 by the Committee on Constitutional Rights of the State of Washington—Mrs. Ann Katheryn Jensen, Chairman. No signature petitions presented for checking.

INITIATIVE MEASURE No. 220 (Repeal of Urban Renewal Law)—Filed January 20, 1964 by the Committee on Constitutional Rights of the State of Washington—Mrs. Ann Katheryn Jensen, Chairman. No signature petitions presented for checking.

INITIATIVE MEASURE No. 221 (Election of State Game Commissioners)—Filed February 13, 1964 by the Washington State Wild Life Council, Inc.—Theodore E. Lohman, Vice President. No signature petitions presented for checking.

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- INITIATIVE MEASURE No. 222 (Reallocation of Liquor Sales Revenue)—Filed February 20, 1964 by the More & Better Schools for Washington—Lloyd M. Brown, President. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 223 (Extending Saturday Night Closing Hours)—Filed February 26, 1964 by the Citizens Committee for Sensible Closing Hours—Chester W. Ramage, President. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 224 (Prohibiting City Street Parking Fees)—Filed March 31, 1964 by the Committee to Ban Parking Meters in the State of Washington—Edward John Kiter, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 225 (Repealing State Statutes Against Discrimination)—Filed April 23, 1964 by the Committee for Preservation of Freedom of Choice—William P. Brophy, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 226 (Cities Sharing Sales, Use Taxes)—Filed January 10, 1966 by the Citizens' Committee for Community Betterment, Wayne C. Booth, Sr. of Seattle, Chairman. Signatures (180,896) filed July 8, 1966 and found sufficient. Measure submitted to the voters for decision at the November 8, 1966 state general election and rejected by the following vote: For—403,700 Against—514,281.
- INITIATIVE MEASURE No. 227 (Buying Back Breakable Beverage Bottles)—Filed January 10, 1966 by W. N. Dahmen on behalf of his son Randall Douglas Dahmen of Spokane. No signatures presented for checking.
- INITIATIVE MEASURE No. 228 (Tax Exemption: Food and Medicine)—Filed February 1, 1966 by Karl J. Beaty of Tacoma. No signatures presented for checking.
- \*INITIATIVE MEASURE No. 229 (Repealing Sunday Activities Blue Law)—Filed February 17, 1966 by Lembhard G. Howell, David Sternhoff and Mark Patterson. Signatures (187,463) filed July 6, 1966 and found sufficient. Measure submitted to the voters for decision at the November 8, 1966 state general election and approved into law by the following vote: For—604,096 Against—333,972. Act is now identified as Chapter 1, Laws of 1967.
- INITIATIVE MEASURE No. 230 (Rendering Emergency Aid—Liability Limitation)—Filed February 17, 1966 and cosponsored jointly by the Washington State Association of Fire Chiefs, Washington State Firemen's Association, and Washington Association of Sheriffs and Police Chiefs. No signatures presented for checking.
- INITIATIVE MEASURE No. 231 (Repealing Freight Train Crew Law)—Filed March 11, 1966 by the Committee for Transportation Economy—Fred H. Tolan, Chairman. Refiled as Initiative Measure No. 233.
- INITIATIVE MEASURE No. 232 (Supreme Court Judges—Powers—Election)—Filed March 14, 1966 by Walter H. Philipp of Seattle. No signatures presented for checking. Refiled as Initiative Measure No. 31 to the Legislature.
- \*INITIATIVE MEASURE No. 233 (Repealing Freight Train Crew Law)—Filed March 22, 1966 by same sponsors of Initiative Measure No. 231. The only change in text of Initiative Measure No. 233 was the deletion of one sentence of the preamble as contained in Section 1 of Initiative Measure No. 231. Thus, for all practical purposes, the two initiative measures cover the same legal ground. Signatures (166,866) filed July 6, 1966 and found to be sufficient. Measure submitted to the voters for decision at the November 8, 1966 state general election and approved into law by the following vote: For—591,015 Against—339,978. Act is now identified as Chapter 2, Laws of 1967.
- INITIATIVE MEASURE No. 234 (Civil Service—Certain County Employees)—Filed March 30, 1966 by the Committee to Improve County Government. The scope of this measure was

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limited to class AA and class A counties (King, Pierce and Spokane). In order to obtain additional support, a new proposal was drafted extending civil service to all counties and filed as Initiative Measure No. 237. For this reason, no attempt was made to obtain signatures for Initiative Measure No. 234.

**INITIATIVE MEASURE No. 235 (Repealing Certain Mental Health Laws)**—Filed April 1, 1966 by Mrs. Rose R. Garrett Nelson of Puyallup. No signatures presented for checking.

**INITIATIVE MEASURE No. 236 (Regulating Highway—Railroad Crossings)**—Filed April 15, 1966 by the Committee for the Elimination of Public Grade Crossings—Arthur J. McGinn of Spokane, Chairman. No signatures presented for checking.

**INITIATIVE MEASURE No. 237 (Civil Service for County Employees)**—Filed April 15, 1966 by the Committee to Improve County Government—Anne Shannon of Des Moines, Secretary. No signatures presented for checking.

**INITIATIVE MEASURE No. 238 (Prohibiting Regulation of Land Use)**—Filed January 5, 1968 by the Committee for Private Property Rights—Joseph W. Shott of Olympia, Chairman. No signatures presented for checking.

**INITIATIVE MEASURE No. 239 (Mandatory County Civil Service System)**—Filed January 10, 1968 by the Special Committee of the King County Employees Association—Walter P. Barclay of Seattle, Chairman. No signatures presented for checking.

**INITIATIVE MEASURE No. 240 (Termination: Certain Land Use Regulations)**—Filed January 15, 1968 by Robert W. Sollars of Everett. No signatures presented for checking.

**INITIATIVE MEASURE No. 241 (Calling 1970 State Constitutional Convention)**—Filed February 2, 1968 by the Committee to Call a Constitutional Convention—S. Lynn Sutcliffe of Seattle, Chairman. No signatures presented for checking.

**\*INITIATIVE MEASURE No. 242 (Drivers' Implied Consent—Intoxication Tests)**—Filed February 8, 1968 by the Washington State Medical Association—Dr. Charles P. Larson of Seattle, Vice-President. Signatures (123,589) filed July 3, 1968 and found sufficient. Measure submitted to the voters for decision at the November 5, 1968 state general election and approved into law by the following vote: **For—792,242 Against—394,644**. Act is now identified as Chapter 1, Laws of 1969.

**INITIATIVE MEASURE No. 243 (Information for Life Insurance Purchasers)**—Filed February 19, 1968 by Theodore Radcliffe of Wenatchee. No signatures presented for checking.

**INITIATIVE MEASURE No. 244 (State—County Tax Millage Shift)**—Filed February 23, 1969 by the Washington State Association of County Commissioners. No signatures presented for checking.

**\*INITIATIVE MEASURE No. 245 (Reducing Maximum Retail Service Charges)**—Filed April 4, 1968 by Joseph H. Davis, President, and Marvin L. Williams, Secretary-Treasurer of the Washington State Labor Council, AFL-CIO. Signatures (143,395) filed July 5, 1968 and found sufficient. Measure submitted to the voters for decision at the November 5, 1968 state general election and approved into law by the following vote: **For—642,902 Against—551,394**. Act is now identified as Chapter 2, Laws of 1969.

**INITIATIVE MEASURE No. 246**—Filed January 6, 1970 by Donald N. McDonald. Immediately after filing, the sponsor decided to abandon the initiative measure. For this reason, Attorney General did not issue ballot title and no further action was taken. Refiled January 22, 1970 as Initiative Measure No. 248.

**INITIATIVE MEASURE No. 247 (Increasing Maximum Retail Service Charges)**—Filed January 20, 1970 by the Washington Citizens for Competitive Credit—A. F. Carey of Seattle, Secretary-Treasurer. No signatures presented for checking.



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- INITIATIVE MEASURE No. 248 (Property Tax Millage Rate Reallocation)—Filed January 22, 1970 by Donald N. McDonald of Bothell. No signatures presented for checking.
- INITIATIVE MEASURE No. 249—Filed February 11, 1970 by the Committee for Bingo for Washington—State Representative Mark Litchman, Jr. of Seattle, Chairman. NOTE: Attorney General refused to issue a ballot title for this measure because, in his opinion, the initiative procedure cannot be used to amend the state constitution. No further action was taken by the sponsor.
- INITIATIVE MEASURE No. 250 (Certain Salary Increases—Voter Approval)—Filed February 17, 1970 by the Committee for Voter Approved Salary Increases—Albert C. Navone of Seattle, Chairman. No signatures presented for checking.
- INITIATIVE MEASURE No. 251 (State Taxation—To Regulate Imposition)—Filed March 12, 1970 by Vick Gould of Tax Limit League, Bellevue. Signatures (135,668) filed July 3, 1970 and found sufficient. Measure submitted to the voters for decision at the November 3, 1970 state general election and rejected by the following vote: For—504,779 Against—527,263.
- INITIATIVE MEASURE No. 252 (Property Taxation—Fixing Maximum Rate)—Filed March 12, 1970 by Overtaxed, Inc.—Harley H. Hoppe, President. Due to technical reasons, the sponsor abandoned this measure and no further action was taken.
- INITIATIVE MEASURE No. 253 (Open Land—Special Taxation Basis)—Filed March 24, 1970 by the Island County Branch of American Taxpayers Association, Inc.—John Metcalf, Vice-chairman. No signatures presented for checking.
- INITIATIVE MEASURE No. 254 (Certain Gambling Activities—Criminal Exemptions)—Filed March 26, 1970 by the Washington State Federation of Fraternal, Patriotic, City and Country Clubs—M. R. Reynolds, President. No signatures presented for checking.
- INITIATIVE MEASURE No. 255—Filed April 20, 1970 by Robert H. Keller, Jr. of Bellingham. Refiled April 23, 1970 as Initiative Measure No. 256.
- INITIATIVE MEASURE No. 256 (Prohibiting Certain Nonrefundable Beverage Receptacles)—Filed April 23, 1970 by Robert H. Keller, Jr., of Bellingham. Signatures (188,102) filed July 1, 1970 and found sufficient. Measure submitted to the voters for decision at the November 3, 1970 state general election and rejected by the following vote: For—511,248 Against—538,118.
- INITIATIVE MEASURE No. 257 (Licensing Dog Racing—Parimutuel Betting)—Filed April 29, 1970 by Donald Nicholson of Kirkland. No signatures presented for checking.
- INITIATIVE MEASURE No. 258 (Certain Cities—Greyhound Racing Franchises)—Filed January 7, 1972 by Donald Nicholson of Kirkland. Signatures (151,856) filed July 7, 1972 and found sufficient. Measure submitted to the voters for decision at the November 7, 1972 state general election and rejected by the following vote: For—526,371 Against—895,385.
- INITIATIVE MEASURE No. 259 (Providing for Presidential Preference Primary)—Filed January 7, 1972 by Bellingham Junior Chamber of Commerce of Bellingham. No signatures presented for checking.
- INITIATIVE MEASURE No. 260 (Regulating Horse and Dog Racing)—Filed January 7, 1972 by Friends of Dog Racing (et al.) of Federal Way. No signatures presented for checking.
- INITIATIVE MEASURE No. 261 (Liquor Sales by Licensed Retailers)—Filed January 10, 1972 by Warren B. McPherson and Robert B. Gould of Seattle. Signatures (122,241) filed July 7, 1972 and found sufficient. Measure submitted to the voters for decision at the November 7, 1972 state general election and rejected by the following vote: For—634,973 Against—779,568.

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- INITIATIVE MEASURE No. 262 (Minimum Age—Alcoholic Beverage Purchases)—Filed January 13, 1972 by David G. Huey of Sedro Woolley. No signatures presented for checking.
- INITIATIVE MEASURE No. 263 (Tax Reform)—Filed January 19, 1972 by Robert J. Corcoran of Puyallup. Refiled January 31, 1972 as Initiative Measure No. 267.
- INITIATIVE MEASURE No. 264 (Liberalizing State Regulation of Marijuana)—Filed January 20, 1972 by Stephen Wilcox, Debbie Yarbrough, and Thomsen Abbott of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 265—Filed January 20, 1972 by Joe Davis of Seattle. Refiled January 25, 1972 as Initiative Measure No. 266 with new sponsor.
- INITIATIVE MEASURE No. 266 (Changing Congressional and Legislative Districts)—Filed January 25, 1972 by Vernon L. Martin of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 267 (Repealing Most Property Tax Exemptions)—Filed January 31, 1972 by Robert J. Corcoran of Puyallup. No signatures presented for checking.
- INITIATIVE MEASURE No. 268 (Unicameral Legislature)—Filed February 8, 1972 by Philip Tenney Rensvold of Olympia. (Attorney General refused to issue ballot title because of opinion that initiative procedure cannot be used to amend constitution.)
- INITIATIVE MEASURE No. 269 (Examinations for Diplomas and Degrees)—Filed February 9, 1972 by Eugene Lydic of Kelso. No signatures presented for checking.
- INITIATIVE MEASURE No. 270 (Election Campaign Financial Reports)—Filed February 10, 1972 by Robert Corcoran of Puyallup. No signatures presented for checking.
- INITIATIVE MEASURE No. 271 (Income Tax and Revenue Distribution)—Filed February 28, 1972 by Charles Clark Marshall of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 272 (Recreational Personal Property—Taxation Removed)—Filed March 1, 1972 by Gary K. Ballew of Vancouver. No signatures presented for checking.
- INITIATIVE MEASURE No. 273—Filed March 2, 1972 by Margaret C. Tunks of Seattle. Refiled March 13, 1972 as Initiative Measure No. 274 with new sponsor.
- INITIATIVE MEASURE No. 274 (Reducing Motor Vehicle Fuel Tax)—Filed March 13, 1972 by Jeffrey R. Perkins of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 275 (Regulating Nonnative Wild Animal Sales)—Filed March 23, 1972 by Harry and June Delaloye of Seattle. No signatures presented for checking.
- \*INITIATIVE MEASURE No. 276 (Disclosure—Campaign Finances—Lobbying—Records)—Filed March 29, 1972 by Michael T. Hildt of Seattle. Signatures (162,710) were submitted and found sufficient. Submitted to the voters for decision at the November 7, 1972 state general election and approved by the following vote: For—959,143 Against—372,693. Act is now identified as Chapter 1, Laws of 1973.
- INITIATIVE MEASURE No. 277 (Camping on Certain Ocean Beaches)—Filed April 5, 1972 by Carl P. Hanun of Aberdeen. No signatures presented for checking.
- INITIATIVE MEASURE No. 278 (Tax Revision—Income Tax—Schools)—Filed April 14, 1972 by Senator Francis E. Holman, Senator Nat Washington, and Representative Charles Moon of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 279 (State Funding of Public Schools)—Filed May 19, 1972 by Alvin C. Leonard, Jr., of Bothell. No signatures presented for checking.
- INITIATIVE MEASURE No. 280 (Limiting Special Legislative Sessions)—Filed March 12, 1973 by Axel Julin, Chairman, Committee to Retain a Part Time Citizen Legislature. No signatures presented for checking.

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- INITIATIVE MEASURE No. 281—Filed June 8, 1973 by Bruce Helm of Alderwood Manor. Refiled June 12, 1973 as Initiative Measure No. 282 with a new sponsor, Kenneth D. Hansen of Seattle.
- \*INITIATIVE MEASURE No. 282 (Shall state elected officials' salary increases be limited to 5.5% over 1965 levels, and judges' the same over 1972 levels?)—Filed June 12, 1973 by Kenneth D. Hansen of Seattle. Signatures (699,098) were submitted and found sufficient. Measure submitted to the voters for decision at the November 6, 1973 state general election and was approved by the following vote: For—798,338 Against—197,795. Act is now identified as Chapter 149, Laws of 1974 Extraordinary Session.
- INITIATIVE MEASURE No. 283 (Shall it be unlawful, except in an emergency, to hitchhike, or to pick up a hitchhiker along a public highway?)—Filed January 18, 1974 by Ms. Sallyann Devine of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 284 (Shall corporations pay a 12% excise tax measured by income so that special school levies may be reduced or eliminated?)—Filed January 22, 1974 by Representative Charles Moon. No signatures presented for checking.
- INITIATIVE MEASURE No. 285 (Shall all privately or corporately owned land, including residential real estate, annually be taxed a minimum of \$2.50 per acre?)—Filed January 24, 1974 by Donn C. Higley of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 286 (Shall the membership of the legislature be reduced from forty-nine senators and ninety-eight representatives to twenty-one senators and sixty-three representatives?)—Filed January 30, 1974 by Harley H. Hoppe of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 287 (Shall salmon net fishing be prohibited in designated Puget Sound and adjacent waters unless permitted by a newly established commission?)—Filed January 31, 1974 by Dr. Charles F. Raab of Port Angeles. No signatures presented for checking.
- INITIATIVE MEASURE No. 288 (Shall couples with children under 18 be ineligible for divorce and, upon separation, shall a commission oversee their children's rights?)—Filed February 1, 1974 by Joseph Garske of Yakima. No signatures presented for checking.
- INITIATIVE MEASURE No. 289 (Shall additional gambling activities, including slot machines and card rooms, be legalized, local regulation prohibited, and the state gambling commission replaced?)—Filed February 4, 1974 by Roy Needham of Yakima. No signatures presented for checking.
- INITIATIVE MEASURE No. 290 (Shall liquor prices be limited and revenue distribution formulas changed, a new seven-member liquor board created, and an administrator appointed?)—Filed February 25, 1974 by Senator William S. "Bill" Day of Spokane. No signatures presented for checking.
- INITIATIVE MEASURE No. 291 (Shall parents and other persons be prohibited from inflicting or threatening bodily punishment upon children or mentally retarded persons?)—Filed March 12, 1974 by Ms. Shirley Amiel of Bellevue. No signatures presented for checking.
- INITIATIVE MEASURE No. 292 (Shall criminal penalties for state traffic law violations and laws imposing state retail sales taxes and use taxes be repealed?)—Filed March 18, 1974 by Jack Zektzer of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 293 (Shall present laws governing modification, renewal or nonrenewal of certificated school employees' contracts be repealed and merit salary systems adopted?)—Filed March 18, 1974 by Senator Hubert F. Donohue of Dayton. No signatures presented for checking.

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- INITIATIVE MEASURE No. 294 (Shall the legislature be reduced to 21 senators and 63 representatives elected from single-member districts established by this initiative?)—Filed March 26, 1974 by Elizabeth J. Bracelin and Robert L. Burnham, Cosponsors. No signatures presented for checking.
- INITIATIVE MEASURE No. 295 (Shall the retail sales tax be eliminated on sales of food, clothing, medicines and medical devices, and residential construction costs?)—Filed April 4, 1974 by Richard Dymont, Chairman, Libertarian Party of Washington. No signatures presented for checking.
- INITIATIVE MEASURE No. 296 (Shall the 1973 law substituting principles of comparative negligence for those of contributory negligence in civil damage actions be repealed?)—Filed April 9, 1974 by James M. Petra of Chehalis. No signatures presented for checking.
- INITIATIVE MEASURE No. 297 (Shall any gambling activities be legal when licensed by the state gambling commission and authorized by the municipality where conducted?)—Filed April 15, 1974 by Gary Bacon, Chairman, Committee for Local Option. No signatures presented for checking.
- INITIATIVE MEASURE No. 298 (Shall an initiative be adopted stating that no person shall serve for more than eight consecutive years in the legislature?)—Filed May 10, 1974 by Harry S. Foster of Edmonds. No signatures presented for checking.
- INITIATIVE MEASURE No. 299 (Shall the tax on retail sales of liquor (spirits) in the original package be reduced by two cents per ounce?)—Filed May 13, 1974 by Alfred J. Schweppe on behalf of the Citizens Committee for Lower Liquor Taxes. Signatures (134,695) filed July 5, 1974. Petition failed. Not enough valid signatures obtained to place the measure on the November 5, 1974 state general election ballot.
- INITIATIVE MEASURE No. 300 (Shall certain rights of parents regarding public school curricula and teaching materials be defined and some school district programs restricted?)—Filed May 13, 1974 by Ms. Sally F. Tinner of Steilacoom. No signatures presented for checking.
- INITIATIVE MEASURE No. 301 (Shall present laws governing modification, renewal or nonrenewal of certificated school employees' contracts be repealed?)—Filed January 16, 1975 by Ms. Dorothy Roberts of Bellevue. No signatures presented for checking.
- INITIATIVE MEASURE No. 302 (Shall the minimum age for the purchase or consumption of alcoholic beverages be lowered to 18 years?)—Filed January 28, 1975 by Ms. Diahn Schmidt of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 303 (Shall an initiative be adopted declaring persons having served in the Congress a total of twelve years ineligible for reelection?)—Filed January 29, 1975 by Gene Goosman, Sr. of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 304 (Shall a new commission appoint the director of fisheries and manage food fish and shellfish for commercial and recreational purposes?)—Filed February 3, 1975 by Dr. Charles F. Raab of Port Angeles. No signatures presented for checking.
- INITIATIVE MEASURE No. 305 (Shall the legal age for the use and consumption of alcoholic beverages be lowered to 19 years?)—Filed February 6, 1975 by Richard Spaulding and William G. Bowie, both of Cheney. No signatures presented for checking.
- INITIATIVE MEASURE No. 306 (Shall state appropriations be limited to 9% of state personal income and decreases in state support to municipalities be restricted?)—Filed February 13, 1975 by Kenneth D. Hansen of Seattle. No signatures presented for checking.

## INITIATIVES TO THE PEOPLE

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- INITIATIVE MEASURE No. 307 (Shall some common school curricula be specified, teaching methods limited and written parental consent to certain school activities be required?)—Filed March 7, 1975 by Paul O. Snyder of Tacoma. No signatures presented for checking.
- INITIATIVE MEASURE No. 308 (Shall sales and business and occupation taxes be removed from certain transactions involving clothing, food, shelter, and health care products?)—Filed March 10, 1975 by Carl R. Nicolai of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 309 (Shall the Shoreline Management Act of 1971 and the subsequent amendments to that Act be repealed?)—Filed March 14, 1975 by James Mark Toevs of Chehalis. No signatures presented for checking.
- INITIATIVE MEASURE No. 310 (Shall the present forest practices act be repealed and he replaced with provisions relating solely to requirements for reforestation?)—Filed March 18, 1975 by Ms. Betty J. Wells of Camano Island. No signatures presented for checking.
- INITIATIVE MEASURE No. 311 (Shall the death penalty be mandatory in cases of first degree murder and the definitions of degrees of murder revised?)—Filed March 20, 1975 by Representative Earl F. Tilly. No signatures presented for checking.
- INITIATIVE MEASURE No. 312 (Shall an initiative be passed lowering certain real property taxes to 1960 levels, or, if greater, those at last transfer?)—Filed April 4, 1975 by Donald H. Sallee of Brinnon. No signatures presented for checking.
- INITIATIVE MEASURE No. 313 (Shall the names of signers of initiative and referendum petitions be confidential and the petitions destroyed after they are canvassed?)—Filed April 4, 1975 by Donald H. Sallee of Brinnon. No signatures presented for checking.
- INITIATIVE MEASURE No. 314 (Shall corporations pay a 12% excise tax measured by income so that special school levies may be reduced or eliminated?)—Filed April 16, 1975 by Representative Charles Moon of Snohomish. Signatures (136,077) submitted and found sufficient. Submitted to the voters for decision at the November 4, 1975 state general election and was rejected by the following vote: For—323,831 Against—652,178.
- INITIATIVE MEASURE No. 315 (Shall maximum income levels entitling elderly and disabled persons to certain property tax exemptions be raised to \$10,000.00?)—Filed April 18, 1975 by Representatives Eleanor A. Fortson and John M. Fischer. No signature petitions presented for checking.
- \*INITIATIVE MEASURE No. 316 (Shall the death penalty be mandatory in the case of aggravated murder in the first degree?)—Filed May 26, 1975 by Representative Earl Tilly of Wenatchee. Signatures (134,290) submitted and found sufficient. Submitted to the voters for decision at the November 4, 1975 state general election and was approved by the following vote: For—662,535 Against—296,257. Act is now identified as Chapter 9, Laws of 1975-'76 2nd Extraordinary Session.
- INITIATIVE MEASURE No. 317 (Shall evidence of speeding violations obtained by radar, certain other electronic devices or unmarked police vehicles be inadmissible in court?)—Filed January 2, 1976 by David L. Bovy of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 318 (Shall all minimum age requirements of twenty-one years be reduced to eighteen?)—Filed January 6, 1976 by Martin Ringhofer of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 319 (Shall an initiative be adopted memorializing Congress to call a federal constitutional convention to limit taxation on income?)—Filed January 7, 1976 by Clarence P. Keating, Jr. of Seattle. No signature petitions presented for checking.

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- INITIATIVE MEASURE No. 320 (Shall new or increased taxes be prohibited and regular property taxes retained in the districts where they are collected?)—Filed January 2, 1976 by Shirley Amiel of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 321 (Shall municipalities be empowered to permit gambling within their boundaries, licensed by the state, with tax revenues allocated to schools?)—Filed January 13, 1976 by William O. Kumbera and the Committee for Tax Relief Through Local Option Gambling of Ocean Shores. Signatures (136,006) submitted and found insufficient to qualify measure to the state general election ballot.
- INITIATIVE MEASURE No. 322 (Shall fluoridation of public water supplies be made unlawful and violations subject to criminal penalties?)—Filed January 2, 1976 by Caroline A. Sudduth of Seattle. Signatures (135,441) submitted and found insufficient to qualify measure to the state general election ballot. Suit was filed with Thurston County Superior Court against the Secretary of State and on appeal to the Supreme Court, Initiative Measure No. 322 was placed on the general election ballot on October 13. It was rejected at the November 2, 1976 general election by the following vote: For—469,929 Against—870,631.
- INITIATIVE MEASURE No. 323 (Shall an initiative be adopted declaring that no person shall hold most state elective offices more than twelve consecutive years?)—Filed January 2, 1976 by Senator Peter von Reichbauer of Burton and Jack Metcalf of Langley. No signature petitions presenting for checking.
- INITIATIVE MEASURE No. 324 (Shall the Shoreline Management Act of 1971 and subsequent amendments to that act be repealed?)—Filed January 12, 1976 by Melvin G. Toyne of Mt. Vernon. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 325 (Shall future nuclear power facilities which do not meet certain conditions and receive two-thirds approval by the legislature be prohibited?)—Filed February 3, 1976 by David C. H. Howard of Olympia. Signatures (approximately 165,000) submitted and found sufficient. Submitted to the voters at the November 2, 1976 general election and rejected by the following vote: For—482,953 Against—963,756.
- INITIATIVE MEASURE No. 326 (Shall grocery store sales of spirituous liquor be allowed, revenue distribution formulas changed, and the state liquor control board reconstituted?)—Filed March 17, 1976 by Ruth Berliner of Tacoma. Sponsorship of initiative withdrawn May 17, 1976.
- INITIATIVE MEASURE No. 327 (Shall commercial fishing and shellfishing be banned on Hood Canal until a sufficient supply is found to exist?)—Filed March 12, 1976 by J.L. Parsons of Union. Re filed as Initiative Measure No. 330.
- INITIATIVE MEASURE No. 328 (Relating to Term Limitation)—Filed March 16, 1976 by Patrick W. Biggs of Seattle for the Thomas Jefferson Society. Attorney General declined to prepare ballot title.
- INITIATIVE MEASURE No. 329 (Shall places where obscene films are publicly and regularly shown or obscene publications a principal stock in trade be prohibited?)—Filed March 26, 1976 by C.R. Lonergan, Jr. of Seattle. Signatures (120,621) submitted and found insufficient to qualify measure for state general election ballot.
- INITIATIVE MEASURE No. 330 (Shall the commercial taking of fish, crab and shrimp be banned on Hood Canal until a sufficient supply is available?)—Filed April 12, 1976 by J.L. Parsons of Union. Re filed as Initiative to the Legislature No. 52.
- INITIATIVE MEASURE No. 331 (Shall future school district special levies for operations be prohibited and previously approved operational levies for collection in 1977 be reduced?)—Filed March 27, 1976 by Jerold W. Thiedt of Monroe. No signature petitions presented for checking.

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- INITIATIVE MEASURE No. 332 (Shall the state be removed from the liquor business in favor of large grocers and certain other private business enterprises?)—Filed April 19, 1976 by Robert B. Gould and Warren McPherson of Woodinville. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 333 (Shall a single pension system, coordinated with social security, replace existing systems for most public employees hired after June 30, 1977?)—Filed April 19, 1976 by Senator August P. Mardesich of Everett. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 334 (Shall the fluid ounce tax on spirits liquor in the original package be lowered from four to two cents?)—Filed April 29, 1976 by Juanita K. Heaton of Seattle. No signature petitions presented for checking.
- \*INITIATIVE MEASURE No. 335 (Shall places where obscene films are publicly and regularly shown or obscene publications a principal stock in trade be prohibited?)—Filed January 10, 1977 by C.R. Lonergan, Jr. of Seattle. Signatures (175,998) submitted and found sufficient. Submitted to the voters at the November 8, 1977 state general election and was approved by the following vote: For—522,921 Against—431,989. Act is now identified as Chapter 1, Laws of 1979.
- INITIATIVE MEASURE No. 336 (Shall every municipality be authorized to permit all forms of state licensed gambling with tax revenues allocated to schools?)—Filed January 11, 1977 by William O. Kumbera of The Committee for Tax Relief Through Local Option Gambling in Ocean Shores. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 337 (Shall an initiative be adopted promoting the pursuit of peace through principals of mutual love and respect?)—Filed January 10, 1977 by Kevin McKeigue of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 338 (Shall driving motor vehicles up to 10 M.P.H. over the maximum speed limit be subject to fines not exceeding \$15.00?)—Filed January 10, 1977 by Timothy Ramey of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 339 (Shall the use of electronic voting devices and electronic vote tallying systems in any election in this state be prohibited?)—Filed January 24, 1977 by Clarence P. Keating, Jr. of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 340 (Shall a convention be called to propose a new state constitution for approval or rejection by the people in 1979?)—Filed January 20, 1977 by Tom A. Alberg, Citizens Coalition for a Constitutional Convention of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 341 (Shall minimum age requirements for various purposes other than drinking alcoholic beverages be reduced to eighteen years?)—Filed February 7, 1977 by Martin Ringhofer of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 342 (Shall an initiative be adopted urging all state legislatures to reject and rescind approval of the federal equal rights amendment?)—Filed February 15, 1977 by Mrs. J.L. Giesener of Kennewick. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 343 (Shall state property taxes be eliminated, all other taxes limited, and state support levels for local government, including schools, mandated?)—Filed February 29, 1977 by Shirley Amiel, State Tax Freeze and School Funding Initiative Political Committee of Bellevue. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 344 (Shall the laws of the state be rewritten by January 1, 1981, to eliminate, if possible, ambiguity, redundancy and complexity?)—Filed March 7, 1977 by Patrick M. Crawford of Tumwater. No signature petitions presented for checking.

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- \*INITIATIVE MEASURE No. 345 (Shall most food products be exempt from state and local retail sales and use taxes, effective July 1, 1978?)—Filed March 30, 1977 by J. Linsey Hinand, Chairperson. Signatures (168,281) submitted and found sufficient. Submitted to the voters at the November 8, 1977 state general election and was approved by the following vote: For—521,062 Against—443,840. Act is now identified as Chapter 2, Laws of 1979.
- INITIATIVE MEASURE No. 346 (Shall the system of property assessment be repealed and a state assessor adopt a system of uniform state-wide property assessment?)—Filed May 31, 1977 by Susan Sink of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 347 (Shall payment of legislator's per diem allowances be limited to 120 days in odd-numbered years and 60 days in even-numbered years?)—Filed June 13, 1977 by Robert B. Overstreet of Everett. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 348 (Shall the new variable motor vehicle fuel tax be repealed and the previous tax and distribution formula be reinstated?)—Filed June 29, 1977 by Harley Hoppe of Mercer Island. Signatures (202,168) submitted and found sufficient. Submitted to the voters at the November 8, 1977 general election and after a mandatory recount was rejected by the following vote: For—470,147 Against—471,031.
- INITIATIVE MEASURE No. 349 (Shall minimum age requirements for various purposes other than for drinking alcoholic beverages be reduced to eighteen years?)—Filed January 12, 1978 by Mr. Martin Ringhofer of Seattle. Sponsor failed to submit signatures for checking.
- \*INITIATIVE MEASURE No. 350 (Shall public educational authorities be prohibited from, assigning students to other than the nearest or next-nearest school with limited exceptions?)—Filed February 10, 1978 by Mr. Ben Caley of Seattle. Signatures (182,882) submitted and found sufficient. Submitted to the voters at the November 7, 1978 general election and was approved by the following vote: For—585,903 Against—297,991. Act is now identified as Chapter 4, Laws of 1979.
- INITIATIVE MEASURE No. 351 (Shall the age at which persons may purchase, consume or sell alcoholic beverages be lowered from 21 to 19 years?)—Filed February 24, 1978 by Timothy J. Nagemeyer of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 352 (Shall property owners not be liable for a trespasser's injury, unless the property owner intentionally and knowingly caused the injury?)—Filed February 27, 1978 by Gayle Crawford of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 353 (Shall all containers of alcoholic beverages clearly bear the warning "Contents may cause brain damage, communication breakdown and family degradation"?)—Filed April 28, 1978 by June and Pam Riggs of Mountlake Terrace. Sponsors failed to submit signatures for checking.
- INITIATIVE MEASURE No. 354 (Shall the first \$10,000 value of a residence regularly occupied by its owner or tenant be exempt from property taxes?)—Filed May 5, 1978 by Harley Hoppe of Mercer Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 355 (Refiled as Initiative Measure No. 356)
- INITIATIVE MEASURE No. 356 (Shall gambling and lotteries be permitted, and time and food sale limitations removed from sales of liquor by the drink?)—Filed May 23, 1978 by Mr. James Banker of Renton. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 357 (Shall the system of property assessment be repealed and a state assessor adopt a system of uniform state-wide property assessment?)—Filed May 9, 1978 by Ms. Susan M. Sink of Seattle. Sponsor failed to submit signatures for checking.



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- INITIATIVE MEASURE No. 358 (Shall assessed valuations of retired persons' residences remain unchanged and nonvoted school levies generally be limited to 6% annual increase?)—Filed May 31, 1978 by Harley H. Hoppe of Mercer Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 359 (Shall increases in state tax revenues and expenditures be limited to the estimated rate of growth of state personal income?)—Filed June 6, 1978 by Mr. Will Knedlik of Kirkland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 360 (Shall an initiative be adopted limiting property taxes to 1% of value and requiring 2/3 legislative approval to change taxes?)—Filed June 8, 1978 by Mssrs. J. Van Self and A. M. Lee Parker of Tacoma. Sponsors submitted signatures but they were insufficient to appear on the November ballot.
- INITIATIVE MEASURE No. 361 (Shall minimum age requirements for various purposes other than for drinking alcoholic beverages be reduced to eighteen years?)—Filed January 8, 1979 by Mr. Martin Ringhofer of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 362 (Shall an initiative be adopted prohibiting the possession, construction, transportation or sale of nuclear weapons within the state of Washington?)—Filed January 19, 1979 by Mr. Randal South of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 363 (Shall strikes by public school teachers and other certificated employees be prohibited and penalties imposed for participation in such strikes?)—Filed January 31, 1979 by Mr. Alan Gottlieb of Bellevue. No signatures were presented for checking.
- INITIATIVE MEASURE No. 364 (Shall persons with physical handicaps be allowed to serve in the state militia and state and local law enforcement units?)—Filed February 1, 1979 by Mr. Daniel M. Jones of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 365 (Shall liquor retailing become a private business and a new five-member Liquor Control Board be created?)—Filed February 22, 1979 by Mr. Dennis L. Weaver of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 366 (Shall liquor retailing become a private business and any required food to liquor sales ratio in licensed restaurants be prohibited?)—Filed February 22, 1979 by Mr. Dennis L. Weaver of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 367 (Shall nursing homes be required to pay employees wages and benefits equal to those paid hospital employees performing comparable work?)—Filed February 9, 1979 by Mr. John W. Hempelmann of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 368 (Shall the state be absolutely prohibited from levying any property taxes and school districts be similarly restricted?)—Filed February 16, 1979 by Mr. John R. McBride of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE No. 369 (Shall the possession or sale of firearms be restricted, and mandatory sentences imposed for the commission of crimes involving firearms?)—Filed February 26, 1979 by Mr. Steven L. Kendall of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 370 (Shall a presidential preference primary be held to determine the percentage of delegate positions allocated each major political party candidate?)—Filed March 30, 1979 by Mr. Edward H. Hilscher of Seattle. No signatures were presented for checking.

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- INITIATIVE MEASURE No. 371 (Shall nuclear facilities be required to meet certain safety and liability standards and obtain state-wide voter approval prior to operation?)**—Filed April 26, 1979 by Mr. William C. Montague of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 372 (State Lottery)**—Filed January 4, 1980 by Mr. Lawrence C. Clever of Olympia. This measure was refiled as Initiative Measure No. 380.
- INITIATIVE MEASURE No. 373 (Shall a Retiree's Residence be Taxed at its 1977 Value or, when Retirement Occurs after 1981, its Retirement Year Value?)**—Filed January 4, 1980 by Doyle R. Conner of Longview. No signatures presented for checking.
- INITIATIVE MEASURE No. 374 (Shall Property Tax Increases be Limited to Two Percent Annually and Special Property Tax Exemptions Granted to Retired Persons?)**—Filed January 4, 1980 by Bill E. Hughes of Vancouver. No signatures presented for checking.
- INITIATIVE MEASURE No. 375 (Shall There be Mandatory Minimum Sentences, Restricted Local Firearms Regulations, No Affirmative Action for Police and Firemen, and Additional Prisons?)**—Filed by Kent Pullen of Kent. No signatures presented for checking.
- INITIATIVE MEASURE No. 376 (Shall Minimum Age Requirements for Various Legal Purposes, other than for Allowing Alcoholic Beverage consumption, be Reduced to Eighteen Years?)**—Filed January 16, 1980 by Martin Ringhofer of Seattle. No signature presented for checking.
- INITIATIVE MEASURE No. 377 (Shall Liquor Retailing Become a Private Business and any Required Food to Liquor Sales Ratio in Licensed Restaurants be Prohibited?)**—Filed January 24, 1980. No signatures presented for checking. Sponsored by Walter M. Friel of Tacoma.
- INITIATIVE MEASURE No. 378 (Shall the State be Absolutely Prohibited from Levying any Property Taxes and School Districts be Similarly Restricted with Limited Exceptions?)**—Filed by Art Lee of Bellingham. No signatures presented for checking.
- INITIATIVE MEASURE No. 379 (Shall Binding Arbitration of Public School Collective Bargaining Disputes be Required, Strikes by Public School Employees Prohibited and Penalties Established?)**—Filed by Cathleen R. Pearsall of Tacoma. No signatures presented for checking. Filed on February 11, 1980.
- INITIATIVE MEASURE No. 380 (Shall a State Lottery be Established and Operated by the Gambling Commission, with the Profits Deposited in the General Fund?)**—Filed February 11, 1980 by Lawrence C. Clever of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 381 (Shall Snare and Leghold Traps be Prohibited after January 1, 1986, with Certain Exceptions Including Rodent Control and Public Health?)**—Filed January 31, 1980 by Curtiss J. Clumpner and Howard F. McGraw of Bellingham. The sponsors refiled the measure as No. 386.
- INITIATIVE MEASURE No. 382 (Shall Joint Operating Agencies Obtain Voter Approval Prior to Issuing Bonds for the Construction or Acquisition of Significant Energy Facilities?)**—Filed February 15, 1980 by Tom Casey. Measure was later refiled as No. 385.
- \*INITIATIVE MEASURE No. 383 (Shall Washington Ban the Importation and Storage of Non-medical Radioactive Wastes Generated Outside Washington, Unless Otherwise Permitted by Interstate Compact?)**—Filed February 7, 1980 by Allan H. Jones of Seattle. Sponsor submitted 148,166 signatures and the measure was subsequently certified to the ballot. Submitted to the voters at the November 4, 1980 general election and was approved by the following vote: For—1,211,606 Against—393,415.

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- INITIATIVE MEASURE No. 384 (Shall Limitations on Property Taxes and Assessments be Imposed and Other Tax Increases Prohibited Except by a Two-thirds Legislative Vote?)—Filed February 20, 1980 by Normal Hildebrand of Tacoma. No signatures presented for checking.
- INITIATIVE MEASURE No. 385 (Shall Joint Operating Agencies Obtain Voter Approval Prior to Issuing Bonds for the Construction or Acquisition of Significant Energy Facilities?)—Filed March 3, 1980 by Tom Casey of Elma. No signatures presented for checking.
- INITIATIVE MEASURE No. 386 (Shall Snare and Leghold Traps be Prohibited after January 1, 1986, with Certain Exceptions, Including Rodent Control and Public Health?)—Filed March 3, 1980 by Curtiss Clumpner of Lynnwood. No signatures presented for checking.
- INITIATIVE MEASURE No. 387 (Shall Political Contributions and Campaign Practices be Limited, Conflicts of Interest Regulated, Disclosure Requirements Increased and Statutes in Conflict Repealed?)—Filed March 11, 1980 by Ann Quantock of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 388 (Shall Congress be Memorialized to Create a Space Shuttle/Energy Lottery to Increase Space Travel and Achieve Energy Independence?)—Filed March 11, 1980 by Jeff Vale of Des Moines. No signatures presented for checking.
- INITIATIVE MEASURE No. 389 (Shall it be Unlawful to Drive a Motor Vehicle Between the Hours of One and Two O'Clock on Sunday Afternoon?)—Filed March 12, 1980 by Keith G. Wesley of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 390 (Shall Private Retailers Replace State Liquor Stores with Sunday Package Sales Permitted, Tax Rates Revised and Certain Licensing Conditions Prohibited?)—Filed April 1, 1980 by John Franco of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 391 (Shall an Initiative be Adopted Providing that all Washington Land Shall be Taxed Exclusive of any Improvements on the Land?)—Filed April 11, 1980 by Jimmy D. Whittenburg of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 392 (Shall a retiree's residence be taxed at its 1977 value or, when retirement occurs after 1982, its retirement year value?)—Filed January 19, 1981 by Doyle R. Conner of Longview. No signatures presented for checking.
- INITIATIVE MEASURE No. 393 (Shall all timber sold by the state, or any political subdivision, be primarily processed within the state, and violations penalized?)—Filed January 5, 1981 by Brian Sirles of Tacoma. No signatures presented for checking.
- \*INITIATIVE MEASURE No. 394 (Shall public agencies obtain voter approval prior to issuing bonds for the construction or acquisition of major public energy projects?)—Filed January 6, 1981 by Steve Zemke of Seattle. Sponsor submitted 185,984 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 3, 1981 general election and was approved by the following vote: For—532,178 Against—384,419
- INITIATIVE MEASURE No. 395 (Shall all property be taxable based on 1977 valuations; revaluations be prohibited; and excess school levies required two-thirds voter approval?)—Filed January 5, 1981 by Art Lee of Bellingham. No signatures were presented for checking.
- INITIATIVE MEASURE No. 396 (Shall voter approval be required to construct or finance public or private energy facilities costing more than one billion dollars?)—Filed January 19, 1981 by Gretchen J. Hendricks and Jim Lazar of Olympia. No signatures were presented for checking.

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- INITIATIVE MEASURE No. 397 (Shall an initiative be adopted requiring the legislature to petition Congress to call a constitutional convention to roll back gasoline prices?)—Filed January 19, 1981 by Robert G. Materson of Ellensburg. No signatures were presented for checking.
- INITIATIVE MEASURE No. 398 (Inheritance and Gift Tax)—Filed by Dick Patten of Seattle. This measure was refiled as Initiative Measure No. 402.
- INITIATIVE MEASURE No. 399 (Shall inheritance and gift taxes be abolished, and state death taxes be restricted to the federal estate tax credit allowed?)—Filed February 19, 1981 by Dick Patten of Seattle. Sponsor refiled this initiative as Initiative Measure No. 402.
- INITIATIVE MEASURE No. 400 (Shall excise, inheritance, gift and property taxes be replaced by a transaction tax on receiving property, limited to one percent?)—Filed March 27, 1981 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 401 (Shall contributions to legislative candidates be limited, publicity practices regulated, disclosure required, and civil enforcement and criminal penalties be imposed?)—Filed April 1, 1981 by Carol Jean Coe of Federal Way. The sponsor presented 141,282 signatures for checking. These signatures were found insufficient to qualify for the general election ballot.
- \*INITIATIVE MEASURE No. 402 (Shall inheritance and gift taxes be abolished, and state death taxes be restricted to the federal estate tax credit allowed?)—Filed April 3, 1981 by Dick Patten of Seattle. The sponsor presented 161,449 signatures for checking. The measure was subsequently certified to the ballot. Submitted to the voters at the November 3, 1981 general election and was approved by the following vote: For—610,507 Against—297,445.
- INITIATIVE MEASURE No. 403 (Shall the legal possession of handguns or handgun ammunition be restricted, licensing requirements be broadened and criminal penalties be imposed?)—Filed March 16, 1981 by Steven L. Kendall of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 404 (Shall an independent commission be responsible for both congressional and legislative redistricting every ten years according to certain prescribed standards?)—Filed April 30, 1981 by Jolene Unsoeld of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 405 (Alcoholic beverages)—Filed April 23, 1981 by Robert J. Corcoran of Puyallup. This measure was refiled as Initiative Measure No. 406.
- INITIATIVE MEASURE No. 406 (Shall all liquor retailing become a private business subject to certain restrictions, and the tax on liquor sales be reduced?)—Filed May 15, 1981 by Robert J. Corcoran of Puyallup. No signatures were presented for checking.
- INITIATIVE MEASURE No. 407 (Shall the crime victims' compensation program be continued, funds appropriated, and programs established to provide information to victims and witnesses?)—Filed May 20, 1981 by Manuel E. Costa of Marysville. This measure was refiled as Initiative to the Legislature No. 75.
- INITIATIVE MEASURE No. 408 (Motor fuel taxes)—Filed May 20, 1981 by Harley H. Hoppe of Mercer Island. This measure was refiled as Initiative Measure No. 409.
- INITIATIVE MEASURE No. 409 (Shall the motor vehicle fuel and license tax laws be amended to restore prior tax rates and revise revenue distribution?)—Filed June 1, 1981 by Harley H. Hoppe of Mercer Island. No signatures were presented for checking.

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- INITIATIVE MEASURE No. 410 (Shall all real and personal property be taxable on the basis of 1977 valuations and any revaluation thereafter be prohibited?)—Filed January 4, 1982 by Arthur E. Lee of Wenatchee. No signatures were presented for checking.
- INITIATIVE MEASURE No. 411 (Shall most maximum loan and retail sales interest rates be the higher of 12% or 1% over the discount rate?)—Filed January 4, 1982 by Marvin L. Williams and Larence G. Kenney of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 412 (Shall the maximum interest rate on retail sales be the higher of 12% or 1% over the federal discount rates?)—Filed January 4, 1982 by Marvin L. Williams and Lawrence G. Kenney of Seattle. The sponsors submitted 183,249 signatures for checking. The measure was subsequently certified to the ballot. Submitted to the voters at the November 2, 1982 general election and was rejected by the following vote: For—452,710 Against—880,135.
- INITIATIVE MEASURE No. 413 (Shall the present state owned and operated liquor distribution system be abolished and replace with licensed privately owned liquor dealers?)—Filed January 6, 1982 by Robert J. Corcoran of Puyallup. This measure refiled as Initiative No. 434.
- INITIATIVE MEASURE No. 414 (Shall a system requiring a minimum five cent refund on sales of beer, malt and carbonated beverage containers be established?)—Filed January 7, 1982 by Robert C. Swanson (Citizens for a Cleaner Washington) of Seattle. The sponsors submitted 193,347 signatures for checking. The measure was subsequently certified to the ballot. It was submitted to the voters at the November 2, 1982 general election and was rejected by the following vote: For—400,156 Against—965,951.
- INITIATIVE MEASURE No. 415 (Shall a state board of dentistry be established to license and regulate the practice of dentistry independent of licensed dentists?)—Filed January 19, 1982 by Homer A. Moulthrop (Citizens of Washington for Independent Dentistry) of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 416 (Shall voter approval be required to increase private utility rates by more than eight percent in any twelve-month period?)—Filed January 27, 1982 by Wilmot A. Hall, Jr. of Olympia. This measure refiled as Initiative No. 419.
- INITIATIVE MEASURE No. 417 (Shall the taxable value of principal residences of retirees over 60 be frozen at 75% of current assessed value?)—Filed January 27, 1982 by Ann Clifton of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 418 (Shall the state's temporarily increased retail sales and use tax rate be reduced from 5.5% to 4.5%?)—Filed February 8, 1982 by Gregory R. McDonald of Redmond. No signatures were presented for checking.
- INITIATIVE MEASURE No. 419 (Shall voter approval be required to increase most utility rates by more than eight percent in any twelve-month period?)—Filed February 11, 1982 by Wilmot A. Hall of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 420 (Shall all penalties, taxes and other limitations pertaining to the use, possession, cultivation, sale or transportation of marijuana be removed?)—Filed February 22, 1982 by Lawrence P. McMahon of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 421 (Shall emission limitations for motor vehicles, air quality standards relating to such emissions, and vehicle emission inspection programs be abolished?)—Filed February 22, 1982 by Douglas L. Solbeck and Linda D. Solbeck of Lynnwood. No signatures were presented for checking.

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- INITIATIVE MEASURE No. 422 (Shall a transaction tax on money and property transfers, not exceeding 1%, be substituted for excise, inheritance and property taxes?)—Filed February 10, 1982 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 423 (Shall most sales or transfers of vehicles, aircraft and boats be taxed at current values, less trade-in, unless previously taxed?)—Filed February 25, 1982 by Stephen Michael and Earl N. Dunham of Longview. No signatures were presented for checking.
- INITIATIVE MEASURE No. 424 (Number assigned in error.)
- INITIATIVE MEASURE No. 425 (Shall state marijuana criminal prohibitions, except sales for profit, be repealed but municipal prohibitions be permitted for those under eighteen?)—Filed March 12, 1982 by Lawrence P. McMahon of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 426 (Shall the value of trade-ins of like kind be subtracted from the tax base for state sales and use taxes?)—Filed March 12, 1982 by Stephen Michael and Earl N. Dunham of Longview. No signatures were presented for checking.
- INITIATIVE MEASURE No. 427 (Shall the state Industrial Insurance Act be amended so as to eliminate the option for covered employers to self-insure?)—Filed March 4, 1982 by Jack C. Martin of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 428 (Shall per diem, travel expenses and moving allowances to public officers, employees, board members and elected officials be largely prohibited?)—Filed March 2, 1982 by V. R. Van Dyk of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 429 (Shall public officers' salaries be reduced to 1979 levels; benefits eliminated; and any further salary increases conditioned upon voter approval?)—Filed March 2, 1982 by V. R. Van Dyk of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 430 (Shall the possession, use, cultivation and transportation of marijuana by persons and older be legalized?)—Filed March 25, 1982 by Lawrence P. McMahon of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 431 (Shall laws concerning lobbying, political fund raising, and the use of such funds be amended, with fees and penalties imposed?)—Filed March 10, 1982 by V. R. Van Dyk of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 432 (Shall monthly grants of Aid to Families with Dependent Children be limited to \$300 or \$450, depending upon family size?)—Filed March 16, 1982 by Robert S. Havens and Jean M. Havens of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE No. 433 (Shall able persons receiving aid to families with dependent children be required to a community work experience program?)—Filed March 19, 1982 by Robert S. Havens and Jean M. Havens of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE No. 434 (Shall the state owned and operated liquor distribution system be abolished and replaced with licensed privately owned liquor dealers?)—Filed April 13, 1982 by Robert J. Corcoran of Puyallup. This initiative was withdrawn and later filed as Initiative to the Legislature No. 78.
- INITIATIVE MEASURE No. 435 (Shall corporate franchise taxes, measured by net income, replace sales taxes on food and state corporate business and occupation taxes?)—Filed

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April 12, 1982 by Dr. James A. McDermott of Seattle. The sponsor submitted 250,285 signatures for checking. The measure was subsequently certified to the ballot. It was submitted to the voters at the November 2, 1982 general election and was rejected by the following vote: For—453,221 Against—889,091.

INITIATIVE MEASURE NO. 436 (Shall most food products be exempt from state and local retail sales and use taxes, effective December 2, 1982?)—Filed April 16, 1982 by Gregory McDonald of Redmond. No signatures were presented for checking.

INITIATIVE MEASURE NO. 437 (Shall the Food Tax Elimination Act of 1982, exempting most food products from retail sales and use taxation be enacted?)—Filed April 15, 1982 by Stephen Michael and Frank Brunner of Lacey. No signatures were presented for checking.

INITIATIVE MEASURE NO. 438 (Shall tuition and fees be reduced, and the legislature set future increases based on a percentage of the educational costs?)—Filed April 16, 1982 by Dennis Eagle (People for Affordable College Tuition) of Bremerton. No signatures were presented for checking.

INITIATIVE MEASURE NO. 439 (Shall county energy allocations in energy emergencies be in direct proportion to the percentage voting against Initiative 394 in 1981?)—Filed May 5, 1982 by Richard Hastings of Pasco. No signatures were presented for checking.

INITIATIVE MEASURE NO. 440 (Shall sellers of home electronic equipment be licensed and commercial repairers of such equipment be required to meet competency standards?)—Filed April 20, 1982 by Carl E. McDonald of Sunnyside. No signatures were presented for checking.

INITIATIVE MEASURE NO. 441 (Shall Initiative 394, requiring voter approval of bonds for major energy project construction or acquisition by public agencies, be repealed?)—Filed April 27, 1982 by David L. Moore of Richland. No signatures were presented for checking.

INITIATIVE MEASURE NO. 442 (Shall the present gambling act be repealed, broader gambling activities authorized, taxes imposed, and certain revenues be dedicated to schools?)—Filed April 30, 1982 by Harry Rowe (Committee for Gambling Taxes for Schools) of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 443 (Shall the present gambling act be repealed, broader gambling activities authorized, taxes imposed, and certain revenues be dedicated to schools?)—Filed May 25, 1982 by Clifford A. Stone of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 444 (Shall a tax not to exceed 1% be imposed upon transfers of money or property and present taxes be repealed?)—Filed January 14, 1983 by Clarence P. Keating of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 445 (Shall eligibility for appointment to Game Commission be restricted; fees reduced; and processing of wildlife claims be eliminated?)—Filed January 14, 1983 by David Littlejohn of Olympia. No signatures were presented for checking.

INITIATIVE MEASURE NO. 446 (Shall elections be held to approve or disapprove the performance of state agencies designated by petitions signed by 10,000 registered voters?)—Filed January 31, 1983 by James R. Collier of Silverdale. No signatures were presented for checking.

INITIATIVE MEASURE NO. 447 (Shall the present Gambling Act be repealed; broader gambling activities authorized; taxes imposed; and certain revenues dedicated to schools?)—Filed February 14, 1983 by Audrey Stone of Seattle. No signatures were presented for checking.

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- INITIATIVE MEASURE NO. 448 (Sball retail sales and use taxes be reduced, the watercraft use tax eliminated, and a penalty for tax nonpayment reduced?)—Filed February 25, 1983 by Kent Pullen of Kent. This measure refiled as Initiative Measure No. 452.
- INITIATIVE MEASURE NO. 449 (Elimination of WPPSS)—Filed March 1, 1983 by Theodore A. Mahr of Olympia. This measure refiled as Initiative Measure No. 451.
- INITIATIVE MEASURE NO. 450 (Attorney General declined to prepare a ballot title)—Filed March 4, 1983 by John A. Kilma of Mercer Island. This measure refiled as Initiative Measure No. 453.
- INITIATIVE MEASURE NO. 451 (Sball laws relating to electrical joint operating agencies be repealed and existing agencies be directed to sell assets and terminate?)—Filed March 7, 1983 by Theodore Mahr of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 452 (Shall the state sales tax be reduced to 4.5% and business and occupation surtaxes and boat excise taxes be repealed?)—Filed March 11, 1983 by Kent Pullen of Kent. The sponsors submitted 146,689 signatures for checking. Verification was not complete at time of publication.
- INITIATIVE MEASURE NO. 453 (Shall the federal Internal Revenue Service's notices of the Privacy and Paper Work Reduction Acts be, by state law declarations, prohibited?)—Filed March 21, 1983 by John A. Kilma of Mercer Island. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 454 (Shall abortious, unless necessary to preserve life, be ineligible for state medical aid to categorically needy persous under Title XIX?)—Filed March 28, 1983 by James L. King, Jr. of Tacoma. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 455 (Sball the state be directed go seek, to require payment in gold of state held securities having a gold clause?)—Filed January 9, 1984 by Robert Ellison of Seattle. This measure refiled as Initiative Measure No. 461.
- \*INITIATIVE MEASURE NO. 456 (Shall Congress be petitioned to decommercialize steelhead, and state policies respecting Indian rigbts and management of natural resources be enacted?)—Filed January 13, 1984 by Ellis Lind of Redmond and S/SPAWN. Sponsor submitted 201,188 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 6, 1984 general election and was approved by the following vote: For—916,855 Against—807,825
- INITIATIVE MEASURE NO. 457 (Shall minimum age requirements by public and private entities be reduced to age 18 except those relating to drinking alcohol?)—Filed January 9, 1984 by Martin D. Ringhofer of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 458 (Sball watercraft be taxed on length rather than value and the funds be used for boating safety programs and facilities?)—Filed January 18, 1984 by Joseph L. Williams of Mercer Island. This measure refiled as Initiative Measure No. 459.
- INITIATIVE MEASURE NO. 459 (Sball watercraft be taxed on length rather than value and the funds be used for boating safety programs and facilities?)—Filed January 20, 1984 by Louise Miller of Woodinville. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 460 (Sball an additional tax be imposed, on beer, llquor, and out-of-state wine, for crime victims, alcohol rehabilitation, enforcement, and education?)—Filed January 12, 1984 by E.C. Renas of Lynnwood. No signatures were presented for checking.



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- INITIATIVE MEASURE NO. 461 (Shall the state seek to require corporations which issued securities having a gold clause to make payment in gold coin?)—Filed January 23, 1984 by Robert Ellison of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 462 (Shall Congress be memorialized to create a space shuttle/energy lottery to increase space travel and achieve energy independence?)—Filed January 13, 1984 by Jeff Vale of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 463 (Shall the legislature be directed to petition Congress to either propose a balanced budget constitutional amendment or call a convention?)—Filed January 24, 1984 by James R. Medley of Seattle. No signatures were presented for checking.
- \*INITIATIVE MEASURE NO. 464 (Shall the value of trade-ins of like kind property be excluded from the selling price for the sales tax computation?)—Filed February 24, 1984 by Eugene A. Prince of Thornton. Sponsor submitted 196,728 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 6, 1984 general election and was approved by the following vote: For—1,175,781 Against—529,560
- INITIATIVE MEASURE NO. 465 (Shall state sales and business tax rates be reduced and limitations imposed on state general fund spending and tax increases?)—Filed February 16, 1984 by Kent Pullen of Kent. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 466 (Shall Nevada type gambling, regulated by the State Gambling Commission, be permitted if approved by voters in cities and counties?)—Filed February 10, 1984 by Fred M. Ladd of Ocean Shores. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 467 (Shall a tax not to exceed 1% be imposed upon transfers of money or property and present taxes be repealed?)—Filed February 14, 1984 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 468 (Shall real property tax rates be generally limited to one percent of 1975 property tax values, subject to limited adjustments?)—Filed March 20, 1984 by Martin H. Ottesen of Tacoma. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 469 (Shall the State Gambling Commission be abolished and the net proceeds of some gambling activities be taxed 25% for schools?)—Filed March 15, 1984 by Michael J. Kinsley of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 470 (Shall public funding of abortions be prohibited, and state funding required to prevent deaths of unborn children and pregnant women?)—Filed April 2, 1984 by Michael Undseth of Brier. This measure refiled as Initiative Measure No. 471.
- INITIATIVE MEASURE NO. 471 (Shall public funding of abortions be prohibited except to prevent the death of the pregnant woman or her unborn child?)—Filed April 16, 1984 by Michael Undseth of Brier. Sponsor submitted 162,324 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 6, 1984 general election and was rejected by the following vote: For—838,083 Against—949,921
- INITIATIVE MEASURE NO. 472 (Regarding federal initiative and referendum powers.)—Filed June 25, 1984 by Steven A. Panteli of Bellingham. Attorney General declined to write a ballot title because time limit expired.
- INITIATIVE MEASURE NO. 473 (Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?)—Filed January 7, 1985 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.

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- INITIATIVE MEASURE NO. 474 (Shall property taxes be reduced by deleting taxes previously paid on property now exempt from the 106% tax levy calculation?)—Filed January 31, 1985 by Orville L. Barnes of Spokane. This measure refiled as Initiative Measure No. 477.
- INITIATIVE MEASURE NO. 475 (Shall Congress be requested to call a constitutional convention solely to propose an amendment providing federal initiative and referendum powers?)—Filed January 23, 1985 by Steven A. Panteli of Bellingham. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 476 (Shall denturists be licensed by the state and permitted to supply dentures to people without written directives from a dentist?)—Filed February 25, 1985 by Eldo Al Hohman of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 477 (Shall maximum permissible regular property tax levies be reduced by excluding inventory taxes, and voter-approved taxes from the 106% limitation?)—Filed March 14, 1985 by Orville L. Barnes of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 478 (Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?)—Filed January 6, 1986 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 479 (Shall state and local governments be prohibited from funding abortion services unless they are necessary to preserve the woman's life?)—Filed January 6, 1986 by Michael Undseth of Lynnwood. The sponsors submitted 173,858 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.
- INITIATIVE MEASURE NO. 480 (Regarding the publishing of names of victims of sexual attack.)—Filed January 6, 1986 by Philip A. Hamlin of Shelton. This measure refiled as Initiative Measure No. 481.
- INITIATIVE MEASURE NO. 481 (Shall news media identifying victims, witnesses, or those accused, of sex crimes be fined unless law enforcement has requested disclosure?)—Filed January 14, 1986 by Philip A. Hamlin of Shelton. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 482 (Shall more out-of-state licensed motor vehicles be required to obtain Washington licenses and the penalties imposed for non-compliance be increased?)—Filed January 6, 1986 by M. Anders Tronsen of Duvall. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 483 (Shall the 55 m.p.h. speed limit adopted for energy conservation be rescinded and higher speed limits be established as appropriate?)—Filed January 7, 1986 by DeAnn Pullar of Bellingham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 484 (Shall the state owned liquor stores be permanently closed and grocery stores and other outlets be licensed to sell liquor?)—Filed January 10, 1986 by Russell J. McCurdy of Seattle. This measure was refiled as Initiative Measure No. 487.
- INITIATIVE MEASURE NO. 485 (Shall the state be directed to submit a notice to Congress disapproving designation of a Washington nuclear waste repository site?)—Filed January 28, 1986 by Patricia Anne Herbert of Seattle. This measure was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 486 (Shall new taxes or increases in tax rates require a two-thirds vote by the governing body of the taxing authority?)—Filed January 29, 1986 by Don Jewett of Langley. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 487 (Shall state liquor stores, and state wholesaling of liquor, be discontinued and qualified grocery stores be licensed to sell liquor?)—Filed February 2, 1986 by Russell J. McCurdy of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 488 (Shall the state ferry system be managed by three full-time commissioners who will set ferry fares, staffing levels, and wages?)—Filed February 3, 1986 by Winfred P. Williams of Bainbridge Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 489 (Shall the legislature submit a constitutional amendment requiring voter approval of new taxes and full funding of state retirement systems?)—Filed February 11, 1986 by James L. King, Jr. of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 490 (Shall knowingly employing, in certain jobs, persons having preferences for or orientation toward conduct defined as sexually deviant, be prohibited?)—Filed February 21, 1986 by Glen Dobbs, of Chehalis. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 491 (Shall the minimum disability retirement allowance for Washington Public Employees' Retirement System members be sufficient to pay for medical insurance?)—Filed February 14, 1986 by Winfred P. Williams of Bainbridge Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 492 (Shall disability retirees under the Washington Public Employees' Retirement System be exempt from paying state recreational use and entry fees?)—Filed February 14, 1986 by Winfred P. Williams of Bainbridge Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 493 (Shall the legislature be statutorily prohibited from increasing taxes or imposing new taxes unless approved by 60% of each house?)—Filed March 11, 1986 by G. Robert Williams of Longview. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 494 (Shall state bonds be issued to raise funds for consumer grants to be deposited in banks for qualified registered voters?)—Filed March 24, 1986 by Steven A. Tracy of Longview. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 495 (Shall hazardous waste laws be amended to broaden state cleanup enforcement authority, increase and impose fees and specify strict liability?)—Filed April 24, 1986 by Pam Crocker-Davis of Lacey. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 496 (Shall certain excise taxes imposed in lieu of property taxes be limited to one percent of true and fair value?)—Filed on January 5, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 497 (Shall constitutional impact statements reflecting constitutional compliance or noncompliance be required to accompany all bills introduced in the state legislature?)—Filed on January 5, 1987 by John A. Klima of Issaquah. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 498 (Shall approval by two-thirds of a governing body be required for new taxes, tax rate increases, or tax base enlargement?)—Filed on January 9, 1987 by D.E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 499 (Shall maximum tax rates on real and personal property be reduced and a new maximum include voter approved tax levies?)—Filed on January 23, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 500 (Shall a transaction tax, not to exceed 1% on transfers of money or property replace present state and local taxes?)—Filed on January 20, 1987 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 501 (Shall the statutory maximum tax per gallon on motor vehicle fuels be reduced to a 15 cents per gallon maximum?)—Filed on January 28, 1987 by Cecil F. Herman of Olympia. Sponsored failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 502 (Shall the state law which requires the driver and passengers of a motor vehicle to use safety belts be repealed?)—Filed on February 9, 1987 by Donald T. Adsitt of Kennewick. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 503 (Shall motor vehicle owners and operators be required to maintain vehicle liability insurance and submit proof thereof to license vehicles?)—Filed on February 13, 1987 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 504 (Shall individuals' net worth be taxed except for current bonded indebtedness be eliminated, and other taxes be reduced?)—Filed on March 17, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 505 (Shall individuals' and trusts' net worth be taxed, not property except for current bonded indebtedness, and other taxes be reduced?)—Filed on March 27, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 506 (Shall the State conduct a March presidential preference primary for major political party candidates and certain election statutes be changed?)—Filed on May 12, 1987 by Eddie Rye, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 507 (Shall motor vehicle liability insurance be required to drive in this state and proof of insurance submitted to license vehicles?)—Filed on January 12, 1988 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 508 (Shall the maximum for property tax rates be reduced and a maximum established to include tax levies approved by voters?)—Filed on January 8, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 509 (Shall the first \$150,000 of each piece of property's assessed valuation be exempt from the payment of the property taxes?)—Filed on January 15, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 510 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge the tax base?)—Filed on January 12, 1988 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 511 (Shall the 106% levy lid limiting the amount taxing districts can levy as regular property taxes be reduced to 98%?)—Filed on January 21, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 512 (Shall state and local tax rates, fees, fines and other charges be stabilized then reduced 2% annually for five years?)—Filed on January 11, 1988 by Judith Anderson of Brush Prairie. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 513 Filed on January 19, 1988 by Michael P. Shanks of Seattle. Measure was refiled as Initiative No. 514.
- INITIATIVE MEASURE NO. 514 (Shall household and local commercial movers be exempted from rate and service area regulation by the Utilities and Transportation

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Commission?)—Filed on February 11, 1988 by Michael P. Shanks of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 515 (Shall the January state holiday which celebrates the hirth of Martin Luther King, Jr. be officially designated "Civil Rights Day"?)—Filed on February 10, 1988 by Brian Burgett of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 516 (Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?)—Filed on March 4, 1988 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 517 (Shall the state operate waste dumpsites and a Hanford facility, require separation of recyclable refuse, and regulate all garbage collectors?)—Filed on March 9, 1988 by Michael P. Shanks of Seattle. Sponsor failed to submit signatures for checking.

\*INITIATIVE MEASURE NO. 518 (Shall the state minimum wage increase from \$2.30 to \$3.85 (January 1, 1989) and then to \$4.25 (January 1, 1990) and include agricultural workers?)—Filed on March 21, 1988 by Jennifer Belcher of Olympia and Art Wang of Tacoma. The sponsors submitted 300,900 signatures for checking. The measure was subsequently certified to the ballot and was submitted to the voters at the November 8, 1988 general election. It was approved by the following vote: For—1,354,454; Against—414,926.

INITIATIVE MEASURE NO. 519 (Shall continued frequent contacts with both parents be the most important factor considered by a court in determining child custody?)—Filed on March 3, 1988 by Dan D. Milne of Spokane. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 520 (Shall blood donors, in a voluntary noncompensatory blood donation program, have the right to designate the recipient of their blood?)—Filed on March 29, 1988 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 521 (Shall active members of the Washington State Bar Association be ineligible to serve as a state legislative representative or senator?)—Filed on March 29, 1988 by Eugene Goozman of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 522 Filed on March 24, 1988 by James K. Linderman of Yacolt. Measure was refiled as Initiative to the Legislature No. 101.

INITIATIVE MEASURE NO. 523 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge the tax base?)—Filed on January 9, 1989 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 524 (Shall the state expand the definition of child pornography, restrict display of materials, and limit defenses to sexual exploitation charges?)—Filed on January 10, 1989 by Andrea K. Vangor of Kirkland. The sponsor submitted 163,670 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.

INITIATIVE MEASURE NO. 525 (Shall the first \$100,000 of the assessed value of each piece of property be exempt from payment of property taxes?)—Filed on January 9, 1989 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 526 (Shall tax, fee and fine rates be reduced 2% annually for five years and new taxes require two-thirds voter approval?)—Filed on January 23, 1989 by Judith Anderson of Vancouver. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 527 (Shall a transaction tax, not exceeding 1% on the transfers of money or property, replace present state and local taxes?)—Filed on January 18, 1989 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 528 (Shall state laws relating to child custody be revised emphasizing frequent contact with each parent and each having equal custody?)—Filed on January 18, 1989 by Dan Milne of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 529 (Shall blood donors, in a voluntary noncompensatory blood donation program, have the right to designate the recipient of their blood?)—Filed on February 16, 1989 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 530 Filed on April 13, 1989 by Lyle Bates of Spanaway. Measured was refiled as Initiative to the People No. 531.
- INITIATIVE MEASURE NO. 531 (Shall business donations for child services, benefiting those with income below 200% of federal poverty guidelines, receive state tax credits?)—Filed on April 26, 1989 by Lyle Bates of Spanaway. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 532 (Shall the 1989 Omnibus Alcohol and Controlled Substances Act be repealed, penalties revised for supplying minors, and some marijuana legalized?)—Filed on May 10, 1989 by Michael Shanks of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 533 (Shall child custody laws be revised and court custody orders normally direct equal continued and frequent contacts with each parent?)—Filed on January 8, 1990 by Bill Harrington of Edmonds. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 534 (Shall the display and distribution to minors of sexually explicit materials and performances be further restricted, and criminal defenses limited?)—Filed on January 9, 1990 by Andrea K. Vangor of Kirkland. The sponsor submitted 180,373 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.
- INITIATIVE MEASURE NO. 535 (Shall property value for tax purposes be, the January 1, 1985 value or subsequent sale price, revised annually reflecting cost of living?)—Filed on January 9, 1990 by Marijke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 536 (Shall minimum sentences ranging from five to forty years be established for each of twenty-one crimes listed in this initiative?)—Filed on January 19, 1990 by Thomas R. Connon of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 537 (Shall a transaction tax, not to exceed 1%, on transfers of money and property replace present state and local taxes?)—Filed on January 22, 1990 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 538 (Shall political contributions be limited regarding amount, timing and residency of contributors, and elected officials restricted on mailings and

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- honoraria?)—Filed on January 29, 1990 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 539 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge a tax base?)—Filed on January 26, 1990 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 540 (Shall the state be required to include in the medicaid program coverage for chiropractic services?)—Filed on January 22, 1990 by Roxanne Dubarry of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 541 (Shall the state and local tax levies on buildings be limited to a maximum of 50% of the current tax rate?)—Filed on February 5, 1990 by Charles Caussey of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 542 (Shall the reappraisal of real property for property tax purposes only occur when ownership changes or building construction is completed?)—Filed on February 23, 1990 by Gary C. Hoyt of Vashon Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 543 (Relating to state fiscal matters.)—Filed on March 8, 1990 by Linda W. Matson of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 544 (Relating to state fiscal matters.)—Filed on March 8, 1990 by John H. Wright of Elma. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 545 (Relating to comprehensive land use planning and economic development.)—Filed on March 15, 1990 by David A. Bricklin of Seattle. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 546 (Relating to fiscal matters.)—Filed on March 26, 1990 by Linda W. Matson of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 547 (Shall state growth and environmental protection goals be implemented by measures including local comprehensive land use planning and development fees?)—Filed on March 27, 1990 by Jeffrey D. Parsons of Seattle. 229,489 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 6, 1990 general election. It was defeated by the following vote: For—327,339; Against—986,505.
- INITIATIVE MEASURE NO. 548 (Shall some state revenues be placed in reserve and 60% legislative approval required for new or increased general revenue taxes?)—Filed on March 29, 1990 by Linda W. Matson of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 549 (Shall state growth and environmental protection goals be implemented by measures including local comprehensive land use planning and development fees?)—Filed on March 29, 1990 by Theodore A. Mahr of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 550 (Relating to managing growth and economic development.)—Filed on March 29, 1990 by Theodore A. Mahr of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 551 (Shall changes be made relating to real property taxes, including valuing property by its purchase price and costs of improvements?)—Filed on April 30, 1990 by Karl Thun of Graham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 552 (Shall limitations be placed on political campaign contributions and contributors, consecutive terms of office, publicly funded incumbent

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mailings, and honoraria?)—Filed on January 17, 1991 by Robert E. Adams of Bellevue. The measure was refiled as Initiative to the People No. 555.

**INITIATIVE MEASURE NO. 553** (Shall there be limitations on terms of office for Governor, Lieutenant Governor, state legislators and Washington state members of Congress?)—Filed on January 9, 1991 by Gene J. Morain of Tacoma. 254,263 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1991 general election. It was defeated by the following vote: For—690,828 Against—811,686.

**INITIATIVE MEASURE NO. 554** (Shall the display and distribution to minors of sexually explicit materials and performances be further restricted, and criminal defenses limited?)—Filed on January 10, 1991 by Andrea K. Vangor of Kirkland. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 555** (Shall limits be placed on campaign contributions and contributors, consecutive terms of office, publicly funded incumbent mailings, gifts, and honoraria?)—Filed on January 17, 1991 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 556** (Shall the first \$1,000,000 of appraised value of residential property, and \$2,000,000 for farm residences, be exempt from property taxes?)—Filed on January 8, 1991 by David S. Henshaw of Belfair. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 557** (Shall campaign expenditures be limited to 50% of the elected office term salary and violations result in forfeiture of office?)—Filed on January 22, 1991 by Douglas N. Maynard of Sedro Woolley. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 558** (Shall a limit, three consecutive terms or twelve consecutive years, be set for elected national, state, county, and municipal officers?)—Filed on January 22, 1991 by Douglas N. Maynard of Sedro Woolley. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 559** (Shall property value for tax purposes be the January 1, 1985 value or subsequent sales price, adjusted for cost of living changes?)—Filed on January 23, 1991 by Marijcke Clapp of Seattle. 276,653 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1991 general election. It was defeated by the following vote: For—592,391 Against—869,626.

**INITIATIVE MEASURE NO. 560** (Shall abortion laws be revised, restricting availability, requiring tests and reports, and prohibiting public funding unless necessary to save life?)—Filed on January 17, 1991 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 561** (Shall a transaction tax, not exceeding 1% be levied on money and property transfers, and present state taxes be repealed?)—Filed on January 22, 1991 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 562** (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge a tax base?)—Filed on January 29, 1991 by Don E. Jewett of Langley. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 563** (Shall elected and appointed state legislative and executive branch officials be limited to serving a cumulative maximum of twelve years?)—Filed



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- on February 11, 1991 by Eric McAtee of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 564 (Shall Washington residents elected to Congress have a lifetime limit of not more than twelve years of elected congressional service?)—Filed on February 11, 1991 by Craig A. McMillan of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 565 (Shall the state be required to include chiropractic services in the medical service assistance program available under the medicaid program?)—Filed on January 17, 1991 by Roxanne Lea Dubarry of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 566 (Shall campaign spending, for offices subject to the state public disclosure act, be limited to the office term's total salary?)—Filed on February 8, 1991 by Edward M. Duke of Gig Harbor. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 567 (Shall it be unlawful after life is created by conception to intentionally hasten or cause death except for capital punishment?)—Filed on February 25, 1991 by Mary L. Jarrard of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 568 (Shall pit bull dog owners be required to register, confine, and insure the dogs and remove newborns from the state?)—Filed on February 25, 1991 by Laurence C. Mathews of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 569 (Shall Utilities and Transportation regulate some medical service rates, some political contributions be prohibited, and motorcycle helmet requirements be changed?)—Filed on February 28, 1991 by Jack Zektzer of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 570 (Shall the state dangerous dog act be amended to require hearings and restrict the regulatory authority of cities and counties?)—Filed on March 4, 1991 by Cherie R. Graves of Newport. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 571 (Shall contributions to state legislative and executive campaigns be limited; and may candidates agreeing to expenditure limitations receive matching funds?)—Filed on May 15, 1991 by Calvin B. Anderson of Seattle. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 572 (Shall cannabis (marijuana) be legalized for adults; amnesty provided for prior cannabis convictions, tax imposed, and provide liquor board regulation?)—Filed on May 15, 1991 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.
- \*INITIATIVE MEASURE NO. 573 (Shall candidates for certain offices, who have already served for specified time periods in those offices, be denied ballot access?)—Filed on January 3, 1992 by Sherry Bockwinkel of Tacoma. 206,685 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 3, 1992 general election. It was approved by the following vote: For—1,119,985 Against—1,018,260.
- INITIATIVE MEASURE NO. 574 (Shall a transaction tax, not exceeding 1%, be charged on property and money transfers; and state authorized taxes be repealed?)—Filed on January 3, 1992 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 575 (Shall sales and distribution of condoms be prohibited on public school property; and schools teach and encourage abstinence and monogamy?)—

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Filed on January 9, 1992 by J. M. O'Sullivan of Sultan. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 576 (Shall cannabis (marijuana) be taxed and legalized for adults; amnesty provided for prior cannabis convictions and cannabis testing be prohibited?)—**Filed on January 13, 1992 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 577 (Shall horse racing statutes be amended including polygraph tests for jockeys, owners, trainers, ticket sellers, and prohibiting some betting combinations?)—**Filed on January 7, 1992 by Randy Baker of Tacoma. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 578 (Shall the death penalty and the requirement that all female felons be committed to the women's correctional institution be abolished?)—**Filed on January 7, 1992 by Randy Baker of Tacoma. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 579 (Shall pit bull dog owners be required to register, confine, and insure those dogs and remove newborns from the state?)—**Filed on January 21, 1992 by L. C. Mathews of Yakima. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 580 (Shall defendants in many court proceedings commenced by government have a right to jury trial with substantially expanded jury authority?)—**Filed on January 21, 1992 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 581 (Shall cannabis be available by prescriptions and the Agriculture director regulate hemp growers and distribution of industrial grade cannabis?)—**Filed on January 22, 1992 by Bryan Estes of Bellingham. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 582 (Shall political campaign contributions be limited and state and legislative candidates agreeing to campaign spending limits be permitted larger contributions?)—**Filed on January 23, 1992 by Margaret Colony of Bellevue. The sponsor submitted 151,601 signatures for checking and they were found insufficient to qualify the measure for the 1992 general election ballot.

**INITIATIVE MEASURE NO. 583 (Shall the Legislature be directed to vote on whether Washington should request Congress to propose a balanced budget constitutional amendment?)—**Filed on February 4, 1992 by Dianne E. Campbell of Woodinville. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 584 (Shall the requirements to use motorcycle helmets and seatbelts be repealed and hunters not be required to wear orange clothing?)—**Filed on February 27 by Patrick M. Crawford of Littlerock. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 585 (Shall the 1990 and 1991 Growth Management Acts be repealed; and limits imposed on state and local government land controls?)—**Filed on February 27, 1992 by Patrick M. Crawford of Littlerock. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 586 (Shall persons charged with drug crimes have their property seized and receive 50 year sentences; and needle exchange programs prohibited?)—**Filed on February 27, 1992 by Patrick M. Crawford of Littlerock. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 587 (Relating to growth management.)—Filed on March 17, 1992 by J. M. O'Sullivan of Sultan. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 588 (Shall the 1990 and 1991 State Growth Management Acts, which provide requirements for local comprehensive land use planning, be repealed?)—Filed on March 18, 1992 by J. M. O'Sullivan of Sultan. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 589 (Shall spending limits, adjusted by inflation and population; revision of property values for tax purposes; and other changes be approved?)—Filed on March 9, 1992 by Barbara M. Lindsay of Redmond. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 590 (Shall criminals who are convicted of "most serious offenses" on three occasions be sentenced to life in prison without parole?)—Filed on March 24, 1992 by John Carlson of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 591 (Shall public officials and employees be civilly and criminally liable for loss of state trust land or trust asset values?)—Filed on May 15, 1992 by Patrick A. Parrish of Trout Lake. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 592 (Shall the State Auditor be required to audit all state trust lands and assets to determine if losses have occurred?)—Filed on May 15, 1992 by Patrick A. Parrish of Trout Lake. Sponsor failed to submit signatures for checking.
- \*INITIATIVE MEASURE NO. 593 (Shall criminals who are convicted of "most serious offenses" on three occasions be sentenced to life in prison without parole?)—Filed on January 6, 1993 by Ida Ballasiotes of Mercer Island. 290,613 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 2, 1993 general election. It was approved by the following vote: For—1,135,521 Against—364,567.
- INITIATIVE MEASURE NO. 594 (Shall all present state and local taxes be repealed, and replaced with a flat-rate tax system on transfers of property?)—Filed on January 6, 1993 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 595 (Shall the sale and use of cannabis (marijuana) be permitted and regulated in places where minors do not have access?)—Filed on January 5, 1993 by Wayne H. Nelson of Renton. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 596 (Shall State law be amended to permit persons to burn wood in homes at any time, regardless of air conditions?)—Filed on January 19, 1993 by Ralph E. Miller of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 597 (Shall a commission approved by the proponent be created to define goals and lawful conduct for elected and appointed officials?)—Filed on January 25, 1993 by Forrest E. Owens of Burley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 598 (Shall alcohol sale be regulated to prohibit "happy hours" and limit the amount of alcohol served in any one drink?)—Filed on February 19, 1993 by Brian Venable of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 599 (Shall the state rate, review and compensate public and private education providers selected solely by the parents of school-age children?)—Filed on February 19, 1993 by Craig L. Williams of Richland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 600 (Shall candidates for state and federal office be limited to two consecutive terms, unless they win more terms by write-in?)—Filed on February 19, 1993 by Craig L. Williams of Richland. Sponsor failed to submit signatures for checking.

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**\*INITIATIVE MEASURE NO. 601** (Shall state expenditures be limited by inflation rates and population growth, and taxes exceeding the limit be subject to referendum?)—Filed on March 5, 1993 by Gregory J. Seifert of Vancouver. 249,707 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and submitted to the voters at the November 2, 1993 general election. It was approved by the following vote: For—774,342 Against—737,735.

**INITIATIVE MEASURE NO. 602** (Shall state revenue collections and state expenditures be limited by a factor based on personal income, and certain revenue measures repealed?)—Filed on March 3, 1993 by Margaret Johnson of Olympia. 440,160 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 2, 1993 general election. It was defeated by the following vote: For—673,378 Against—836,047.

**INITIATIVE MEASURE NO. 603** (Shall persons under age 18 be required to maintain at least a 3.0 grade average to keep their driver's licenses?)—Filed on February 26, 1993 by John C. Hawthorne of Olympia. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 604** (Shall attorneys be required to submit fee disputes to citizen settlement, and be restrained from running for certain public offices?)—Filed on March 10, 1993 by Patrick M. Crawford of Olympia. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 605** (Shall all present state and local taxes be repealed, and replaced with a flat rate tax on transfers of property?)—Filed on January 10, 1994 by Clarence P. Keating of Seattle. The sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 606** (Shall laws on legislative lobbying, pensions, party caucuses, and campaigning be revised, and the legislature be subject to the public records and open meetings acts?)—Filed on January 10, 1994 by Shawn Newman of Olympia. The sponsor failed to submit signatures for checking.

**\*INITIATIVE MEASURE NO. 607** (Shall persons other than dentists be licensed to make and sell dentures to the public, as regulated by a new state board of denture technology?)—Filed on January 10, 1994 by Vallan Charron of Puyallup. 241,228 signatures were submitted and found sufficient. The measure was subsequently certified and submitted to the voters at the November 8, 1994 general election. It was approved by the following vote: For—955,960 Against—703,619.

**INITIATIVE MEASURE NO. 608** (Shall government be prohibited from according rights or protections based on sexual orientation, and schools from presenting homosexuality as acceptable?)—Filed on January 10, 1994 by Gail L. Yenne of Tacoma. The sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 609** (Shall campaign contributions be permitted only from voters, and new restrictions be placed on the use of campaign funds, and shall Initiative 134 be repealed?)—Filed on January 12, 1994 by Robert E. Adams of Bellevue. The sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 610** (Shall rights based on homosexuality, homosexuals' custody of their own or other children; and governmental approval of homosexuality be prohibited?)—Filed on January 10, 1994 by Samuel P. Woodard, Sr. of Ariel. The sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 611** (Shall informed consent for abortions be defined and required, a 24 hour waiting period imposed, and related criminal penalties created?)—Filed on January 13, 1994 by Matthew W. Aamot of Bellingham. The sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 612 (Relating to making Washington a multi-cultural state.)—Filed on January 10, 1994 by Geoffrey Noah Vasil of Lacey. The Attorney General declined to prepare a ballot title.
- INITIATIVE MEASURE NO. 613 (Shall persons other than minors be permitted to grow, sell, and use cannahis (marj[n]ana) as licensed, taxed, and regulated by a new cannabis control board?)—Filed on January 13, 1994 by Warren J. Nolze of Seattle. The sponsor refiled the measure as Initiative Measure No. 622.
- INITIATIVE MEASURE NO. 614 (Shall one million dollars in state frnds he set aside to pay for embryo transfers as an alternative to abortion?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 615 (Shall lobbyists be required to obtain one mllion dollar llcenses, and shall employees be entitled to leave for legislative testimony?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 616 (Shall all persons be required to take a firearm safety course before purchasing firearms, or be subject to a penalty?)—Filed on January 26, 1994 By David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 617 (Shall fines be assessed on a sliding scale, based on the convicted person's income and the seriousness of the offense?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 618 (Relating to school levies.)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The Attorney General declined to prepare a ballot title.
- INITIATIVE MEASURE NO. 619 (Relating to amendments to legislative bills.)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The Attorney General declined to prepare a ballot title.
- INITIATIVE MEASURE NO. 620 (Shall vehicles no longer be required to have llcense tabs, and the gas tax be increased to replace lost revenue?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 621 (Shall all employees be entitled to increased hourly premium wages for work performed at night, or on Saturday or Sunday?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 622 (Shall persons other than minors be permitted to grow and sell cannabls (marjjuana) as regulated by a cannabis control board?)—Filed on February 11, 1994 by Warren J. Nolze of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 623 (Shall new limitations and conditions be placed on public assistance to familles, and certain grandparents be obligated for child support?)—Filed on February 8, 1994 by David R. Mortenson of Kent. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 624 (Shall the business activity tax be reduced for certain businesses, and shall some businesses be exempted from paying this tax?)—Filed on February 18, 1994 by Corrie Bender of Kent. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 625 (Shall persons convicted of certain offenses be required to serve full sentences in total confinement, without possihllity of early release?)—Filed on

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- February 11, 1994 by Bruce Wilson McKay of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 626 (Shall regulation of private property be restricted, and certain reductions in value be newly defined as takings which require compensation?)—Filed on February 25, 1994 by Daniel Wayne Wood of Hoquiam. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 627 (Shall the licensing department implement a motorcycle awareness program, paid for by twenty percent of all existing motorcycle license fees?)—Filed on March 3, 1994 by Gary W. Lawson of Lacey. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 628 (Shall persons under eighteen be restricted in obtaining driver's licenses or employment, unless they keep a certain grade point average?)—Filed on February 23, 1994 by John C. Hawthorne of Olympia. This measure refiled as Initiative Measure No. 636.
- INITIATIVE MEASURE NO. 629 (Relating to public schools & youth violence prevention.)—Filed March 4, 1994 by Thomas G. Erickson of Seattle. This measure refiled as Initiative Measure No. 635.
- INITIATIVE MEASURE NO. 630 (Shall public officers and certain businesses be prohibited from harassing or discriminating against targets of the national security agency?)—Filed on March 15, 1994 by Elizabeth Patrick of Spokane. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 631 (Shall the use of state, county, city, or town funds to fund the national security agency be prohibited?)—Filed on March 15, 1994 by Elizabeth Patrick of Spokane. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 632 (Shall laws concerning possession of firearms, juvenile court jurisdiction, and sentences for drive-by shootings and certain other crimes be revised?)—Filed on March 30, 1994 by James L. King, Jr. of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 633 (Shall juvenile justice and child labor laws be revised, and juvenile programs funded with revenue from specified fees and taxes?)—Filed on March 30, 1994 by James L. King, Jr. of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 634 (Shall state agency commercial activity, rulemaking, staffing, contracting, and lobbying be limited, and \$100 million appropriated for prisons and safety?)—Filed on March 30, 1994 by Linda A. Smith of Vancouver. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 635 (Shall the establishment of public charter schools to serve at-risk youth be authorized, and \$250 million appropriated for this program?)—Filed on March 30, 1994 by Thomas G. Erickson of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 636 (Shall minors be limited to a conditional drivers' license, and shall minors with good grades be permitted to work more hours?)—Filed on April 6, 1994 by John C. Hawthorne of Olympia. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 637 (Shall state laws on property ownership, property tax collection, and vehicle licensing be revised and vehicle excise taxes be removed?)—Filed

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- on May 12, 1994 by David Nibarger of Spokane. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 638 (Shall a transaction tax, not exceeding 1%, be charged on property and money transfers; and state authorized taxes be repealed?)**—Filed on January 9, 1995 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 639 (Shall the state be required to establish state-operated facilities for care of all children who are abandoned, abused, or neglected?)**—Filed on January 9, 1995 by Jim D. Whittenburg of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 640 (Shall state fishing regulations ensure certain survival rates for nontargeted catch, and commercial and recreational fisheries be prioritized?)**—Filed on January 9, 1995 by Frank Haw of Olympia. 258,995 signatures were filed and found sufficient. The measure was subsequently certified and submitted to the voters at the November 7, 1995 general election. It was defeated by the following vote: For—566,880 Against—767,686.
- INITIATIVE MEASURE NO. 641 (Relating to Philadelphia II.)**—Filed on January 9, 1995 by Robert B. Adkins of Tacoma. Attorney General declined to write a ballot title.
- INITIATIVE MEASURE NO. 642 (Shall school district voters be authorized to adopt deregulated systems of education delivery, and state education appropriations fixed by formula?)**—Filed on January 9, 1995 by James and Fawn Spady of Seattle. Sponsors failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 643 (Relating to property taxes.)**—Filed on January 9, 1995 by Donald Carter of Olympia. The initiative was refiled by the sponsor as Initiative Measure No. 650.
- INITIATIVE MEASURE NO. 644 (Shall government be prohibited from placing children for adoption or foster care with any homosexuals or with cohabiting unmarried partners?)**—Filed on January 9, 1995 by Samuel P. Woodard, Sr. of Ariel. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 645 (Shall most laws regulating firearms be repealed, including laws relating to concealed pistols, machine guns, and short-barreled rifles or shotguns?)**—Filed on January 9, 1995 by Samuel P. Woodard, Sr. of Ariel. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 646 (Shall the state property tax levy for schools be reduced in stages over three years, and then eliminated?)**—Filed on January 20, 1995 by Jim D. Whittenburg of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 647 (Shall the members of the state utilities and transportation commission be elected, and their regulatory responsibilities extended to new fields?)**—Filed on January 11, 1995 by Carl Sperr of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 648 (Shall laws be revised concerning state citizenship, property ownership, travel rights, competency certificates, taxation, licenses, public officers, courts, and legislation?)**—Filed on January 23, 1995 by David L. Nibarger of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 649 (Shall most of the 1993 Health Care Act be repealed, and replaced with insurance modifications and health care savings accounts?)**—Filed on

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January 19, 1995 by Jerome A. Blome of Kent. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 650 (Shall taxes on property used as the owner's principal residence be limited, and property assessment be based on "adjusted value"?)—**Filed on February 10, 1995 by Donald Carter of Olympia. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 651 (Shall the state enter into compacts with Indian tribes providing for unrestricted gambling on Indian lands within the state's borders?)—**Filed on February 28, 1995 by John Kieffer of Fruitland. 267,401 signatures were filed and found sufficient. The measure was subsequently certified and submitted to the voters at the November 7, 1995 general election. It was defeated by the following vote: For—350,708 Against—1,010,787.

**INITIATIVE MEASURE NO. 652 (Shall juveniles aged thirteen or more charged with crime while in the possession of a weapon be tried as adults?)—**Filed on March 10, 1995 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 653 (Shall public school, health care and assistance officials report "apparent illegal aliens" to INS and deny them education and services?)—**Filed on April 7, 1995 by Karen E. Small of LaConner. Sponsor failed to submit signatures for checking.

**INITIATIVE MEASURE NO. 654 (Shall government be prohibited from placing children for adoption or foster care with any "person who practices right-wing fundamentalist Christianity"?)—**Filed on June 1, 1995 by William S. Humphrey of Seattle. Sponsor failed to submit signatures for checking.



## INITIATIVES TO THE LEGISLATURE

- \*INITIATIVE TO THE LEGISLATURE NO. 1 (District Power Measure)**—Filed October 25, 1928. The 1929 Legislature failed to take action, and as provided by the state constitution the measure then was submitted to the voters for final decision at the November 4, 1930 state general election. Measure was approved into law by the following vote: For—152,487 Against—130,901. The act is now identified as Chapter 1, Laws of 1931.
- INITIATIVE TO THE LEGISLATURE NO. 1A (Brewers' Hotel Bill)**—Filed December 14, 1914. The 1915 Legislature failed to take action, and as provided by the state constitution the measure then was submitted to the voters for final decision at the November 7, 1916 state general election. Measure was defeated by the following vote: For—48,354 Against—263,390.
- \*INITIATIVE TO THE LEGISLATURE NO. 2 (Blanket Primary Ballot)**—Filed August 21, 1934. Passed by the Legislature February 21, 1935. Now identified as Chapter 26, Laws of 1935.
- INITIATIVE TO THE LEGISLATURE NO. 3 (Tax Free Homes)**—Filed August 25, 1934. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 4 (Unemployment Insurance)**—Filed September 5, 1934. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 5 (Prohibiting Fishing with Purse Seines)**—Filed November 20, 1934. Insufficient number of signatures on petition; failed.
- INITIATIVE TO THE LEGISLATURE NO. 6 (Legal Holiday on Saturday)**—Filed August 17, 1938. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 7 (Pension for Blind)**—Filed October 7, 1938. Referred as Initiative to the Legislature No. 8.
- INITIATIVE TO THE LEGISLATURE NO. 8 (Pension for Blind)**—Filed October 10, 1938. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 9 (Relating to Intoxicating Liquors)**—Filed December 8, 1938. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 10 (Unicameral Legislature)**—Filed May 23, 1940. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 11 (Reapportionment of State Legislative Districts)**—Filed July 8, 1942. No petition filed.
- \*INITIATIVE TO THE LEGISLATURE NO. 12 (Public Power Resources)**—Filed August 29, 1942. Passed by the Legislature February 17, 1943. Now identified as Chapter 15, Laws of 1943. Act invalidated through Referendum Measure No. 25.
- INITIATIVE TO THE LEGISLATURE NO. 13 (Restricting Sales of Beer and Wine to State Liquor Stores)**—This measure is the same as Initiative Measure No. 163 and was filed August 23, 1946. Signature petitions filed January 3, 1947. The 1947 Legislature failed to take action as provided by the state constitution the measure then was submitted to the voters for final decision at the November 2, 1948 state general election. Measure was defeated by the following vote: For—208,337 Against—602,141.

## INITIATIVES TO THE LEGISLATURE

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- INITIATIVE TO THE LEGISLATURE NO. 14 (Reapportionment of State Legislative Districts)—Filed September 19, 1946. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 15 (Establishing a Civil Service System for the Employees of the State of Washington)—Filed October 16, 1946. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 16 (Providing for the Election of State Game Commissioners)—Filed September 8, 1948. No signature petitions presented.
- INITIATIVE TO THE LEGISLATURE NO. 17 (Regulating Legislative Committee Hearings)—Filed October 16, 1948. No signature petitions filed.
- INITIATIVE TO THE LEGISLATURE NO. 18 (Petitioning Congress to declare that it is the policy of the United States to live in peaceful coexistence with other nations, etc.)—This measure is the same as Initiative Measure No. 183 and was filed September 3, 1952. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 19 (Repealing the Subversive Activities Act)—Filed September 19, 1952. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 20 (Legislative and Congressional Districting)—Filed April 16, 1954. Sponsors dissatisfied with ballot title and, as a consequence, measure (with some minor changes, all occurring in section 5) was refiled as of May 17, 1954 and measure refiled as Initiative No. 22 to the Legislature.
- INITIATIVE TO THE LEGISLATURE NO. 21 (Professional Practice Boards)—Filed April 20, 1954. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 22 (Legislative and Congressional Districting)—Filed May 17, 1954. No signature petitions presented for checking.
- \*INITIATIVE TO THE LEGISLATURE NO. 23 (Civil Service for Sheriff's Employees)—Measure filed August 7, 1956. Signature petitions filed December 5, 1956, and found sufficient. The 1957 Legislature failed to take action, and as provided by the state constitution the measure was then submitted to the voters for final decision at the November 4, 1958 state general election. Measure was approved by the following vote: For—539,640 Against—289,575. Act is now identified as Chapter 1, Laws of 1959.
- INITIATIVE TO THE LEGISLATURE NO. 24 (Limiting Dams In Fish Sanctuaries)—Measure filed September 18, 1956. Signature petitions containing approximately 85,600 signatures filed January 3, 1957. However, attorney general ruled that provisions of the 30th amendment to the state constitution approved by the voters at the 1956 state general election applied at the time signatures were presented. This amendment provided that the number of signatures necessary to validate an initiative must be equal to at least 8% of the votes cast on the position of governor at the last preceding gubernatorial election. This computation set the necessary number as 90,319 valid signatures. Sponsors appealed to the State Supreme Court which held that the attorney general was correct. For this reason the Secretary of State did not check signature petitions and the initiative was not certified to the 1957 Legislature.
- \*INITIATIVE TO THE LEGISLATURE NO. 25 (Dam Construction and Water Diversion)—Measure filed April 3, 1958. Signature petitions filed January 2, 1959 and upon completion of canvass found sufficient. The 1959 Legislature failed to take final action and as provided by the state constitution the measure was submitted to the voters for final decision at the November 8, 1960 state general election. Measure was approved by the following vote: For—526,130 Against—483,449. Act is now identified as Chapter 4, Laws of 1961.

## INITIATIVES TO THE LEGISLATURE

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- INITIATIVE TO THE LEGISLATURE NO. 26 (Abolishing Capital Punishment)—Measure filed March 10, 1960. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 27 (Restricting Federal Taxation and Activities)—Measure filed June 27, 1960. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 28 (Civil Service for County Employees)—Measure filed July 1, 1960. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 29 (Repealing Certain 1961 Tax Laws)—Filed March 27, 1962 by the Citizens' Tax Revolt Group. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.
- INITIATIVE TO THE LEGISLATURE NO. 30 (Reorganization of State Fisheries Department)—Filed May 28, 1962 by the Washington State Sportsmen's Council. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.
- INITIATIVE TO THE LEGISLATURE NO. 31 (Laws Regulating Courts--Judges--Attorneys)—Filed May 17, 1966 by Walter H. Philipp of Seattle. This was, in effect, a refile of Initiative Measure No. 232 and again no signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 32 (Local Processing of State Timber)—Filed May 31, 1966 by the Committee for Full Employment in Washington. Signatures (136,181) filed December 30, 1966 and found sufficient. The 1967 Legislature failed to take final action and, as provided by the state constitution, the measure was submitted to the voters for final decision at the November 5, 1968 state general election. Measure was rejected by the following vote: For—450,559 Against—716,291.
- INITIATIVE TO THE LEGISLATURE NO. 33 (No caption written)—Filed July 1, 1966 by George A. Guilmet of Edmonds. This was a proposed memorial to Congress concerning "the ending of the war now being waged by the United States Government and its armed forces in Vietnam and Southeast Asia." However, the office of the attorney general reversed its position in that a similar measure was filed in 1952 (Initiative to the Legislature No. 18) and declined to issue a ballot title on the grounds that the subject matter was not a proper subject to fall within the scope of the initiative procedure. As a consequence, the secretary of state returned the measure and filing fee to the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 34 ("Personal Effects" Tax Exemption)—Filed March 20, 1968 by the Committee Against Unfair Personal Property Tax. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 35 (State Citizens--War and Taxes)—Filed April 28, 1970 by the Seattle Liberation Front—William Edward Kononen, Initiative Circulation Chairman. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 36 (Licensing Dog Racing--Parimutuel Betting)—Filed July 3, 1970 by Donald Nicholson of Kirkland. Because of technical errors, measure was refiled August 18, 1970 as Initiative to the Legislature No. 39.
- INITIATIVE TO THE LEGISLATURE NO. 37. (Transportation Revenues--Use and Distribution)—Filed July 9, 1970 by William L. McCord and William L. Harrington, Co-sponsors. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 38 (Certain Cities--Greyhound Racing Franchises)—Filed July 31, 1970 by Herbert B. Shannon of Medina. Signatures (121,077)

## INITIATIVES TO THE LEGISLATURE

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filed December 31, 1970. Checking revealed insufficient valid signatures submitted and the initiative was not certified to the 1971 Legislature.

**INITIATIVE TO THE LEGISLATURE NO. 39 (Licensing Dog Racing—Parimutuel Betting)—** Filed August 18, 1970 by Donald Nicholson and Dr. Lawrence Pirkle, Co-sponsors. Signatures (124,394) filed December 31, 1970. Checking revealed insufficient valid signatures submitted and the initiative was not certified to the 1971 Legislature.

**INITIATIVE TO THE LEGISLATURE NO. 40 (Litter Control Act)—** Filed August 20, 1970 by the Washington Committee to Stop Litter—Irrving B. Stimpson, Secretary. Signatures (141,228) filed December 30, 1970 and found sufficient and the measure was certified to the Legislature as of January 29, 1971. The Legislature took no action insofar as Initiative Measure No. 40 but did pass an alternative measure No. 40B now identified as Chapter 307, Laws of 1971 1st Extraordinary Session, which contained an emergency clause and became effective law upon approval of the Governor on May 21, 1971. However, as required by the state constitution, both measures were submitted to the voters for final decision at the November 7, 1972 state general election. The votes cast on the original measure and the alternative proposal were as follows:

For Either -----	Against Both -----	Prefer No. 40 -----	Prefer No. 40B -----
788,151	418,764	194,128	798,931

As a consequence, Alternative Measure No. 40B prevailed which sustained Chapter 307, Laws of 1971 1st Extraordinary Session, as law.

**INITIATIVE TO THE LEGISLATURE NO. 41 (Public Schools—Certain Courses Curtailed)—** Filed September 4, 1970 by the Schools Belong to You Committee of the State of Washington—Dale R. Dorman, Chairman. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 42—** Filed September 21, 1970 by the Washington Environmental Council. Refiled September 25, 1970 as Initiative to the Legislature No. 43.

**INITIATIVE TO THE LEGISLATURE NO. 43 (Regulating Shoreline Use and Development)—** Filed September 25, 1970 by the Washington Environmental Council. Signatures (160,421) filed December 31, 1970 and found sufficient and the measure was certified to the Legislature as of January 29, 1971. The legislature took no action insofar as Initiative No. 43 but did pass an alternative measure No. 43B now identified as Chapter 286, Laws of 1971 1st Extraordinary Session, which became effective law as of June 1, 1971. However, as required by the state constitution both measures were submitted to the November 7, 1972 state general election. The votes cast on the original measure and the alternative proposal were as follows:

For Either -----	Against Both -----	Prefer No. 40 -----	Prefer No. 40B -----
603,167	551,132	285,721	611,748

As a consequence, Alternative Measure No. 43B prevailed which sustained Chapter 286, Laws of 1971 1st Extraordinary Session, as law.

**\*INITIATIVE TO THE LEGISLATURE NO. 44 (Statutory Tax Limitation—20 Mills)—** Filed October 15, 1970 by the 40-Mill Tax Limit Committee—Lester P. Jenkins, Secretary. Signatures (229,785) filed December 30, 1970 and found sufficient and the measure was certified to the Legislature as of January 29, 1971. The Legislature took no action and, as

## INITIATIVES TO THE LEGISLATURE

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provided by the state constitution, the initiative was submitted to the voters for final decision at the November 7, 1972 state general election and approved by the following vote: For—930,275 Against—301,238. Act is now identified as Chapter 2, Laws of 1973.

**INITIATIVE TO THE LEGISLATURE NO. 45 (Restoration of Law Prohibiting Hitchhiking)**—Filed July 10, 1972 by Mildred C. Trantow, President, Washington State Chapter of Pro America. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 46 (Restricting School District Excess Levies)**—Filed July 25, 1972 by Representative Paul Barden and Representative Vaughn Hubbard, Co-sponsors. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 47 (Shall public schools be prohibited from teaching either the theory of evolution or that of creation unless both are taught?)**—Filed April 3, 1974 by Ward E. Ellsworth. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 48 (Shall state financial support for public schools be greatly increased for 1975-77 and school district excess levies restricted after 1975?)**—Filed April 9, 1974 by the Committee for State School Support. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 49 (Shall an initiative be adopted declaring persons ineligible for election to given state offices for more than 12 consecutive years?)**—Filed July 5, 1974 by Senator Peter von Reichbauer. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 50 (Shall greyhound dog racing, with parimutuel betting, be permitted when licensed by a state commission and subject to its control?)**—Filed July 16, 1974 by Donald Nicholson. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 51 (Constitutional Amendment—Qualifications of Legislators)**—Filed March 11, 1976 by Harley H. Hoppe of Mercer Island. Attorney General declined to prepare ballot title.

**INITIATIVE TO THE LEGISLATURE NO. 52 (Shall commercial fishing for or taking of food fish, crab or shrimp in Hood Canal be prohibited?)**—Filed April 15, 1976 by J.L. Parsons of Union, WA. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 53 (Shall special levies be limited, and additional state support provided to most districts which approve such limited levies?)**—Filed April 21, 1976 by Representative Phyllis K. Erickson of Tacoma. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 54 (Shall an initiative be adopted prohibiting holding most state offices longer than twelve years and judicial offices past age 70?)**—Filed April 28, 1976 by Jack Metcalf of Langley, WA. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 55 (Shall persons convicted of certain felonies be imprisoned for a mandatory period of years?)**—Filed May 7, 1976 by Senator Kent Pullen of Kent, WA. Re-filed as Initiative to the Legislature No. 56.

**INITIATIVE TO THE LEGISLATURE NO. 56 (Shall persons convicted of most felonies be imprisoned for a mandatory period of years?)**—Filed June 1, 1976 by Senator Kent Pullen of Kent, WA. No signatures presented for checking.

**INITIATIVE TO THE LEGISLATURE NO. 57 (Shall an initiative be adopted providing that special legislative sessions, however convened, be limited to thirty days and specific**

## INITIATIVES TO THE LEGISLATURE

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subjects?)—Filed July 14, 1976 by Senator Harry Lewis of Olympia. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 58 (Shall an initiative be adopted memorializing the legislature to impeach and remove King County Superior Court Judge Solie M. Ringold?)—Filed July 14, 1976 by Paul O. Snyder of Seattle. No petition submitted.

\*INITIATIVE TO THE LEGISLATURE NO. 59 (Shall new appropriations of public water for nonpublic agricultural irrigation be limited to farms of 2,000 acres or less?)—Filed August 16, 1976 by Ray Hill of Seattle. Signatures (191,012) submitted and found sufficient and measure was certified to the legislature January 14, 1977. The legislature referred this measure to the 1977 state general election ballot. At the November 8, 1977 general election the measure was approved by the following vote: For—457,054 Against—437,682. Act is now identified as Chapter 3, Laws of 1979.

INITIATIVE TO THE LEGISLATURE NO. 60 (Shall an initiative be adopted authorizing a legislator to convene a grand jury to consider allegations of improper judicial conduct?)—Filed March 28, 1978 by Mr. Gerald P. Hanson of Maple Valley. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 61 (Shall a system requiring a minimum five cent refund on sales of beer, malt and carbonated beverage containers be established?)—Filed May 1, 1978 by Mr. Steve Zemke of Seattle. Signatures (164,325) submitted and a random sample of 8,180 was taken and found sufficient and measure was certified to the Legislature on February 19, 1979. The legislature referred this measure to the 1979 state general election ballot. At the November 6, 1979 general election the measure was rejected. The preliminary figures for the vote are: For—333,062 Against—427,822.

\*INITIATIVE TO THE LEGISLATURE NO. 62 (Shall state tax revenues be limited so that increases do not exceed the growth rate of total state personal income?)—Filed June 1, 1978 by Ron Dunlap and Ellen Craswell of the Washington Tax Limitation Committee. Signatures (169,456) submitted and found sufficient and measure was certified to the legislature on January 18, 1979. The legislature referred this measure to the 1979 state general election ballot. At the November 6, 1979 general election the measure was approved. The preliminary figures for the vote are: For—509,349 Against—235,431. Act is now identified as Chapter 1, Laws of 1980.

INITIATIVE TO THE LEGISLATURE NO. 63 (Shall participation in the state militia and law enforcement units not be denied to persons by reason of physical handicaps?)—Filed June 28, 1978 by Mr. Daniel M. Jones of Olympia. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 64—Attorney General refused to write a ballot title.

INITIATIVE TO THE LEGISLATURE NO. 65 (Shall state school levies be subject to the same six percent annual increase limit as other regnair property tax levies?)—Filed July 12, 1978 by Mr. Ron Dunlap and Mrs. Ellen Craswell. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 66 (Shall the Consumer Protection Act be amended to provide trebled actual damages in private actions and define specific unlawful acts?)—Filed July 14, 1978 by Mr. Norman L. Bachert of Seattle. No signatures were brought in for checking.

INITIATIVE TO THE LEGISLATURE NO. 67 (Shall an initiative be adopted providing for the recall of United States senators and representatives during legislatively called special

## INITIATIVES TO THE LEGISLATURE

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elections?)—Filed July 27, 1978 by Mr. Victor J. Bonagofski of Centralia. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 68 (Shall property tax assessments be based on 1976 values, with certain exceptions and assessment increases limited to 2% per year?)—Filed July 21, 1978 by Mr. Bruce Gould of Vancouver. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 69 (Shall single family dwellings and farm buildings be tax exempt, and state and local taxing and borrowing powers be restricted?)—Filed July 26, 1978 by Mr. Gerald P. Hanson of Maple Valley. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 70 (Shall the rates of state sales and business taxes temporarily be reduced 22.2% and 25% respectively during the year 1980?)—Filed August 11, 1978 by Mr. Paul Sanders of Bellevue. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 71 (Shall property taxes be based on 1976 values limited to 2% annual increases, and other property tax changes be enacted?)—Filed August 16, 1978 by Mr. J. Van Self of Tacoma. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 72 (Shall state school levies be limited to 6% annual increases and disabled retirees or elderly property tax exemptions be increased?)—Filed November 20, 1978 by Mr. Claude Oliver of Kennewick. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 73 (Shall Government Agencies, Employees, and Private Individuals be Prohibited from Promoting Certain Sexual Practices, and the Age of Consent Raised?)—Filed May 13, 1980 by David Estes of Seattle. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 74 (Shall There be Mandatory Minimum Prison Sentences for Certain Felonies, Expanded Concealed Weapons' Permits and State Preemption of Firearms' Regulation?)—Filed July 31, 1980 by Kent Pullen of Kent, WA. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 75 (Shall the Crime Victims Compensation Act be extended to crimes committed after July 1, 1981, and its coverage be broadened?)—Filed September 4, 1981 by Manuel E. Costa of Marysville. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 76 (Shall the legislature petition Congress to amend the Constitution, or call a constitutional convention, to require a balanced federal budget?)—Filed March 12, 1982 by Harry Erwin Truitt of Seattle. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 77 (Shall public employee compensation be reduced or frozen if state expenditures exceed revenues or new taxes are imposed or authorized?)—Filed March 22, 1982 by Glenn Blubaugh of Tacoma. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 78 (Shall the present state owned and operated liquor distribution system be abolished and replaced with licensed privately owned liquor dealers?)—Filed May 27, 1982 by Robert J. Corcoran of Puyallup. No signatures were presented for checking.

## INITIATIVES TO THE LEGISLATURE

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- INITIATIVE TO THE LEGISLATURE NO. 79 (Shall employers have the option, effective July 1, 1984, of securing private insurance to meet the state requirements for workmen's compensation?)—Filed September 29, 1982 by Richard M. Farrow of Seattle. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 80 (Unemployment Insurance)—Filed September 29, 1982 by Richard C. King of Seattle. Initiative withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 81 (Political Contributions)—Filed September 29, 1982 by R. M. (Dick) Bond of Spokane. Initiative withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 82 (Public Purchasing)—Filed September 29, 1982 by Priscilla K. Stockner of Puyallup. Initiative withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 83 (Shall the 1983-85 state general operating budget be limited by statute to a maximum of 109% of the 1981-83 budget?)—Filed September 29, 1982 by Charles I. McClure of Tacoma. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 84 (Shall state policies regarding natural resource management, Indian rights, federal court decisions, and the expenditure of state funds be enacted?)—Filed May 13, 1983 by John B. Mitchum of Mt. Vernon. Sponsors have until December 31, 1983 to submit signatures.
- INITIATIVE TO THE LEGISLATURE NO. 85 (Shall the legislature be directed to petition Congress to call a convention to propose a balanced federal budget constitutional amendment?)—Filed June 7, 1983 by James R. Medley of Seattle. Sponsors have until December 31, 1983 to submit signatures.
- INITIATIVE TO THE LEGISLATURE NO. 86 (Shall the legislature submit a state constitutional amendment requiring taxes be approved by voters and full funding of retirement systems?)—Filed August 17, 1984 by James L. King, Jr. of Tacoma. No signatures were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 87 (Shall juvenile diversion agreements require home or nonsecurity residency or placement in secure facilities if a juvenile thereafter runs away?)—Filed October 19, 1984 by Theresa J. Green of Seattle. No signatures were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 88 (Shall candidates for legislative and state executive offices be prohibited from receiving more than specified maximum campaign contributions and loans?)—Filed March 25, 1985 by Roger J. Douglas of Olympia. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 89. (Shall the legislature submit a constitutional amendment requiring voter approval of new taxes and full funding of state retirement systems?)—Filed June 20, 1985 by James L. King, Jr. of Tacoma. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 90. (Shall sales and use taxes be increased, 1/8th of 1%, to fund comprehensive fish and wildlife conservation and recreation programs?)—Filed July 22, 1985 by John C. McGlenn of Seattle. 211,299 signatures were submitted and found sufficient and the measure was certified to the legislature on January 24, 1986. The legislature referred this measure to the 1986 general election ballot. At the November 4, 1986 general election the measure was defeated by the following vote: For—493,794. Against—784,382.



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INITIATIVE TO THE LEGISLATURE NO. 91. (Shall the state administered workers industrial insurance compensation system be modified and employers be granted the option of privately insuring?)—Filed August 9, 1985 by Donald D. Eldridge of Olympia. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 92. (Shall it be a consumer protection violation for doctors treating Medicare eligible patients to charge more than Medicare's reasonable charges?)—Filed March 31, 1986 by Lars Hennem of Seattle. 219, 716 signatures were submitted and were found sufficient and the measure was certified to the legislature on January 15, 1987.

INITIATIVE TO THE LEGISLATURE NO. 93 (Shall courts be authorized to require that convicted felons after release from prison be subject to restrictions and state supervision?)—Filed May 5, 1986 by Stuart A. Halsan of Centralia. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 94 (Shall conviction for possessing more than five ounces of, or selling, "dangerous drugs" result in at least five years imprisonment?)—Filed August 22, 1986 by Clyde Ballard of East Wenatchee. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 95 (Shall denturists be licensed, dental hygienists' activities be expanded, and both be permitted to function without supervision of a dentist?)—Filed on April 17, 1987 by Kenneth S. MacPherson of Redmond. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 96 (Cleanup of Toxic Waste)—Filed on July 16, 1987 by David A. Bricklin of Seattle. Initiative refiled as Initiative 97.

\*INITIATIVE TO THE LEGISLATURE NO. 97 (Shall a hazardous waste cleanup program, partially funded by a 7/10 of 1% tax on hazardous substances, be enacted?)—Filed on August 13, 1987 by Christine Platt of Olympia. 215,505 signatures were submitted and were found sufficient. The measure was certified to the legislature on February 8, 1988.

INITIATIVE TO THE LEGISLATURE NO. 98 (Shall conversations concerning controlled drugs be recordable with one party's consent and limited court use of unauthorized recordings be permitted?)—Filed on April 1, 1988 by Frank Kaneko of Olympia. Sponsor failed to submit signatures for checking.

\*INITIATIVE TO THE LEGISLATURE NO. 99 (Shall a state presidential preference primary election determine each presidential candidate's percentage of delegates to major party national conventions?)—Filed on April 24, 1988 by Ross E. Davis of Seattle and Joe E. Murphy of Seattle. 202, 872 signatures were submitted and found sufficient. The measure was certified to the legislature on February 6, 1989 and was passed by the legislature on March 31, 1989. The act is now identified as Chapter 4, Laws of 1989.

INITIATIVE TO THE LEGISLATURE NO. 100 (Shall private property rights be a compelling state interest restricting eminent domain, state agreements with governments, and some agency rules?)—Filed on April 11, 1988 by Neil Amondson of Centralia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 101 (Shall mandatory minimum jail sentences be required for some drug offenses including possessing materials or equipment to illegally manufacture drugs?)—Filed on May 5, 1988 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE LEGISLATURE

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**INITIATIVE TO THE LEGISLATURE NO. 102** (Shall the state support of children and family services, including some education programs, be increased by \$360,000,000 in new taxes?)—Filed on June 24, 1988 by Jon LeVeque of Seattle. 217,143 signatures were submitted and found sufficient. The measure was certified to the Legislature on January 20, 1989. The legislature referred the measure to the 1989 general election ballot. At the November 7, 1989 general election the measure was defeated by the following vote: For—349,357 Against—688,782.

**INITIATIVE TO THE LEGISLATURE NO. 103** (Shall rent increases in mobile home parks be prohibited until June 30, 1990 and thereafter increases would require a state board's approval?)—Filed on July 8, 1988 by Shirley J. Johnson of Everett. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 104** (Shall proposed thermal power plants be required to demonstrate that their operation will not increase carbon dioxide in the atmosphere?)—Filed on August 22, 1988 by Allen W. Hayward of Olympia. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 105** (Regarding attorneys as members of the Legislature)—Filed on July 20, 1988 by Eugene Goosman of Seattle. Attorney General refused to write ballot title on the grounds that the initiative proposed to amend the Constitution.

**INITIATIVE TO THE LEGISLATURE NO. 106** (Shall the state issue tax obligation bonds and use the proceeds for consumer grants, state projects, reinvestment and bond expenses?)—Filed on August 23, 1988 by Steven A. Tracy of Longview. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 107** (Shall new limitations be imposed upon the adoption of state and local rules and ordinances restricting property rights of landowners?)—Filed on September 12, 1988 by Ellen Pickell of Hoquiam and Neil Amondson of Centralia. Sponsors failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 108** (Shall a toll bridge connecting Bainbridge Island to land east of Bremerton be financed by \$22,000,000 and general obligation bonds?)—Filed on September 29, 1988 by T. H. Tees of Bremerton. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 109** (Shall women considering abortion be advised by the physician of their opportunity to receive certain information about abortion and alternatives?)—Filed on April 19, 1989 by Mike Padden of Spokane. 153,619 signatures were submitted and were found insufficient to qualify the measure for the state general election ballot.

**INITIATIVE TO THE LEGISLATURE NO. 110** (Regarding a mandatory sentence for the manufacture or sale of narcotics.)—Filed on April 3, 1989 by James Linderman, Sr. of Yacolt. Sponsor abandoned this initiative and refiled it as Initiative to the Legislature No. 111.

**INITIATIVE TO THE LEGISLATURE NO. 111** (Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?)—Filed on May 10, 1989 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE LEGISLATURE

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**INITIATIVE TO THE LEGISLATURE NO. 112 (Shall the state regulate oil refiners' prices, rates, services and practices dealing with, or charged to, retail motor fuel outlets?)—**Filed on May 25, 1989 by Timothy Hamilton of McCleary. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 113 (Shall certain drug offenses have mandatory jail sentences, other drug sentences increased, and penalties paid to local jurisdiction drug funds?)—**Filed on June 23, 1989 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 114 (Regarding the burning or defacing of the American flag.)—**Filed on June 30, 1989 by Carl R. Barbee of Seattle. The Attorney General declined to write a ballot title.

**INITIATIVE TO THE LEGISLATURE NO. 115 (Shall the state and local tax rates on commercial and residential huildings and new construction be reduced at least 50%?)—**Filed on July 11, 1989 by Charles Caussey of Spokane. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 116 (Shall child support laws be revised, including a disregarding of parents' income in fixing a schedule for child support payments?)—**Filed on August 21, 1989 by William Harrington of Lynnwood. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 117 (Shall political contributions be limited regarding amount, timing and residency of contributors, and elected officials restricted on mailings and honoraria?)—**Filed on September 12, 1989 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 118 (Shall state and local tax rates, fees and charges be reduced to January 1, 1990 rates, and increases require 60% voter approval?)—**Filed on March 14, 1990 by Judith Anderson of Bush Prairie. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 119 (Shall adult patients who are in a medically terminal condition be permitted to request and receive from a physician aid-in-dying?)—**Filed on March 14, 1990 by Bradley K. Robinson of Seattle. 218,327 signatures were submitted and found sufficient. The measure was certified to the legislature on February 8, 1991. The legislature referred the measure to the 1991 general election ballot. At the November 5, 1991 general election the measure was defeated by the following vote: For—701,808 Against—810,623.

**\*INITIATIVE TO THE LEGISLATURE NO. 120 (Shall state abortion laws be revised, including declaring a woman's right to choose physician performed abortion prior to fetal viability?)—**Filed on April 2, 1990 by Lee Minto of Seattle. 242,004 signatures were submitted and found sufficient. The measure was certified to the legislature on February 8, 1991. The legislature referred the measure to the 1991 general election ballot. At the November 5, 1991 general election the measure was approved by the following vote: For—756,812 Against—752,590.

**INITIATIVE TO THE LEGISLATURE NO. 121 (Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?)—**Filed on April 17, 1990 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE LEGISLATURE

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- INITIATIVE TO THE LEGISLATURE NO. 122 (Shall jurors be advised they could consider the merits of laws and the wisdom of applying laws to a defendant?)—Filed on April 19, 1990 by Richard Shepard of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 123 (Shall constitutional impact statements be required before adopting or implementing governmental policies which effect a taking or deprivation of property?)—Filed on May 11, 1990 by Merrill H. English of Dayton. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 124 (Shall changes be made relating to real property taxes, including valuing property as its purchase price and any improvement costs?)—Filed on May 30, 1990 by Karl Thun of Graham. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 125 (Shall private vehicles be required to purchase automobile insurance from a newly created state administrated program, and \$200,000,000 be appropriated?)—Filed on August 1, 1990 by Edward G. Patton of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 126 (Shall political contributions be limited regarding amount, timing, and contributor's voting residence and elected officials mailings and honoraria be restricted?)—Filed on August 9, 1990 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 127 (Shall property value for tax purposes be, the January 1, 1985 value or subsequent sales price, with future cost of living adjustments?)—Filed on August 14, 1990 by Marijcke V. Clapp of Seattle. The initiative was refiled as Initiative to the Legislature No. 129.
- INITIATIVE TO THE LEGISLATURE NO. 128 (Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?)—Filed on August 21, 1990 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 129 (Shall property value for tax purposes be the January 1, 1985 value or subsequent sales price, adjusted for cost of living changes?)—Filed on September 12, 1990 by Marijcke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 130 (Shall real property be assessed at 70% of true and fair value and increases in property tax rates be limited?)—Filed on August 29, 1990 by Pam Roach of Auburn. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 131 (Shall mandatory minimum prison sentences and fines be required for certain drug offenses and some maximum drug sentences be increased?)—Filed on March 18, 1991 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 132 (Shall no strike pledges be required in all teaching contracts at state-supported institutions of learning and violations cause employment terminations?)—Filed on April 16, 1991 by Glenn L. Blubaugh of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 133 (Shall there be restrictions on contributions to legislators, state officials, and candidates, and on other campaign related activities and

## INITIATIVES TO THE LEGISLATURE

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financing?)—Filed on April 29, 1991 by Arthur Wuerth of Olympia. Sponsor failed to submit signatures for checking.

**\*INITIATIVE TO THE LEGISLATURE NO. 134 (Shall campaign contributions be limited; public funding of state and local campaigns be prohibited; and campaign related activities be restricted?)**—Filed on June 7, 1991 by Carl R. Erickson of Olympia. 227,060 signatures were submitted and found sufficient. The measure was certified to the legislature on January 29, 1992. The legislature referred the measure to the 1992 general election ballot. At the November 3, 1992 general election the measure was approved by the following vote: For—1,549,297 Against—576,161.

**INITIATIVE TO THE LEGISLATURE NO. 135 (Shall a transaction tax, not exceeding 1%, levied on the transfers of money and property replace present state authorized taxes?)**—Filed on June 24, 1991 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 136 (Shall cannabis (marijuana) be legalized for adults and taxed; amnesty provided for prior cannabis convictions, and cannabis testing be prohibited?)**—Filed on June 24, 1991 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 137 (Shall inmates with indeterminate sentences change to determinative sentences, and sentences which are outside the standard sentencing range be reviewed?)**—Filed on August 7, 1991 by Carrie D. Roth of Kent. This measure was refiled as Initiative to the Legislature No. 139.

**INITIATIVE TO THE LEGISLATURE NO. 138 (Shall private vehicles be required to have automobile insurance purchased from a new state administered program, and \$200,000,000 be appropriated?)**—Filed on August 12, 1991 by Ed G. Patton of Yakima. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 139 (Shall the criminal sentences for offenses committed prior to July 1, 1984 be changed; and the Indeterminate Sentencing Review Board be abolished?)**—Filed on October 29, 1991 by Carrie D. Roth of Kent. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 140 (Shall the Legislature be directed to vote on whether Washington should request Congress to propose a balanced budget constitutional amendment?)**—Filed on April 29, 1992 by Dianne E. Campbell of Woodinville. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 141 (Shall a cost controlled health benefits system, publicly and privately financed, as designed by the Governor, cover all state residents?)**—Filed on June 11, 1992 by Dennis Braddock of Bellingham. The sponsor submitted 159,308 signatures for checking and they were found insufficient to qualify the measure to be submitted to the 1993 legislature.

**INITIATIVE TO THE LEGISLATURE NO. 142 (Shall circumcision of a minor without the minor's consent be a crime and a civil action for damages be provided?)**—Filed on June 17, 1992 by Theodore Pong of Kirkland. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 143 (Shall a transaction tax, not exceeding 1% be charged for receiving property or money, and state authorized taxes be repealed?)**—Filed on June 23, 1992 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.

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INITIATIVE TO THE LEGISLATURE NO. 144 (Shall state and local tax levy rates on commercial and residential buildings, including new construction, be reduced by 50 percent?)—Filed on July 20, 1992 by Charles Caussey of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 145 (Shall the sale of cigarettes and other tobacco products be restricted to only state liquor stores and licensed tobacco shops?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 146 (Shall state law declare tobacco to be an addictive drug with adverse health consequences and should tobacco use be discouraged?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 147 (Shall it be criminal to sell or supply cigarettes or tobacco to persons under 21, whose possession would be unlawful?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 148 (Shall a 100% tax be imposed on the price of cigarettes and tobacco products for health care and tobacco education?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 149 (Shall retail stores selling food, gasoline or medications be prohibited from selling cigarettes and tobacco products and penalties be provided?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 150 (Shall cigarette and tobacco advertising be prohibited in or on any building or vehicle supported by state or local taxes?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 151 (Shall cigarette wholesalers and retailers be prohibited from selling unpackaged cigarettes either singly or in groups of less than twenty?)—Filed on October 27, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 152 (Shall retail sales of cigarettes and tobacco products be made only by state liquor stores and licensed specialty tobacco shops?)—Filed on October 29, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 153 (Shall state agencies relating to natural resources and outdoor recreation be merged under the responsibility of the public lands commissioner?)—Filed on March 12, 1993 by John L. Frost of Tumwater. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 154 (Relating to the support of children)—Filed on May 27, 1993 by Michael A. Frederick of Seattle. No ballot title was written.

INITIATIVE TO THE LEGISLATURE NO. 155 (Shall prosecutors be required to strictly adhere to the statutory prosecuting standards, and shall their duties regarding arrests be modified?)—Filed on July 27, 1993 by Donald E. Jewett of Langley. The sponsor failed to submit signatures for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 156 (Shall public schools be required to provide instruction from the Bible as a basis for values, morals and character development?)—Filed on March 9, 1994 by Edward "Randy" McLeary of Kent. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 157 (Shall the State assume control of the sale, and impose new regulations on possession of all ammunition in the state?)—Filed on March 9, 1994 by David L. Ross of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 158 (Shall the code reviser be directed to provide copies of uncodified portions of this and other acts to individual legislators?)—Filed on March 25, 1994 by Lawrence Allred of Olympia. The sponsor failed to submit signatures for checking.
- \*INITIATIVE TO THE LEGISLATURE NO. 159 (Shall penalties and sentencing standards be increased for crimes involving a firearm, and sentences and plea agreements be public records?)—Filed on April 8, 1994 by David LaCourse, Jr. of Mercer Island. 235,993 signatures were submitted and found sufficient. The measure was certified to the legislature on January 23, 1995.
- INITIATIVE TO THE LEGISLATURE NO. 160 (Shall the State apply to Congress for a constitutional convention to replace Congressional voting power with direct popular voting?)—Filed on March 29, 1994 by William R. Walker of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 161 (Shall libraries be fully subject to chapter 9.68 RCW, which requires labelling erotic material and restricts its distribution to minors?)—Filed on April 6, 1994 by Stephen W. Mosier of Brush Prairie. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 162 (Shall local taxing districts be required, before incurring any debt, to obtain voter assent at a primary or general election?)—Filed on April 26, 1994 by Dave C. McGregor of Seattle. The initiative was refiled as Initiative to the Legislature No. 163.
- INITIATIVE TO THE LEGISLATURE NO. 163 (Shall additional limits be placed on the authority of counties, cities, and towns, and certain other municipalities to incur debt?)—Filed on June 6, 1994 by Dave C. McGregor of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 164 (Shall government be restricted in land use regulation and required to pay for property value reductions attributable to certain regulations?)—Filed on August 2, 1994 by Dan W. Wood of Hoquiam. 231,723 signatures were submitted and found sufficient. The measure was certified to the Legislature on February 13, 1995 and was passed by the Legislature on April 19, 1995. The act is now identified as Chapter 98, Laws of 1995. Referendum Measure No. 48 was subsequently filed against Initiative to the Legislature No. 164 and was submitted to the voters at the November 7, 1995 General Election. Referendum Measure No. 48 was rejected by the following vote: For—544,788 Against—796,869. As a consequence, Chapter 98, Laws of 1995 did not become law.
- INITIATIVE TO THE LEGISLATURE NO. 165 (Shall the uniform health care benefits package be required to include all licensed forms of health care, and made optional?)—Filed on August 25, 1994 by Harold Mills of Bellevue. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 166 (Shall government be prohibited from according rights or protections based on sexual orientation, and schools from presenting homosexuality as acceptable?)—Filed on March 8, 1995 by Peg O. Bronson of Lake Stevens. Sponsor failed to submit signatures for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 167 (Shall government be prohibited from placing children for adoption or foster care with any homosexuals or with cohabiting unmarried partners?)—Filed on March 8, 1995 by Samuel P. Woodard, Sr. of Ariel. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 168 (Shall certain laws be repealed which restrict or tax the transportation, sale, possession, or carrying of firearms, with certain exceptions?)—Filed on March 8, 1995 by Samuel P. Woodard, Sr. of Ariel. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 169 (Shall the state pay tuition aid for primary and secondary students to attend private or public schools of their choice?)—Filed on March 8, 1995 by Ronald W. Taber of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 170 (Shall the State apply to Congress for a constitutional convention to replace Congressional voting power with direct popular voting?)—Filed on March 28, 1995 by William R. Walker of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 171 (Shall the department of social and health services' authority to investigate complaints of child neglect, abuse, or abandonment be repealed?)—Filed on April 11, 1995 by Kenneth E. Gragson of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 172 (Shall state and local government be prohibited from granting "preferential treatment" based on race, sex, ethnic or sexual minority status?)—Filed on April 18, 1995 by Ronald W. Taber of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 173 (Shall the state pay scholarship vouchers for primary and secondary students to attend voucher-redeeming private or public schools of choice?)—Filed on April 18, 1995 by Ronald W. Taber of Olympia. 241,434 signatures were submitted and found sufficient. The measure was certified to the Legislature on February 5, 1996. The Legislature referred the measure to the 1996 general election ballot.
- INITIATIVE TO THE LEGISLATURE NO. 174 (Shall DSHS be required to use multi-disciplinary teams in certain types of cases involving actual or potential serious child abuse?)—Filed on May 3, 1995 by Kenneth E. Gragson of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 175 (Shall registered nurses licensed for ten years or more be authorized to practice medicine?)—Filed on June 6, 1995 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 176 (Shall juveniles of age fourteen or older who are charged with committing a crime while in possession of a weapon be tried as adults?)—Filed on July 13, 1995 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 177 (Shall voters be authorized to create "renewed" school districts where nonprofit organizations may operate publicly-funded "independent" public schools with parental choice and revised state regulation?)—Filed on July 17, 1995 by James R. Spady of Seattle. 248,482 signatures were submitted and found sufficient. The measure was certified to the Legislature on January 30, 1996. The Legislature referred the measure to the 1996 general election ballot.
- INITIATIVE TO THE LEGISLATURE NO. 178 (Shall property tax values be frozen at their 1995 levels, plus a maximum two percent annual inflation, and annual tax levy increases be



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**gradually reduced?)**—Filed on August 2, 1995 by Steven R. Hargrove of Poulsbo. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 179 (Shall video lottery terminals be authorized at the option of each city and county, as defined by this measure and regulated by the gambling commission?)**—Filed on October 11, 1995 by Robert F. Gault of Olympia. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 180 (Shall state revenue be reduced by lowering certain business and occupation taxes, revising insurance company premium tax credits, and limiting the state property tax levy?)**—Filed on October 12, 1995 by Michael V. Wolfe of Lacey. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 181 (Shall video lottery terminals be authorized at the option of each city and county, as defined by this measure and regulated by the gambling commission?)**—Filed on October 23, 1995 by Vito T. Chiechi of Olympia. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 182 (Shall Easter Sunday, the day after Easter Sunday, and the day after Christmas Day be made legal holidays in the State of Washington?)**—Filed on October 12, 1995 by Melody R. Hegwald of Everett. Sponsor failed to submit signatures for checking.

**INITIATIVE TO THE LEGISLATURE NO. 183 (Shall video lottery terminals be authorized at the option of each city and county, as defined by this measure and regulated by the gambling commission?)**—Filed on October 26, 1995 by Vito T. Chiechi of Olympia. Sponsor failed to submit signatures for checking.

## REFERENDUM MEASURES

- REFERENDUM MEASURE NO. 1 (Chapter 48, Laws of 1913, Teachers' Retirement Fund)—Filed March 11, 1913. Submitted to the people at the state general election held on November 3, 1914. \*Failed to pass by the following vote: For—59,051 Against—252,356. As a consequence, Chapter 48, Laws of 1913 did not become law.
- REFERENDUM MEASURE NO. 2 (Chapter 180, Laws of 1913, Quincy Valley Irrigation Measure)—Filed March 25, 1913. Submitted to the people at the state general election held on November 3, 1914. \*Failed to pass by the following vote: For—102,315 Against—189,065. As a consequence, Chapter 180, Laws of 1913 did not become law.
- REFERENDUM MEASURE NO. 3 (Chapter 54, Laws of 1915, Relating to Initiative and Referendum)—Filed March 18, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—62,117 Against—196,363. As a consequence, Chapter 54, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 4 (Chapter 55, Laws of 1915, Recall of Elective Public Officers)—Filed March 18, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—63,646 Against—193,686. As a consequence, Chapter 55, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 5 (Chapter 52, Laws of 1915, Party Conventions Act)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—49,370 Against—200,499. As a consequence, Chapter 52, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 6 (Chapter 181, Laws of 1915, Anti-Picketing)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—85,672 Against—183,042. As a consequence, Chapter 181, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 7 (Chapter 178, Laws of 1915, Certificate of Necessity Act)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—46,820 Against—201,742. As a consequence, Chapter 178, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 8 (Chapter 46, Laws of 1915, Port Commission)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—45,264 Against—195,253. As a consequence, Chapter 46, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 9 (Chapter 49, Laws of 1915, Budget System)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. \*Failed to pass by the following vote: For—67,205 Against—181,833. As a consequence, Chapter 49, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 10 (Chapter 19, Laws of 1917, Bone Dry Law)—Filed February 20, 1917. Submitted to the people at the state general election held on November 5, 1918. Measure passed by the following vote: For—96,100 Against—54,322.
- REFERENDUM MEASURE NO. 11 (Chapter 167, Laws of 1917, Capitol Building Fund Bonds)—Filed April 23, 1917. No petition filed.

\*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

## REFERENDUM MEASURES

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- REFERENDUM MEASURE NO. 12A (Chapter 77, Laws of 1919, Salary of Judges)—Filed April 14, 1919. No petition filed.
- REFERENDUM MEASURE NO. 12B (Chapter 59, Laws of 1921, Certificate of Necessity)—Filed March 26, 1921. Submitted to the people at the state general election held on November 7, 1922. \*Failed to pass by the following vote: For—64,800 Against—154,905. As a consequence, Chapter 59, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 13A (Chapter 112, Laws of 1919, Death Penalty)—Filed April 14, 1919. No petition filed.
- REFERENDUM MEASURE NO. 13B (Chapter 175, Laws of 1921, Physical Examination of School Children)—Filed April 4, 1921. Submitted to the people at the state general election held on November 7, 1922. \*Failed to pass by the following vote: For—96,874 Against—156,113. As a consequence, Chapter 175, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 14A (Senate Joint Resolution No. 1, Laws of 1919, Intoxicating Liquor)—Filed March 20, 1919. Insufficient number of signatures on petition.
- REFERENDUM MEASURE NO. 14B (Chapter 177, Laws of 1921, Primary Nominations and Registrations)—Filed April 9, 1921. Submitted to the people at the state general election held on November 7, 1922. \*Failed to pass by the following vote: For—60,593 Against—164,004. As a consequence, Chapter 177, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 15 (Chapter 176, Laws of 1921, Party Conventions)—Filed April 9, 1921. Submitted to the people at the state general election held on November 7, 1922. \*Failed to pass by the following vote: For—57,324 Against—140,299. As a consequence, Chapter 176, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 16 (Chapter 22, Laws of 1923, Butter Substitutes)—Filed March 22, 1923. Submitted to the people at the state general election held on November 4, 1924. \*Failed to pass by the following vote: For—169,047 Against—203,016. As a consequence, Chapter 22, Laws of 1923 did not become law.
- REFERENDUM MEASURE NO. 17 (Chapter 115, Laws of 1929, Creating Department of Highways)—Filed April 27, 1929. No petition filed.
- REFERENDUM MEASURE NO. 18 (Chapter 51, Laws of 1933, Cities and Towns; Electric Energy)—Filed April 7, 1933. Submitted to the people at the state general election held on November 6, 1934. Measure passed by the following vote: For—221,590 Against—160,244.
- REFERENDUM MEASURE NO. 19 (Chapter 55, Laws of 1933, Horse Racing)—Filed April 3, 1933. No petition filed.
- REFERENDUM MEASURE NO. 20 (Chapter 118, Laws of 1935, Regulating Pilots)—Filed February 8, 1935. No petition filed.
- REFERENDUM MEASURE NO. 21 (Chapter 26, Laws of 1935, Blanket Primary Ballot)—Filed April 8, 1935. No petition filed.
- REFERENDUM MEASURE NO. 22 (Chapter 209, Laws of 1941, Industrial Insurance)—Filed April 3, 1941. Submitted to the people at the state general election held on November 3, 1942. Measure passed by the following vote: For—246,257 Against—108,845.

\*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

## REFERENDUM MEASURES

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REFERENDUM MEASURE NO. 23 (Chapter 158, Laws of 1941, Providing for Legal Adviser for Grand Juries)—Filed April 16, 1941. Submitted to the people at the state general election held on November 3, 1942. \*Failed to pass by the following vote: For—126,972 Against—148,266. As a consequence, Chapter 158, Laws of 1941 did not become law.

REFERENDUM MEASURE NO. 24 (Chapter 191, Laws of 1941, Prosecuting Attorneys; Providing that they shall no longer give advice to Grand Juries)—Filed April 16, 1941. Submitted to the people at the state general election held on November 3, 1942. \*Failed to pass by the following vote: For—114,603 Against—148,439. As a consequence, Chapter 191, Laws of 1941 did not become law.

REFERENDUM MEASURE NO. 25 (Chapter 15, Laws of 1943, Relating to Public Utility Districts)—Filed March 18, 1943. Submitted to the people at the state general election held on November 7, 1944. \*Failed to pass by the following: For—297,919 Against—373,051. As a consequence, Chapter 15, Laws of 1943 did not become law.

REFERENDUM MEASURE NO. 26 (Chapter 37, Laws of 1945, Relating to appointment of State Game Commissioners by the Governor)—Filed April 3, 1945. Signature petitions filed June 6, 1945, and found sufficient. Submitted to the people at the state general election held on November 5, 1946. \*Failed to pass by the following vote: For—69,490 Against—447,819. As a consequence, Chapter 37, Laws of 1945 did not become law.

REFERENDUM MEASURE NO. 27 (Chapter 202, Laws of 1945, Relating to the creation of a State Timber Resources Board)—Filed April 3, 1945. Signature petitions filed June 6, 1945, and found sufficient. Submitted to the people at the state general election held on November 5, 1946. \*Failed to pass by the following vote: For—107,731 Against—422,026. As a consequence, Chapter 202, Laws of 1945 did not become law.

REFERENDUM MEASURE NO. 28 (Portion of Chapter 235, Laws of 1949, Relating to accident and health insurance covering employees eligible for unemployment compensation)—Filed March 30, 1949. Signature petitions filed June 8, 1949 and found sufficient. Submitted to the people at the state general election held on November 7, 1950. \*Failed to pass by the following vote: For—163,923 Against—467,574. As a consequence, only sections 1 through 5, inclusive, became law.

REFERENDUM MEASURE NO. 29 (Portion of Chapter 190, Laws of 1949, State Insurance Code)—Filed April 2, 1949. No signature petitions presented for canvassing.

REFERENDUM MEASURE NO. 30 (Chapter 280, Laws of 1957, Inheritance Tax on Insurance Proceeds)—Filed April 12, 1957. Signature petitions filed June 17, 1957, and found sufficient. Measure submitted to the voters at the state general election held on November 4, 1958. \*Failed to pass by the following vote: For—52,223 Against—811,539. As a consequence, Chapter 280, Laws of 1957 did not become law.

REFERENDUM MEASURE NO. 31 (Portion of Chapter 297, Laws of 1959, Authorizing corporations and joint stock associations to practice engineering)—Filed March 31, 1959. Signature petition sheets presented for canvassing June 10, 1959. Results of canvassing revealed that sponsors missed obtaining necessary number of valid signatures by 1,124 signatures. As a result attempt to refer law to voters failed.

REFERENDUM MEASURE NO. 32 (Chapter 298, Laws of 1961, Washington State Milk Marketing Act)—Filed March 22, 1961 by the Washington State Milk Consumers' League. Supporting signature petition sheets filed June 14, 1961, and as of July 26, 1961, it was

\*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

## REFERENDUM MEASURES

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determined that the necessary number of valid signatures had been obtained to certify measure for final decision by the voters at the state general election held on November 6, 1962. \*Failed to pass by the following vote: For—153,419 Against—677,530. As a consequence, Chapter 298, Laws of 1961 did not become law.

**REFERENDUM MEASURE NO. 33 (Chapter 275, Laws of 1961, Private Auditors of Municipal Accounts)**—Filed April 3, 1961 by Cliff Yelle, State Auditor. Supporting signature petition sheets filed June 6, 1961, and as of July 18, 1961, it was determined that the necessary number of valid signatures had been obtained to certify measure for final decision by the voters at the state general election held on November 6, 1962. \*Failed to pass by the following vote: For—242,189 Against—563,475. As a consequence, Chapter 275, Laws of 1961 did not become law.

**REFERENDUM MEASURE NO. 34 (Chapter 37, Laws of 1963, Mechanical Devices, Salesboards, Cardrooms, Bingo)**—Filed April 11, 1963 by Dr. Homer W. Humiston of Tacoma, Washington. Since said act contained an emergency clause making the law effective upon the approval of the Governor it was necessary for Dr. Humiston to initiate court action to determine whether or not emergency clause was valid. As of April 11, 1963 the State Supreme Court setting en banc ruled that the emergency clause was not valid and directed the Secretary of State to accept and file papers relative to the referendum (Case No. 36998).

Dr. Humiston, as sponsor of Referendum Measure No. 34, filed signature petition sheets containing a total of 82,995 signatures supporting Referendum Measure No. 34, during the period June 3 through June 12, 1963.

As of June 24, 1963, it was discovered that all such signature petition sheets had been stolen. However, two days later (June 26, 1963), Secretary of State Victor A. Meyers certified Referendum Measure No. 34 to the respective county auditors with direction that said measure appear upon the November 3, 1964 state general election ballot in spite of the fact that the signatures had been stolen. Such action was justified upon the grounds that the sponsor of said referendum had filed 82,995 signatures when only 48,630 valid signatures were needed. On July 22, 1963 the Amusement Association of Washington brought court action against the Secretary of State challenging the certification of Referendum Measure No. 34.

On July 22, 1963, the Thurston County Superior Court ruled that the Secretary of State had acted properly under the circumstances. On March 26, 1964, the State Supreme Court sustained the Thurston County Superior Court by likewise ruling that the Secretary of State's certification was valid.

Measure then submitted to the voters at the state general election held on November 3, 1964. \*Failed to pass by the following vote: For—505,633 Against—622,987. As a consequence, Chapter 37, Laws of 1963 did not become law.

**REFERENDUM MEASURE NO. 35 (Portion of Chapter 22, Laws of 1967, Nondiscrimination by Realty Brokers, Salesmen)**—Filed March 22, 1967 by the AD-HOC (Advisory Home Owners Committee). Signatures (81,146) filed June 6, 1967 and found sufficient. Measure submitted to the voters for decision at the November 5, 1968 state general election. Measure passed by the following vote: For—580,578 Against—276,161. Consequently, the attempt by the sponsors of this referendum to negate the open housing provision of Chapter 22, Laws of 1967 was unsuccessful.

**REFERENDUM MEASURE NO. 36 (Chapter 100, Laws of 1973, Minimum Age—Alcoholic Beverage Control)**—Filed April 4, 1973 by Lloyd C. Tremain, Chairman, Citizens United

\*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

## REFERENDUM MEASURES

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for Responsible Legislation. Signatures (79,389) filed June 7, 1973 and found sufficient. Measure submitted to the voters for decision at the November 6, 1973 state general election. \*Failed to pass by the following vote: For—495,624 Against—510,491. As a consequence, Chapter 100, Laws of 1973 did not become law.

REFERENDUM MEASURE NO. 37 (Chapter 288, Laws of 1975 Extraordinary Session, Shall the present law governing professional negotiations for certificated educational employees be repealed, and a new law substituted therefore?)—Filed July 18, 1975 by Mrs. Alice K. Matz of Kent, Washington. No signatures presented for checking.

REFERENDUM MEASURE NO. 38 (Chapter 113, Laws of 1975-'76 2nd Extraordinary Session, Shall the salaries of state legislators be increased from \$3,800 to \$7,200 effective at the beginning of their next term?)—Filed April 6, 1976 by Mr. Paul E. Byrd of Tacoma. No signatures presented for checking.

REFERENDUM MEASURE NO. 39 (Chapter 361, Laws of 1977 Extraordinary Session, Shall certain changes be made in voter registration laws, including registration by mail and absentee voting on one day's registration?)—Filed June 22, 1977 by Kent Pullen. Signatures (74,000) filed September 20, 1977 and found sufficient. Measure submitted to the voters for decision at the November 8, 1977 state general election. \*Failed to pass by the following vote: For—303,353 Against—632,131. As a consequence, Chapter 361, Laws of 1977 Ex. Sess. did not become law.

REFERENDUM MEASURE NO. 40 (Chapter 288, Laws of 1977 Extraordinary Session, Shall a state women's commission be established by statute?)—Filed July 29, 1977 by Susan Roylance, Representative of Women for Integrity in the Nation. Signatures (108,000) filed September 20, 1977 and found sufficient. Measure submitted to the voters for decision at the November 8, 1977 state general election. \*Failed to pass by the following vote: For—259,761 Against—664,962. As a consequence, Chapter 288, Laws of 1977 Ex. Sess. did not become law.

REFERENDUM MEASURE NO. 41 (Chapter 204, Laws of 1984, Shall the timber harvest tax be continued at a 6.5% rate rather than gradually reduced over four years to 5%)—Filed March 22, 1984 by Eleanor Fortson of Camano Island. The court ordered a writ of prohibition to prevent the referendum from appearing on the November, 1984 election ballot.

REFERENDUM MEASURE NO. 42 (Chapter 152, Laws of 1986, Shall seat belt use be mandatory for drivers and passengers of motor vehicles federally required to have installed seat belts?)—Filed April 7, 1986 by Mark Gabel of Parkland. No signatures presented for checking.

REFERENDUM MEASURE NO. 43 (Second Substitute House Bill No. 758)—Attorney General refused to write a ballot title because the Governor had not yet signed the bill. Filing of the referendum petition was premature.

REFERENDUM MEASURE NO. 44 (Chapter 506, Laws of 1987, Shall the director of the Department of Wildlife (formerly Game) be appointed by the Governor, not by the State Wildlife Commission?)—Filed May 20, 1987 by Ted Cowan of Issaquah. No signatures presented for checking.

REFERENDUM MEASURE NO. 45 (Chapter 1, Laws of 1987, First Extraordinary Session, Shall the salary increases, established by the constitutionally created Citizens'

\*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

## REFERENDUM MEASURES

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**Commission, for elected state officials, legislators and judges be approved?)—**Filed June 5, 1987 by Ed Phillips of Mossyrock. No signatures presented for checking.

**REFERENDUM MEASURE NO. 46 (Chapter 1, Laws of 1991, First Extraordinary Session, Shall the salary increases, established by the constitutionally created Citizens Commission, for elected state officers, legislators, and judges be approved?)—**Filed June 5, 1991 by Michael G. Cahill of Walla Walla. No signatures presented for checking.

**REFERENDUM MEASURE NO. 47 (Chapter 336, Laws of 1993, The state legislature has passed a law that revises the state's education system in many ways, such as adopting new student learning goals, revising educator training and assistance, and requiring educator performance assessments. Should this law be approved or rejected?)—**Filed May 13, 1993 by O. Jerome Brown of Rolling Bay. No signatures presented for checking.

**REFERENDUM MEASURE NO. 48 (Chapter 98, Laws of 1995, originally certified as Initiative Measure No. 164, The state legislature has passed a law that restricts land-use regulations and expands governments' liability to pay for reduced property values of land or improvements thereon caused by certain regulations for public benefit. Should this law be approved or rejected?)—**Filed April 19, 1995 by Lucy B. Steers of Seattle. Sponsor submitted 231,122 signatures on July 21, 1995 and the measure was subsequently certified to the ballot. Submitted to the voters at the November 7, 1995 general election and was rejected by the following vote: For—544,788 Against—796,869. As a consequence, Chapter 98, Laws of 1995 did not become a law.

**REFERENDUM MEASURE NO. 49 (Chapter 184, Laws of 1995, The state legislature has passed a law that adds criminal trespass to the list of crimes for which police officers may arrest persons without witnessing the offense or first obtaining an arrest warrant. Should this law be approved or rejected?)—**Filed May 3, 1995 by Kenneth E. Gragsone of Everett. No signatures presented for checking.

\*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

## REFERENDUM BILLS

(Measures passed by the Legislature and referred to the voters)

REFERENDUM BILL NO. 1 (Chapter 99, Laws of 1919, State System Trunk Line Highways)—Filed March 13, 1919. Submitted to the people at the state general election held on November 2, 1920. Failed to pass by the following vote: For—117,425 Against—191,783.

\*REFERENDUM BILL NO. 2 (Chapter 1, Laws of 1920 Extraordinary Session, Soldiers' Equalized Compensation)—Filed March 25, 1920. Submitted to the people at the state general election held on November 2, 1922. Measure approved by the following vote: For—224,356 Against—88,128.

REFERENDUM BILL NO. 3 (Chapter 87, Laws of 1923, Electric Power Bill)—Filed March 22, 1923. Submitted to the people at the state general election held on November 4, 1924. Failed to pass by the following vote: For—99,459 Against—208,809.

REFERENDUM BILL NO. 4 (Chapter 164, Laws of 1935, Flood Control; Creating Sinking Fund)—Filed March 22, 1935. Submitted to the people at the state general election held on November 3, 1936. Failed to pass by the following vote: For—114,055 Against—334,035.

\*REFERENDUM BILL NO. 5 (Chapter 83, Laws of 1939, 40-Mill Tax Limit)—Filed March 10, 1939. Submitted to the people at the state general election held on November 5, 1940. Measure approved by the following vote: For—390,639 Against—149,843.

\*REFERENDUM BILL NO. 6 (Chapter 176, Laws of 1941, Taxation of Real and Personal Property)—Filed March 22, 1941. Submitted to the people at the state general election held on November 3, 1942. Measure approved by the following vote: For—252,431 Against—75,540.

\*REFERENDUM BILL NO. 7 (Chapter 229, Laws of 1949—\$40,000,000.00 Bond Issue to Give State Assistance in Construction of Public School Plant Facilities)—Filed March 22, 1949. Submitted to the people at the state general election held on November 7, 1950. Measure approved by the following vote: For—395,417 Against—248,200.

\*REFERENDUM BILL NO. 8 (Chapter 230, Laws of 1949—\$20,000,000.00 Bond Issue to Provide Funds for Buildings at State Operated Institutions)—Filed March 22, 1949. Submitted to the people at the state general election held on November 7, 1950. Measure approved by the following vote: For—377,941 Against—262,615.

REFERENDUM BILL NO. 9 (Chapter 231, Laws of 1949—\$20,000,000.00 Bond Issue to Provide Funds for Buildings at State Institutions of Higher Learning)—Filed March 22, 1949. Submitted to the people at the state general election held on November 7, 1950. Failed to pass by the following vote: For—312,500 Against—314,840.

\*REFERENDUM BILL NO. 10 (Chapter 299, Laws of 1957—\$25,000,000.00 Bond Issue to Provide Funds for Buildings at State Operated Institutions and State Institutions of Higher Learning)—Filed March 26, 1957. Measure submitted to the voters at the state general election held on November 4, 1958. Measure approved by the following vote: For—402,937 Against—391,726.

\*REFERENDUM BILL NO. 11 (Chapter 12, Laws of 1963 Extraordinary Session—Outdoor Recreation Bond Issue)—Filed April 18, 1963. Submitted to the voters at the state general election held on November 3, 1964. Measure approved by the following vote: For—614,903 Against—434,978.



## REFERENDUM BILLS

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- \*REFERENDUM BILL NO. 12 (Chapter 26, Laws of 1963 Extraordinary Session—Bonds For Public School Facilities)—Filed April 18, 1963. Submitted to the voters at the state general election held on November 3, 1964. Measure approved by the following vote: For—782,682 Against—300,674.
- \*REFERENDUM BILL NO. 13 (Chapter 27, Laws of 1963 Extraordinary Session—Bonds For Juvenile Correctional Institution)—Filed April 18, 1963. Submitted to the voters at the state general election held on November 3, 1964. Measure approved by the following vote: For—761,862 Against—299,783.
- \*REFERENDUM BILL NO. 14 (Chapter 158, Laws of 1965 Extraordinary Session—Bonds for Public School Facilities)—Filed May 12, 1965. Measure submitted to the voters for decision at the November 8, 1966 state general election and was approved by the following vote: For—583,705 Against—288,357.
- \*REFERENDUM BILL NO. 15 (Chapter 172, Laws of 1965 Extraordinary Session—Bonds for Public Institutions)—Filed May 15, 1965. Measure submitted to the voters for decision at the November 8, 1966 state general election and was approved by the following vote: For—597,715 Against—263,902.
- \*REFERENDUM BILL NO. 16 (Chapter 152, Laws of 1965 Extraordinary Session—Congressional Reapportionment and Redistricting)—Enrolled bill was received directly from the office of Chief Clerk, House of Representatives and filed May 7, 1965, thus bypassing the office of the Governor. Measure submitted to the voters for decision at the November 8, 1966 state general election and was approved by the following vote: For—416,630 Against—384,466.
- \*REFERENDUM BILL NO. 17 (Chapter 106, Laws of 1967—Water Pollution Control Facilities Bonds)—Filed March 21, 1967. Measure submitted to the voters for decision at the November 5, 1968 state general election and was approved by the following vote: For—845,372 Against—276,161.
- \*REFERENDUM BILL NO. 18 (Chapter 126, Laws of 1967 Extraordinary Session—Bonds for Outdoor Recreation)—Filed May 3, 1967. Measure submitted to the voters for decision at the November 5, 1968 state general election and was approved by the following vote: For—763,806 Against—354,646.
- \*REFERENDUM BILL NO. 19 (Chapter 148, Laws of 1967 Extraordinary Session—State Building Projects: Bond Issue)—Filed May 10, 1967. Measure submitted to the voters for decision at the November 5, 1968 state general election and was approved by the following vote: For—606,236 Against—458,358.
- \*REFERENDUM BILL NO. 20 (Chapter 3, Laws of 1970 Extraordinary Session—Changes in Abortion Law)—Filed February 9, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and was approved by the following vote: For—599,959 Against—462,174.
- \*REFERENDUM BILL NO. 21 (Chapter 40, Laws of 1970 Extraordinary Session—Outdoor Recreation Bonds—Sales; Interest)—Filed February 24, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and was approved by the following vote: For—520,162 Against—474,548.
- REFERENDUM BILL NO. 22 (Chapter 66, Laws of 1970 Extraordinary Session—State Building Bonds—Sales; Interest)—Filed February 24, 1970. Measure submitted to the

## REFERENDUM BILLS

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voters for decision at the November 3, 1970 state general election and failed to pass by the following vote: For—399,608 Against—574,887.

**\*REFERENDUM BILL NO. 23** (Chapter 67, Laws of 1970 Extraordinary Session—Pollution Control Bonds—Sales; Interest)—Filed February 24, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and was approved by the following vote: For—581,819 Against—414,976.

**\*REFERENDUM BILL NO. 24** (Chapter 82, Laws of 1972 Extraordinary Session—Lobbyists—Regulation, Registration and Reporting)—Filed February 22, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: For—696,455 Against—576,404.

**\*REFERENDUM BILL NO. 25** (Chapter 98, Laws of 1972 Extraordinary Session—Regulating Certain Electoral Campaign Financing)—Filed February 24, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: For—694,818 Against—574,856.

**\*REFERENDUM BILL NO. 26** (Chapter 127, Laws of 1972 Extraordinary Session—Bonds for Waste Disposal Facilities)—Filed February 25, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: For—827,077 Against—489,459.

**\*REFERENDUM BILL NO. 27** (Chapter 128, Laws of 1972 Extraordinary Session—Bonds for Water Supply Facilities)—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: For—790,063 Against—544,176.

**\*REFERENDUM BILL NO. 28** (Chapter 129, Laws of 1972 Extraordinary Session—Bonds for Public Recreation Facilities)—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: For—758,530 Against—579,975.

**\*REFERENDUM BILL NO. 29** (Chapter 130, Laws of 1972 Extraordinary Session—Health, Social Service Facility Bonds)—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: For—734,712 Against—594,172.

**REFERENDUM BILL NO. 30** (Chapter 132, Laws of 1972 Extraordinary Session—Bonds for Public Transportation Improvements)—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was rejected by the following vote: Against—665,493 For—637,841.

**\*REFERENDUM BILL NO. 31** (Chapter 133, Laws of 1972 Extraordinary Session—Bonds for Community College Facilities)—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following votes: For—721,403 Against—594,963.

**REFERENDUM BILL NO. 32** (Chapter 199, Laws of 1973 1st Extraordinary Session—Shall county auditors be required to appoint precinct committeemen of major political parties as deputy voting registrars upon their request?)—Filed April 26, 1973. Measure submitted to the voters for decision at the November 6, 1973 state general election and was rejected by the following vote: For—291,323 Against—609,306.

**\*REFERENDUM BILL NO. 33** (Chapter 200, Laws of 1973 1st Extraordinary Session—Shall personalized motor vehicle license plates be issued with resulting extra fees to be used

## REFERENDUM BILLS

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exclusively for wildlife preservation?)—Filed April 26, 1973. Measure submitted to the voters for decision at the November 6, 1973 state general election and was approved by the following vote: For—613,921 Against—362,195.

REFERENDUM BILL NO. 34 (Chapter 152, Laws of 1974 Extraordinary Session—Shall a state lottery be conducted under gambling commission regulations with prizes totaling not less than 45% of gross income?)—Filed April 26, 1974. Measure submitted to the voters for decision at the November 5, 1974 state general election, received the following vote: For—515,404 Against—425,903, and thus failed to be approved by a sixty percent majority of the voters voting on the measure, see state Constitution, Amendment 56 and AGLO 1974 No. 49.

REFERENDUM BILL NO. 35 (Chapter 89, Laws of 1975 1st Extraordinary Session—Shall the Governor, in filling U.S. Senate vacancies, be limited to the same political party as the former incumbent?)—Filed March 27, 1975. Measure submitted to the voters for decision at the November 4, 1975 state general election and was defeated by the following vote: For—430,642 Against—501,894.

\*REFERENDUM BILL NO. 36 (Chapter 104, Laws of 1975-'76 2nd Extraordinary Session—Shall certain appointed state officers be required to file reports of their financial affairs with the public disclosure commission?)—Filed March 19, 1976. Measure submitted to the voters for decision at the November 2, 1976 state general election and was approved by the following vote: For—963,309 Against—419,693.

\*REFERENDUM BILL NO. 37 (Chapter 221, Laws of 1979 Extraordinary Session, Shall \$25 Million in State General Obligation Bonds be Authorized for Facilities to Train, Rehabilitate and Care for Handicapped Persons?)—Filed June 11, 1979. Measure submitted to the voters for decision at the November 6, 1979 state general election and was approved by the following vote: For—576,882 Against—286,365.

\*REFERENDUM BILL NO. 38 (Chapter 234, Laws of 1979 Extraordinary Session, Shall \$125 Million in State General Obligation Bonds be Authorized for Planning, Acquisition, Construction and Improvement of Water Supply Facilities?)—Passed November 4, 1980. Measure submitted to the voters for decision at the state general election and was approved by the following vote: For—1,008,646 Against—527,454.

\*REFERENDUM BILL NO. 39 (Chapter 159, Laws of 1980, 46th Legislature, Shall \$450,000,000 in State General Obligation Bonds be Authorized for Planning, Designing, Acquiring, Constructing and Improving Public Waste Disposal Facilities?)—Passed November 4, 1980. Measure submitted to the voters for decision at the state general election and was approved by the following vote: For—964,450 Against—558,328.

\*REFERENDUM BILL NO. 40 (Chapter 1, Laws of 1986, 1st extraordinary session, 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?)—Filed August 1, 1986. Measure submitted to the voters for decision at the state general election and was approved by the following vote: For—1,055,896 Against—222,141.

REFERENDUM BILL NO. 41 (Chapter 246, Laws of 1987, Regular Session, Shall the State challenge in the United States Supreme Court the constitutionality of authority delegated to the federal reserve system?)—Filed April 24, 1987. Measure submitted to the voters for decision at the state general election and was rejected by the following vote: For—282,613 Against—541,387.

## REFERENDUM BILLS

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**\*REFERENDUM BILL NO. 42** (Chapter 54, Laws of 1991, Regular Session, Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?)—Filed May 1, 1991. Measure submitted to the voters for decision at the state general election and was approved by the following vote: For—901,854 Against—573,251.

**\*REFERENDUM BILL NO. 43** (Chapter 7, Laws of 1994, 1st Special Session, Shall taxes on sales of cigarettes, liquor, and pop syrup be extended to fund violence reduction and drug enforcement programs?)—Measure submitted to the voters for decision at the November 8, 1994 general election and was approved by the following vote: For—947,847 Against—712,575.

**REFERENDUM BILL NO. 44** (Chapter 225, Laws of 1994 and Chapter 364, Laws of 1995, Regular Session, Shall the alcohol fuel tax exemption given to fuel distributors be eliminated?)—Filed on April 1, 1994 and May 16, 1995. Measure was not submitted to voters because of court ruling.

**\*REFERENDUM BILL NO. 45** (Chapter 2, Laws of 1995, 1st Special Session, Shall the fish and wildlife commission, rather than the governor, appoint the department's director and regulate food fish and shellfish?)—Filed on May 24, 1995. Measure submitted to the voters for decision at the November 7, 1995 general election and was approved by the following vote: For—809,083 Against—517,433.

## HISTORY OF CONSTITUTIONAL AMENDMENTS ADOPTED SINCE STATEHOOD

- No. 1. Section 5, Article XVI. Re: **Permanent School Fund.** Adopted November, 1894.
- No. 2. Section 1, Article VI. Re: **Qualification of Electors.** Adopted November, 1896.
- No. 3. Section 2, Article VII. Re: **Uniform Rates of Taxation.** Adopted November, 1900.
- No. 4. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1904.
- No. 5. Section 1, Article VI. Re: **Equal Suffrage.** Adopted November, 1910.
- No. 6. Section 10, Article III. Re: **Succession in Office of Governor.** Adopted November, 1910.
- No. 7. Section 1, Article II. Re: **Initiative and Referendum.** Adopted November, 1912.
- No. 8. Adding Sections 33 and 34, Article I. Re: **Recall.** Adopted November, 1912.
- No. 9. Section 16, Article I. Re: **Taking of Private Property.** Adopted November, 1922.
- No. 10. Section 22, Article I. Re: **Right of Appeal.** Adopted November, 1922.
- No. 11. Section 4, Article VIII. Re: **Appropriation.** Adopted November, 1922.
- No. 12. Section 5, Article XI. Re: **Consolidation of County Offices.** Adopted November, 1924.
- No. 13. Section 15, Article II. Re: **Vacancies in the Legislature.** Adopted November, 1930.
- No. 14. Article VII. Re: **Revenue and Taxation.** Adopted November, 1930.
- No. 15. Section 1, Article XV. Re: **Harbors and Harbor Areas.** Adopted November, 1932.
- No. 16. Section 11, Article XII. Re: **Double Liability of Stockholders.** Adopted November, 1940.
- No. 17. Section 2, Article VII. Re: **40-Mill Tax Limit.** Adopted November, 1944.
- No. 18. Adding Section 40, Article II. Re: **Restriction of motor vehicle license fees and excise taxes on motor fuels to highway purposes only.** Adopted November, 1944.
- No. 19. Adding Section 3, Article VII. Re: **State to tax the United States and its instrumentalities to the extent that the laws of the United States will allow.** Adopted November, 1946.
- No. 20. Adding Section 1, Article XXVIII. Re: **Legislature to fix the salaries of state elective officials.** Adopted November, 1948.
- No. 21. Section 4, Article XI. Re: **Permit counties to adopt "Home Rule" charters.** Adopted November, 1948.
- No. 22. Repealing Section 7 of Article XI. Re: **County elective officials.** (These officials can now hold same office more than two terms in succession.) Adopted November, 1948.
- No. 23. Adding Section 16, Article XI. Re: **Permitting the formation, under a charter, of combined city and county municipal corporations having a population of 300,000 or more.** Adopted November, 1948.

## HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

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- No. 24. Article II, Section 33. Re: **Permitting ownership of land by Canadians who are citizens of provinces wherein citizens of the State of Washington may own land. (All provinces of Canada authorize such ownership.)** Adopted November, 1950.
- No. 25. Adding Section 3(a), Article IV. Re: **Establishing Retirement Age for Judges of Supreme and Superior Courts.** Adopted November, 1952.
- No. 26. Adding Section 41, Article II. Re: **Permitting the Legislature to Amend Initiative Measures.** Adopted November, 1952.
- No. 27. Section 6, Article VIII. Re: **Extending Bonding Powers of School Districts.** Adopted November, 1952.
- No. 28. Sections 6 and 10, Article IV. Re: **Increasing Monetary Jurisdiction of Justice Courts.** Adopted November, 1952.
- No. 29. Article II, Section 33. Re: **Redefining "Alien," thereby permitting the Legislature to determine the policy of the state respecting the ownership of land by corporations having alien shareholders.** Adopted November, 1954.
- No. 30. Adding Section 1A, Article II. Re: **Increasing the number of signatures necessary to certify a state initiative or referendum measure.** Adopted November, 1956.
- No. 31. Section 25, Article III. Re: **Removing the restriction prohibiting the state treasurer from being elected for more than one successive term.** Adopted November, 1956.
- No. 32. Section 2, Article XV. Re: **Filling vacancies in the state legislature.** Adopted November, 1956.
- No. 33. Section 1, Article XXIV. Re: **Modification of state boundaries by compact.** Adopted November, 1958.
- No. 34. Section 11, Article I. Re: **Employment of chaplains at state institutions.** Adopted November, 1958.
- No. 35. Section 25, Article II. Re: **Pensions and Employees' Extra Compensation.** Adopted November, 1958.
- No. 36. Section 1, Article II by adding a new subsection (e). Re: **Publication and Distribution of Voters' Pamphlet.** Adopted November, 1962.
- No. 37. Section 1, Article XXIII. Re: **Publication of Proposed Constitutional Amendments.** Adopted November, 1962.
- No. 38. Adding Section 2(c), Article IV. Re: **Temporary Performance of Judicial Duties.** Adopted November, 1962.
- No. 39. Adding Section 42, Article II. Re: **Governmental Continuity During Emergency Periods.** Adopted November, 1962.
- No. 40. Section 10, Article XI. Re: **Lowering minimum population for first class cities from 20,000 to 10,000. Also changing newspaper publication requirements for proposed charters.** Adopted November, 1964.
- No. 41. Section 29, Article IV. Re: **Election of Superior Court Judges.** Adopted November, 1966.
- No. 42. Repealing Section 33, Article II and Amendments 24 and 29. Re: **Alien Ownership of Lands.** Adopted November, 1966.

## HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

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- No. 43. Section 3, Article IX. Re: **Funds for Support of the Common Schools.** Adopted November, 1966.
- No. 44. Section 5, Article XVI. Re: **Investment of Permanent Common School Fund.** Adopted November, 1966.
- No. 45. Adding Section 8, Article VIII. Re: **Port Expenditures--Industrial Development--Promotion.** Adopted November, 1966.
- No. 46. Adding Section 1A, Article VI. Re: **Voter Qualifications for Presidential Elections.** Adopted November, 1966.
- No. 47. Adding Section 10, Article VII. Re: **Retired Persons Property Tax Exemption.** Adopted November, 1966.
- No. 48. Section 3, Article VIII. Re: **Public Special Indebtedness, How Authorized.** Adopted November, 1966.
- No. 49. Adding Section 1, Article XXIX. Re: **Investments of Public Pension and Retirement Funds.** Adopted November, 1968.
- No. 50. Adding Section 30, Article IV. Re: **Court of Appeals.** Adopted November, 1968.
- No. 51. Adding Section 9, Article VIII. Re: **State Building Authority.** Adopted November, 1968.
- No. 52. Section 15, Article II. Re: **Vacancies in Legislature and in Partisan County Elective Office.** Also amending Section 6, Article XI. Re: **Vacancies in Township, Precinct or Road District Office.** Adopted November, 1968.
- No. 53. Adding Section 11, Article VII. Re: **Taxation Based on Actual Use.** Adopted November, 1968.
- No. 54. Adding Section 1, Article XXX. Re: **Authorizing Compensation Increase During Term.** Adopted November, 1968.
- No. 55. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.
- No. 56. Section 24, Article II. Re: **Lotteries and Divorce.** Adopted November, 1972.
- No. 57. Section 5, Article XI. Re: **County Government.** Adopted November, 1972.
- No. 58. Section 16, Article XI. Re: **Combined City-County.** Adopted November, 1972.
- No. 59. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.
- No. 60. Section 1, Article VIII. Re: **State Debt.** Also amending Section 3, Article VIII. Re: **Special Indebtedness, How Authorized.** Approved November, 1972.
- No. 61. Adding new Article XXXI. Re: **Sex Equality, Rights and Responsibilities.** Adopted November, 1972.
- No. 62. Section 12, Article III. Re: **Veto Power.** Adopted November, 1974.
- No. 63. Section 1, Article VI. Re: **Qualifications of Electors.** Adopted November, 1974.
- No. 64. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1976.
- No. 65. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Also amending Section 10, Article IV. Re: **Justices of the Peace.** Adopted November, 1976.

## HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

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- No. 66. Section 18, Article XII. Re: **Rates for Transportation**. Adopted November, 1977.
- No. 67. Repealing Section 14, Article XII. Re: **Prohibition Against Combinations by Carriers**. Adopted November, 1977.
- No. 68. Section 12, Article II. Re: **Legislative Sessions, When—Duration**. Adopted November, 1979.
- No. 69. Section 13, Article II. Re: **Limitation on Members Holding Office in the State**. Adopted November, 1979.
- No. 70. Adding Section 10, Article VIII. Re: **Residential Energy Conservation**. Adopted November, 1979.
- No. 71. Adding Section 31, Article IV. Re: **Judicial Qualifications Commission—Removal, Censure, Suspension, or Retirement of Judges or Justices**. Adopted November, 1980.
- No. 72. Sections 1 and 1(a), Article II. Re: **Legislative Powers, Where Vested and Initiative and Referendum, Signatures Required**. Adopted November, 1981.
- No. 73. Adding Section 1, Article XXXII. Re: **Special Revenue Financing**. Adopted November, 1981.
- No. 74. Adding Section 43, Article II. Re: **Redistricting**. Adopted November, 1983.
- No. 75. Section 1, Article XXIX. Re: **May be Invested as Authorized by Law**. Adopted November, 1985.
- No. 76. Adding Section 11, Article VIII. Re: **Agricultural Commodity Assessments—Development, Promotion, and Hosting**. Adopted November, 1985.
- No. 77. Section 31, Article IV. Re: **Commission on Judicial Conduct—Removal, Censure, Suspension, or Retirement of Judges or Justices—Proceedings**. Adopted November, 1986.
- No. 78. Section 1, Article XXVIII. Re: **Salaries for Legislators, Elected State Officials, and Judges—Independent Commission—Referendum**. Adopted November, 1986.
- No. 79. Section 2, Article VII. Re: **Limitation on Levies**. Adopted November, 1986.
- No. 80. Section 7, Article IV. Re: **Exchange of judges—Judge Pro Tempore**. Adopted November, 1987.
- No. 81. Section 1, Article VII. Re: **Taxation**. Adopted November, 1988.
- No. 82. Section 10, Article VIII. Re: **Residential Energy Conservation**. Adopted November, 1988.
- No. 83. Section 3, Article VI. Re: **Who disqualified**. Also amending Section 1, Article XIII. Re: **Educational, reformatory and penal institutions**. Adopted November, 1988.
- No. 84. Adding Section 35, Article I. Re: **Victims of Crimes—Rights**. Adopted November, 1989.
- No. 85. Section 31, Article IV. Re: **Commission on Judicial Conduct**. Adopted November, 1989.
- No. 86. Section 10, Article VIII. Re: **Energy and Water Conservation Assistance**. Adopted November, 1989.



## **HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.**

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- No. 87. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Adopted November, 1993.
- No. 88. Section 11, Article I. Re: **Religious Freedom,** Adopted November, 1993.
- No. 89. Section 3, Article 4. Re: **Election and Terms of Supreme Court Judges.** Adopted November 1995.

