

securities in an amount equal to not less than ten percent of all public funds on deposit in said depository. [1975 1st ex.s. c 77 § 6.]

Title 41 PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

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Chapter 41.04 GENERAL PROVISIONS

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41.04.180 Hospitalization and medical aid for county, municipal and other political subdivision employees—Governmental contributions authorized.

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

41.04.233 Payroll deductions for capitation payments to health maintenance organizations. Any employee or retired employee of the state or its departments, agencies, or subdivisions and any employee or retired employee of a county, public or municipal corporation, school district, or tax supported institution may authorize the deduction from his salary or wages of the amount of his capitation payments to any health maintenance organization receiving a certificate of authority under this chapter. Upon the filing of an authorization with the auditor or fiscal officer of the employer, such auditor or fiscal officer shall make payments in favor of the health maintenance organizations referred to in the

authorization for the amounts of the deductions authorized, RCW 41.04.230(7) notwithstanding. [1975 1st ex.s. c 290 § 20.]

Severability—1975 1st ex.s. c 290: RCW 48.46.910.
Health maintenance organizations: Chapter 48.46 RCW.

41.04.235 Retirement allowance deductions for health care benefit plans. Participants in a health care benefit plan approved pursuant to RCW 41.04.180, 41.05.020, or 28A.58.420, whichever is applicable, who are retired public employees, may authorize the deduction from their retirement allowances, of the amount or amounts of their subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance upon the approval by the retirement board of an application for such deduction on the prescribed form, and the treasurer of the state shall duly and timely draw and issue proper warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the amount authorized to be deducted. [1975 1st ex.s. c 73 § 1.]

Teacher's retirement allowance deductions for health care benefit plans: RCW 41.32.680.

41.04.250 Pension plans, tax deferred annuities or deferred compensation plans authorized for public employees. The state, through the committee for deferred compensation created in RCW 41.04.260, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to:

(1) Enter into an agreement with any life insurance company, bank trustee, or custodian authorized to do business in the state of Washington to provide qualified pension plans under the provisions of 26 U.S.C., section 401 (a), as amended by Public Law 89-809, 80 Stat. 1577, 1578 as now or hereafter amended, or to provide deferred annuities for all officials and employees of said public entities deemed to be eligible by the agency of the United States government having jurisdiction of the matter under the provisions of 26 U.S.C., section 403 (b), as amended by Public Law 87-370, 75 Stat. 796 and as now or hereafter amended, such pension or annuities to be in lieu of a portion of salary or wages. Such pension plans or tax deferred annuity benefits shall be available to those employees who elect to participate in said agreement and who agree to take a reduction in salary in the equivalent amount of the contribution required to be made by the public entity for and on behalf of such employee. The funds derived from such reductions in salary shall be deposited and accounted for in an appropriately designated account maintained by the public employer of such employee and any official authorized to disburse such funds is empowered to remit these designated funds to the insurer, custodian, or trustee in accordance with the salary reduction agreement between the public entity and the employee.

(2) Contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the appropriate internal revenue service exclusion allowance for such plans, and shall promptly

with the consent of the employee, deposit or invest in a credit union, savings and loan association, bank, mutual savings bank or purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts, for the purpose of funding a deferred compensation program for the employee, from any life underwriter or registered representative duly licensed by this state who represents an insurance company or any investment company licensed to contract business in this state. The committee can provide such plans as it deems are in the interests of state employees. In no event shall the total payments made for the purchase of said life insurance contract, or fixed and/or variable annuity contract and the employee's nondeferred income for any year exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the retirement and pension benefits earned by any employee, but any sum so deducted shall not be included in the computation of any taxes withheld on behalf of any such employee.

Coverage of an employee under a qualified pension plan, contract for a deferred annuity or deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in the pension systems for public employees which are provided for by chapters 41.26, 41.32 and 41.40 RCW. [1975 1st ex.s. c 274 § 2; 1973 1st ex.s. c 99 § 1; 1972 ex.s. c 19 § 1; 1971 ex.s. c 264 § 1.]

41.04.260 Committee for deferred compensation—Created—Membership—Expenses—Duties—Deferred compensation revolving fund. There is hereby created a committee for deferred compensation to be composed of five members appointed by the governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who shall be a representative of an insurance association or investment company, one who shall be the state attorney general or his designee and one additional member selected by the governor. The committee shall serve without compensation but shall receive necessary expenses as provided for in RCW 43.03.050 and 43.03.060. The committee shall be trustees of the deferred compensation revolving fund which is hereby created in the state treasury. All expenses of the committee including staffing and administrative expenses shall be paid out of the deferred compensation revolving fund. The amount of compensation deferred or amounts paid by employees under agreements entered into under the authority contained in RCW 41.04.250 shall be paid into the revolving fund and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by this committee. The revolving fund shall be used to carry out the purposes of RCW 41.04.250. Any county, municipality or other subdivision of the state

may elect to participate in any agreements entered into by the committee under RCW 41.04.250. [1975 1st ex.s. c 274 § 1.]

Chapter 41.05

STATE EMPLOYEES' INSURANCE AND HEALTH CARE

Sections

- 41.05.020 State employees' insurance board—Created—Membership—Meetings—Compensation—Powers and duties.
- 41.05.030 State employees' insurance board, powers and duties—Duties of director of personnel—Cooperation of state departments and agencies enjoined.
- 41.05.050 Contributions for employees and dependents.

41.05.020 State employees' insurance board—Created—Membership—Meetings—Compensation—Powers and duties.

Deductions from retirement allowances for medical, hospital or other health care: RCW 41.32.680.

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

41.05.030 State employees' insurance board, powers and duties—Duties of director of personnel—Cooperation of state departments and agencies enjoined. (1) The state employees' insurance board shall have the following powers and duties, in addition to any other powers and duties prescribed by law: (a) To authorize the director of personnel to appoint a benefits supervisor, to whom the director may delegate his duties hereunder, and other necessary personnel, subject to the jurisdiction of the state civil service law, chapter 41.06 RCW; (b) to authorize other necessary administrative expenses; and (c) to provide for the expenditure of funds in the state employees' insurance revolving fund for payment of premiums, to reduce employee contributions or increase benefits, and, subject to legislative appropriation, to pay salaries and wages and other necessary administrative expenses.

(2) The director of the department of personnel shall be trustee and administrator of all health benefit and insurance contracts.

He shall transmit contributions for health care and other insurance plans in payment of premiums and receive and deposit contributions and dividends or refunds into the state employees insurance revolving fund. He shall provide facilities and services necessary for the purpose of the board and its operations, subject to full reimbursement by the board for the cost thereof.

(3) Every division, department, or separate agency of state government shall fully cooperate in administration of the plans, education of employees, claims administration, and other duties as required by the trustee or the board. [1975 1st ex.s. c 38 § 1; 1973 1st ex.s. c 147 § 2; 1970 ex.s. c 39 § 3.]

Effective date—Effect of veto—Appropriation—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.010.

41.05.050 Contributions for employees and dependents. (1) Every department, division, or separate agency of state government shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the state employees insurance board. Such contributions shall include an amount determined by the state employees insurance board to pay the administrative expenses of the board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: *Provided*, That this administrative service charge shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee. All such contributions will be paid into the state employees insurance fund to be expended in accordance with RCW 41.05.030.

(2) The contributions of any department, division, or separate agency of the state government shall be set by the state employees insurance board, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose: *Provided*, That nothing herein shall be a limitation on employees employed under chapter 47.64 RCW: *Provided further*, That provision for school district personnel shall not be made under this chapter.

(3) The trustee with the assistance of the department of personnel shall annually survey private industry in the state of Washington to determine the maximum average employer contribution for group insurance programs under the jurisdiction of the state employees insurance board. Such survey shall be reported to the board for its use in setting the amount of the contributions to the various insurance programs by departments, divisions, and separate agencies of state government. [1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Effective date—Effect of veto—Appropriation—Savings—Severability—1975 1st ex.s. c 147: See notes following RCW 41.05.010.

Contributions for state employees, amount: RCW 41.06.370.

Chapter 41.07

CENTRAL PERSONNEL-PAYROLL SYSTEM

Sections	
41.07.010	Definitions
41.07.020	Administration, maintenance and operation of system—Intent.
41.07.030	Costs.
41.07.900	Transfer of personnel, records, equipment, etc.
41.07.901	Effective date—1975 1st ex.s. c 239.

41.07.010 Definitions (1) As used in this chapter "state agency" means all offices, departments, agencies, institutions, boards, and commissions of state government including those headed by an elected official and including institutions of higher education.

(2) As used in this chapter "central personnel-payroll system" means an automated data processing system

capable of keeping records and processing necessary transactions in the process of employing persons, changing their employment status, and paying employees of any or all state agencies. Such system shall include production of reports and documents required or authorized by state or federal agencies. [1975 1st ex.s. c 239 § 1.]

41.07.020 Administration, maintenance and operation of system—Intent. The department of personnel is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated jointly by the director of the department of personnel and the director of the office of program planning and fiscal management.

The system shall be operated through state data processing centers. State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of program planning and fiscal management and the department of personnel. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of program planning and fiscal management and to the legislature regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll record keeping and reporting. [1975 1st ex.s. c 239 § 2.]

41.07.030 Costs. The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of personnel shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of personnel is authorized to utilize the data processing revolving fund created by RCW 43.105.080 and the department of personnel service fund created by RCW 41.06.280. [1975 1st ex.s. c 239 § 3.]

41.07.900 Transfer of personnel, records, equipment, etc. On October 1, 1975, or at such earlier time as may be mutually agreed upon by the director of general administration and the director of personnel, the staff of the data processing service center engaged in payroll data control and payroll data entry along with such records, files, data, materials, equipment, supplies, and other assets as are directly associated with their function shall be transferred to the department of personnel. [1975 1st ex.s. c 239 § 4.]

41.07.901 Effective date—1975 1st ex.s. c 239. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975. [1975 1st ex.s. c 239 § 6.]

Chapter 41.14
CIVIL SERVICE FOR SHERIFFS' OFFICE

Sections

41.14.070 Classified and unclassified service designated.

41.14.070 Classified and unclassified service designated. The classified civil service and provisions of this chapter shall include all deputy sheriffs and other employees of the office of sheriff in each county except the following positions which are hereby designated the unclassified service:

- (1) The county sheriff in every county;
- (2) In each class A and class AA county; the positions of undersheriff, inspector, chief criminal deputy, chief civil deputy, jail superintendent, and one private secretary: *Provided*, That the legislative authority of any county operating under a home rule charter may designate unclassified positions of administrative responsibility not to exceed twelve positions;
- (3) In each county of the first class, second class, and third class; three principal positions comparable to undersheriff, a chief criminal deputy, and a chief civil deputy;
- (4) In each of all other counties; one position to be appointed by the sheriff. [1975 1st ex.s. c 186 § 1; 1959 c 1 § 7; Initiative No. 23.]

Chapter 41.16
FIREMEN'S RELIEF AND PENSIONS—1947
ACT

Sections

41.16.145 Annual increase in benefits payable on retirement for service, death in line of duty, and disability.
41.16.911 Severability—1975 1st ex.s. c 178.
41.16.921 Construction—1975 1st ex.s. c 178, RCW 41.16.145.

41.16.145 Annual increase in benefits payable on retirement for service, death in line of duty, and disability. The amount of all benefits payable under the provisions of RCW 41.16.080, 41.16.120, 41.16.130, 41.16.140 and 41.16.230 as now or hereafter amended, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purposes of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: *Provided*, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative. The increased benefits authorized by this section shall not affect any benefit payable under the provisions of

chapter 41.16 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975 1st ex.s. c 178 § 1; 1974 ex.s. c 190 § 1; 1970 ex.s. c 37 § 3; 1969 ex.s. c 209 § 38.]

Construction of RCW 41.16.145—Severability—1975 1st ex.s. c 178: See RCW 41.16.921, 41.16.911.

Construction—1970 ex.s. c 37: See note following RCW 41.18.104.

Effective date—Construction—Severability—1969 ex.s. c 209: See RCW 41.26.900 through 41.26.920.

41.16.911 Severability—1975 1st ex.s. c 178. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 178 § 6.]

41.16.921. Construction—1975 1st ex.s. c 178, RCW 41.16.145. (1) The provisions of this section are procedural and remedial.

(2) The application and effect of this act shall be retroactive to and including May 6, 1974. Each benefit being paid on the effective date of *this act shall then be adjusted as if this act had been in existence since May 6, 1974. Additionally, any amounts which would have been paid had this act been in effect since May 6, 1974, shall then be due as a one-time lump sum payment.

(3) The provisions of RCW 41.16.145 shall be construed and read to have granted the percentage increase provided by that section to those receiving benefits pursuant to RCW 41.16.230, until and including July 1, 1974, at which time those persons shall be regarded as eligible for the benefits granted by chapter 190, Laws of 1974 ex. sess., as provided in subsection (2) of this section. Any amounts now payable due to a failure to so construe and read RCW 41.16.145 are now due as a one-time lump sum payment. [1975 1st ex.s. c 178 § 5.]

***Reviser's note:** "this act" [1975 1st ex.s. c 178] enacted this section and RCW 41.16.911, and amended RCW 41.16.145, 41.18.100, 41.18.104 and 41.26.250. The effective date of the act was June 4, 1975.

Chapter 41.18
FIREMEN'S RELIEF AND PENSIONS—1955
ACT

Sections

41.18.100 Payment on death in line of duty or while retired on account of service connected disability.
41.18.104 Annual increase in benefits payable on retirement for service or disability.

41.18.100 Payment on death in line of duty or while retired on account of service connected disability. In the event a fireman is killed in the performance of duty, or in the event a fireman retired on account of service

connected disability shall die from any cause, his widow or her widower shall receive a monthly pension under one of the following applicable provisions: (1) If a fireman is killed in the line of duty his widow or her widower shall receive a monthly pension equal to fifty percent of his or her basic salary at the time of his or her death; (2) if a fireman who has retired on account of a service connected disability dies, his widow or her widower shall receive a monthly pension equal to the amount of the monthly pension such retired fireman was receiving at the time of his or her death. If she or he at any time so elects in writing and the board after hearing finds it to be financially beneficial to the pension fund, he or she may receive in lieu of all future monthly pension and other benefits, including benefits to child or children, the sum of five thousand dollars in cash. If there be no widow or widower at the time of such fireman's death or upon the widow's or widower's death the monthly pension benefits hereinabove provided for shall be paid to and divided among his or her child or children share and share alike, until they reach the age of eighteen or are married, whichever occurs first. The widow's or widower's monthly pension benefit, including increased benefits to his or her children shall cease if and when he or she remarries: *Provided*, That no pension payable under the provisions of this section shall be less than that specified under RCW 41.18.200. [1975 1st ex.s. c 178 § 4; 1973 1st ex.s. c 154 § 73; 1969 ex.s. c 209 § 28; 1965 ex.s. c 45 § 4; 1955 c 382 § 8.]

Construction—Severability—1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

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

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.900 through 41.26.920.

41.18.104 Annual increase in benefits payable on retirement for service or disability. The amount of all benefits payable under the provisions of RCW 41.18.040, 41.18.080, 41.18.100 and 41.18.200 as now or hereafter amended, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: *Provided*, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative. The increased benefits authorized by this section shall not affect any benefit payable under the

provisions of chapter 41.18 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975 1st ex.s. c 178 § 2; 1974 ex.s. c 190 § 2; 1970 ex.s. c 37 § 1; 1969 ex.s. c 209 § 33.]

Construction—Severability—1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

Construction—1970 ex.s. c 37: "This 1970 amendatory act shall be null and void and of no further force and effect if the 1970 extraordinary session of the Legislature does not pass legislation authorizing cities and counties to levy additional taxes or appropriate at least ten million dollars for distribution to cities and towns for the remainder of the 1969-71 fiscal biennium." [1970 ex.s. c 37 § 4.] This applies to the 1970 amendments to RCW 41.16.145, 41.18.104 and 41.26.250.

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.900 through 41.26.920.

Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections

41.26.250 Increase in presently payable benefits for service or disability authorized.

41.26.250 Increase in presently payable benefits for service or disability authorized. All benefits presently payable pursuant to the provisions of RCW 41.20.050, 41.20.060 and 41.20.080 as such RCW sections existed prior to the effective date of the amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws of 1961 to persons who retired prior to the effective date of the said 1961 amendatory act, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: *Provided*, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor.

[1975 1st ex.s. c 178 § 3; 1974 ex.s. c 190 § 3; 1970 ex.s. c 37 § 2; 1969 ex.s. c 209 § 34.]

Construction—Severability—1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

Construction—1970 ex.s. c 37: See note following RCW 41.18.104.

Chapter 41.32 TEACHERS' RETIREMENT

Sections

- 41.32.010 Definitions.
- 41.32.040 Board of trustees—Composition—Terms.
- 41.32.420 Employer reports to board—Notice to new employees (as amended by 1975 c 43).
- 41.32.420 Employer reports to board—Notice to new employees (as amended by 1975 1st ex.s. c 275).
- 41.32.4941 Repealed.
- 41.32.4942 Repealed.
- 41.32.4943 Funds required for payment under RCW 41.32.4932, 41.32.493, 41.32.4931, 41.32.494, 41.32.561, 41.32.480, 41.32.497, 41.32.498 and 41.32.550 to be provided in accordance with RCW 41.32.401.
- 41.32.680 Deductions from retirement allowances for medical, hospital or other health care.

41.32.010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the sum of all regular annuity contributions together with regular interest thereon less cost of operation.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the board of trustees and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided for by the teachers' retirement law.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability.

(11) "Earnable compensation" means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money: *Provided*, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from

which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for his two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to exempt himself from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: *Provided*, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(18) "Pension" means the moneys payable per year during life from the pension fund.

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

(21) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable.

(22) "Prior service contributions" means contributions made by a member to secure credit for prior service.

(23) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(24) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to his individual account in the annuity fund.

(25) "Regular interest" means the interest on funds of the retirement system for the current school year and such other earnings as may be applied thereon by the board of trustees.

(26) "Retirement allowance" means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(27) "Retirement system" means the Washington state teachers' retirement system.

(28) "Service" means the time during which a member has been employed by an employer for compensation: *Provided*, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(29) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members.

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, educational service district, city superintendents and their assistants and certificated employees; and in addition thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature. [1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20. Prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

Emergency—1974 ex.s. c 199: "This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 199 § 7.]

Severability—1974 ex.s. c 199: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 199 § 8.]

The above annotations apply to RCW 41.32.010, 41.32.260, 41.32.4945, 41.32.497, and 41.32.498.

Construction—1974 ex.s. c 199: "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

(1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Amendatory language contained in sections 1 and 2 of this 1974 amendatory act [1974 ex.s. c 199] [Substitute House Bill No. 779] reads as follows:

"Section 1. Section 1, chapter 80, Laws of 1947 as last amended by section 95, chapter 176, Laws of 1969 ex. sess. and RCW 41.32.010 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the sum of all regular annuity contributions together with regular interest thereon less cost of operation.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the board of trustees and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided for by the teachers' retirement law.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability.

(11) "Earnable compensation" means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money: *Provided*, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature 5 or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for 5 or more years, earnable compensation for his two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to exempt himself from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: *Provided*, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(18) "Pension" means the moneys payable per year during life from the pension fund.

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

(21) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable.

(22) "Prior service contributions" means contributions made by a member to secure credit for prior service.

(23) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(24) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to his individual account in the annuity fund.

(25) "Regular interest" means the interest on funds of the retirement system for the current school year and such other earnings as may be applied thereon by the board of trustees.

(26) "Retirement allowance" means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(27) "Retirement system" means the Washington state teachers' retirement system.

(28) "Service" means the time during which a member has been employed by an employer for compensation: *Provided*, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(29) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members.

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, intermediate school district, city superintendents and their assistants and certificated employees; and in addition thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

Sec. 2. Section 26, chapter 80, Laws of 1947 as last amended by section 1, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.260 are each amended to read as follows:

Any member whose public school service is interrupted by active service to the United States as a member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for such service upon presenting satisfactory proof, and contributing to the annuity fund, either in a lump sum or installments, such amounts as shall be determined by the board of trustees: *Provided* (1), That no such military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war: *Provided further* (2), That a member of the retirement system who is a member of the state legislature or a state official eligible for the combined pension and annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter amended shall have deductions taken from his salary in the amount of ~~((seven and one-half))~~ six percent of earnable compensation and that service credit shall be established with the retirement system while such deductions are reported to the retirement system, unless he has by reason of his employment become a contributing member of another public retirement system in the state of Washington: *And provided further* (3), That such elected official who has retired or otherwise terminated his public school service may then elect to terminate his membership in the retirement system and receive retirement benefits while continuing to serve as an elected official: *And provided further* (4), That a member of the retirement system who had previous service as an elected or appointed official, for which he did not contribute to the retirement system, may receive credit for such legislative service unless he has received credit for that service in another state retirement system, upon making contributions in such amounts as shall be determined by the board of trustees."

Reviser's note: The change above in proviso (2) was vetoed by the governor, thus retaining the seven and one-half percent figure; see veto message as attached to chapter 199, Laws of 1974 ex. sess.

(3) (a) "this 1974 amendatory act" is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and 41.32.4945.

(b) "the effective date of this 1974 amendatory act" [1974 ex.s. c 199] is May 6, 1974.

Effective date—1969 ex.s. c 176: The effective date of this section and RCW 41.32.420 is April 25, 1969.

Effective date—1967 c 50: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

Severability—1967 c 50: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

The foregoing annotations apply to the 1967 amendments of RCW 41.32.010, 41.32.250, 41.32.260, 41.32.280, 41.32.420, 41.32.430, 41.32.500, 41.32.520, 41.32.522, 41.32.523, and 41.32.550.

Severability—1965 ex.s. c 81: "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

Effective date—1965 ex.s. c 81: "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

The foregoing annotations apply to the 1965 amendments of RCW 41.32.010, 41.32.200, 41.32.240, 41.32.470, 41.32.500, 41.32.520, 41.32.523, and 41.32.310.

Saving—1963 ex.s. c 14: "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

Severability—1963 ex.s. c 14: "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

Effective date—1963 ex.s. c 14: "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

The foregoing annotations apply to the 1963 amendments of RCW 41.32.010, 41.32.030, 41.32.200, 41.32.240, 41.32.300, 41.32.320, 41.32.350, 41.32.360, 41.32.410, 41.32.420, 41.32.430, 41.32.470, 41.32.510, 41.32.540, 41.32.550; also to the 1963 repeals of RCW 41.32.270, 41.32.400 and 41.32.450; also to RCW 41.32.365, 41.32.401, 41.32.497, 41.32.522 and 41.32.523.

41.32.040 Board of trustees—Composition—

Terms. The general administration and responsibility for the proper operation of the retirement system are vested in a board of trustees; the members of the board of trustees shall be the state superintendent of public instruction, ex officio, the state insurance commissioner, ex officio, five members of the retirement system to be chosen by the state board of education for a term of three years, at least three of whom shall be classroom teachers; and two additional members who shall be former members of the retirement system who are drawing retirement benefits from the system for service or disability. These two are to be selected by the state board of education. One such retirement member will serve an initial term of two years and the other will serve an initial term of three years. Thereafter each such retirement member shall serve for a term of three years. [1975 1st ex.s. c 17 § 1; 1947 c 80 § 4; Rem. Supp. 1947 § 4995–23. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 3, part; 1917 c 163 § 3, part; Rem. Supp. 1941 § 4995–3, part.]

41.32.420 Employer reports to board—Notice to new employees (as amended by 1975 c 43). On or before a date specified by the board of trustees in each month every employer shall file a report with the board of trustees of the retirement system on a form provided, stating the name of the employer and with respect to each employee who is a member or who is required to become a member of the retirement system: (1) The full name, (2) the earnable compensation paid, (3) the employee's contribution to the retirement system, and (4) such other information as the board shall require, and at the same time notify each new employee in writing with reference to the Washington state teachers' retirement system and that an application for prior service credit may be filed with the board of trustees thereof on a form furnished by the board. The intermediate school district superintendent shall perform the duties imposed by this section for the employers in second class school districts and the city superintendents for the employers in first class school districts. The chief executive officers of other institutions shall perform such duties. [1975 c 43 § 32; 1969 ex.s. c 176 § 96; 1967 c 50 § 4; 1963 ex.s. c 14 § 13; 1947 c 80 § 42; Rem. Supp. 1947 § 4995–61.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

41.32.420 Employer reports to board—Notice to new employees (as amended by 1975 1st ex.s. c 275). On or before a date specified by the board of trustees in each month every employer shall file a report with the board of trustees of the retirement system on a form provided, stating the name of the employer and with respect to each employee who is a member or who is required to become a member of the retirement system: (1) The full name, (2) the earnable compensation paid, (3) the employee's contribution to the retirement system, and (4) such other information as the board shall require, and at the same time notify each new employee in writing with reference to the Washington state teachers' retirement system and that an application for prior service credit may be filed with the board of trustees thereof on a form furnished by the board. The educational service district superintendent shall perform the duties imposed by this section for the employers in second and third class school districts and the city superintendents for the employers in first class school districts. The chief executive officers of other institutions shall perform such duties. [1975 1st ex.s. c 275 § 150; 1969 ex.s. c 176 § 96; 1967 c 50 § 4; 1963 ex.s. c 14 § 13; 1947 c 80 § 42; Rem. Supp. 1947 § 4995-61.]

Reviser's note: RCW 41.32.420 was amended twice during the 1975 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Effective date—1969 ex.s. c 176: See note following RCW 41.32.010.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Effective date—1963 ex.s. c 14: See note following RCW 41.32.010.

41.32.4941 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.32.4942 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.32.4943 Funds required for payment under RCW 41.32.4932, 41.32.493, 41.32.4931, 41.32.494, 41.32.561, 41.32.480, 41.32.497, 41.32.498 and 41.32.550 to be provided in accordance with RCW 41.32.401. The funds necessary for the payment of benefits under subsections (4), (5), (6) and (7) of RCW 41.32.4932, 41.32.493, 41.32.4931, 41.32.494, 41.32.561 and the funds required for the payment of benefits under RCW 41.32.480, 41.32.497, 41.32.498, and 41.32.550 shall be provided in accordance with RCW 41.32.401. [1975 1st ex.s. c 148 § 1; 1972 ex.s. c 147 § 3; 1970 ex.s. c 35 § 7.]

Effective date—Severability—1972 ex.s. c 147: See notes following RCW 41.32.480.

41.32.680 Deductions from retirement allowances for medical, hospital or other health care. Participants in a health care benefit plan approved pursuant to RCW 28A.58.420 and 41.05.020 who are retired or any group of not less than one hundred retired members may authorize the deduction from their retirement allowances, of the amount or amounts of their subscription payments, premiums, or contributions to any person, firm or corporation furnishing or providing medical, surgical and hospital care or other health care insurance upon the approval by the board of trustees of an application for such deduction on the prescribed form, and the treasurer of the state shall duly and timely draw and issue proper warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the total amount authorized to be deducted. [1975 c 17 § 1; 1972 ex.s. c 147 § 4.]

Effective date—Severability—1972 ex.s. c 147: See notes following RCW 41.32.480.

Chapter 41.40 WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sections

41.40.120 Membership.

41.40.120 Membership. Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers as defined in this chapter who have served at least six months without interruption or who are employed, appointed or elected on or after July 1, 1965, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3) Persons holding elective offices or persons appointed directly by the governor: *Provided*, That such persons shall have the option of applying for membership and to be accepted by the action of the retirement board, such application for those taking elective office for the first time after May 21, 1971 shall be submitted within eight years of the beginning of their initial term of office: *And provided further*, That any such persons previously denied service credit because of any prior laws excluding membership which have subsequently been repealed, shall nevertheless be allowed to recover or regain such service credit denied or lost because of the previous lack of authority: *And provided further*, That any persons holding elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership and be accepted by action of the retirement board, to be effective during such term or terms of office, and shall be allowed to recover or regain the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee and employer contributions therefor by the employer or employee: *And provided further*, That any person who was an elected official eligible to apply for membership pursuant to this subsection, who failed to exercise that option while holding such elected office and who is now a member of the retirement system, shall have the option to recover service credit for such elected service upon payment to the retirement system of the employee and employer contributions which would have been made had the person been a member during the period of such elective service;

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political

subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: *Provided, however,* In any case where the state employees' retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: *And provided further,* That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits as secondary payee under the optional retirement allowances as provided by RCW 41.40.190 or 41.40.185;

(5) Patient and inmate help in state charitable, penal and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer or contract basis or as an incident to the private practice of a profession;

(10) Persons appointed after April 1, 1963 by the liquor control board as agency vendors.

(11) Employees of a labor guild, association, or organization: *Provided,* That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership and to be accepted by the action of the retirement board.

(12) Persons hired in eligible positions on a temporary basis for a period not to exceed six months: *Provided,* That if such employees are employed for more than six months in an eligible position they shall become members of the system.

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: *Provided,* That any member elected or appointed to an elective office on or after April 1, 1971 shall have the option of continuing his membership in this system in lieu of becoming a member of the city system. A member who so elects to maintain his membership shall make his contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under the first proviso of this subsection shall not be required to have

all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system. [1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 § 3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13.]

Severability—1975 c 33: See note following RCW 35.21.780.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.40.120.

Severability—1969 c 128: See note following RCW 41.40.010.

Pension benefits or annuity benefits for certain classifications of school district employees: RCW 28A.58.565.

Chapter 41.56 PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

Sections	
41.56.030	Definitions.
41.56.050	Disagreement in selection of bargaining representative—Intervention by commission.
41.56.060	Determination of bargaining unit—Bargaining representative.
41.56.070	Election to ascertain bargaining representative.
41.56.080	Certification of bargaining representative—Scope of representation.
41.56.090	Rules and regulations.
41.56.100	Authority and duty of employer to engage in collective bargaining—Limitations—Mediation upon failure to agree.
41.56.122	Collective bargaining agreements—Authorized provisions.
41.56.125	Arbitrators—Selection—Additional method.
41.56.160	Commission to prevent unfair labor practices and issue remedial orders.
41.56.170	Commission to prevent unfair labor practices and issue remedial orders—Procedure—Complaint—Notice of hearing—Answer—Intervening parties—Commission not bound by technical rules of evidence.
41.56.180	Commission to prevent unfair labor practices and issue remedial orders—Procedure—Subpoena power—Oaths and affirmations—Receiving evidence.
41.56.190	Commission to prevent unfair labor practices and issue remedial orders—Procedure—Petition to court for enforcement of order or other relief—Transcript filed—Notice—Court decree.
41.56.440	Uniformed personnel—Negotiations—Impasse defined—Fact-finding panel—Hearings—Findings.
41.56.450	Uniformed personnel—Arbitration panel—Powers and duties—Hearings—Findings and determination.

41.56.480 Uniformed personnel—Refusal to submit to procedures—Invoking jurisdiction of superior court—Contempt.

41.56.030 Definitions. As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of AA counties or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended. [1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction—1973 c 131: See RCW 41.56.905.

Severability—1973 c 131: See RCW 41.56.910.

Public employment relations commission: Chapter 41.58 RCW.

41.56.050 Disagreement in selection of bargaining representative—Intervention by commission. In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative the commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090. [1975 1st ex.s. c 296 § 16; 1967 ex.s. c 108 § 5.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.060 Determination of bargaining unit—Bargaining representative. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor. [1975 1st ex.s. c 296 § 17; 1967 ex.s. c 108 § 6.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.070 Election to ascertain bargaining representative. In the event the commission elects to conduct an election to ascertain the exclusive bargaining representative, and upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the public employees within the unit, the commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of such bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be a valid agreement; nor shall any agreement be valid if it provides for a term of existence for more than three years. [1975 1st ex.s. c 296 § 18; 1967 ex.s. c 108 § 7.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.080 Certification of bargaining representative—Scope of representation. The bargaining representative which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent, all the public employees within the unit without regard to

membership in said bargaining representative: *Provided*, That any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of such grievance. [1975 1st ex.s. c 296 § 19; 1967 ex.s. c 108 § 8.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.090 Rules and regulations. The commission shall promulgate, revise or rescind such rules and regulations as it may deem necessary or appropriate to administer the provisions of this chapter in conformity with the intent and purpose of this chapter and consistent with the best standards of labor-management relations. [1975 1st ex.s. c 296 § 20; 1967 ex.s. c 108 § 9.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.100 Authority and duty of employer to engage in collective bargaining—Limitations—Mediation upon failure to agree. A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative: *Provided*, That nothing contained herein shall require any public employer to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure and authority to the board created by chapter 41.06 RCW. Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. [1975 1st ex.s. c 296 § 21; 1967 ex.s. c 108 § 10.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Arbitration of labor disputes: Chapter 49.08 RCW.

41.56.122 Collective bargaining agreements—Authorized provisions. A collective bargaining agreement may:

(1) Contain union security provisions: *Provided*, That nothing in this section shall authorize a closed shop provision: *Provided further*, That agreements involving union security provisions must 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 an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof

that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

(2) Provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement. [1975 1st ex.s. c 296 § 22; 1973 c 59 § 2.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.125 Arbitrators—Selection—Additional method. In addition to any other method for selecting arbitrators, the parties may request the public employment relations commission to, and the commission shall, appoint a qualified person who may be an employee of the commission to act as an arbitrator to assist in the resolution of a labor dispute between such public employer and such bargaining representative arising from the application of the matters contained in a collective bargaining agreement. The arbitrator shall conduct such arbitration of such dispute in a manner as provided for in the collective bargaining agreement: *Provided*, That the commission shall not collect any fees or charges from such public employer or such bargaining representative for services performed by the commission under the provisions of this chapter: *Provided further*, That the provisions of chapter 49.08 RCW shall have no application to this chapter. [1975 1st ex.s. 296 § 23; 1973 c 59 § 3.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.160 Commission to prevent unfair labor practices and issue remedial orders. The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law. [1975 1st ex.s. c 296 § 24; 1969 ex.s. c 215 § 3.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.170 Commission to prevent unfair labor practices and issue remedial orders—Procedure—Complaint—Notice of hearing—Answer—Intervening parties—Commission not bound by technical rules of evidence. Whenever a charge has been made concerning any unfair labor practice, the commission shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the commission at a place therein fixed to be held not less than seven days after the serving of said complaint. Any such complaint may be

amended by the commission any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint. In the discretion of the commission, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the commission shall not be bound by technical rules of evidence prevailing in the courts of law or equity. [1975 1st ex.s. c 296 § 25; 1969 ex.s. c 215 § 4.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.180 Commission to prevent unfair labor practices and issue remedial orders—Procedure—Subpoena power—Oaths and affirmations—Receiving evidence. For the purpose of all hearings and investigations, which, in the opinion of the commission, are necessary and proper for the exercise of the powers vested in it by RCW 41.56.140 through 41.56.190, the commission shall at all reasonable times have access to, for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or lists of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The commission shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the commission. The commission, or any agent, or agency designated by the commission for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. [1975 1st ex.s. c 296 § 26; 1969 ex.s. c 215 § 5.]

Reviser's note. "this act" translated to "RCW 41.56.140 through 41.56.190"; 1969 ex.s. c 215 included sections codified as RCW 28B.16.230, 41.06.300 and 41.56.400 through 41.56.420.

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.190 Commission to prevent unfair labor practices and issue remedial orders—Procedure—Petition to court for enforcement of order or other relief—Transcript filed—Notice—Court decree. The commission, or any party to the commission proceedings, thirty days after the commission has entered its findings of fact, shall have power to petition the superior court of the state within the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the commission. Upon such filing, the court shall

cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the commission. [1975 1st ex.s. c 296 § 27; 1969 ex.s. c 215 § 6.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

41.56.440 Uniformed personnel—Negotiations—Impasse defined—Fact-finding panel—Hearings—Findings. Negotiations between representatives of the public employer and uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislative body of the public employer. If after a forty-five day period of negotiation between representatives of the public employer and uniformed personnel, an agreement has not been concluded, then an impasse is declared to exist, and either party may voluntarily submit the matters in dispute to mediation, as provided for in RCW 41.56.100. If the parties have still not reached agreement after a ten day period of mediation, a fact-finding panel shall be created in the following manner: Each party shall appoint one member within two days; the two appointed members shall then choose a third member within two days who shall act as chairman of the panel. If the two members so appointed cannot agree within two days to the appointment of a third member, either party may request, and the commission shall name a third member who shall be chairman of the fact-finding panel and who may be an employee of the commission. The panel shall begin hearings on the matters in dispute within five days of the formation of the fact-finding panel and shall conclude such hearings and issue findings of fact and recommendations to the parties within thirty days of the date upon which hearings were commenced.

Reasonable notice of such hearings shall be given to the parties who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Minutes of the proceedings shall be taken. Any oral or documentary evidence and other data deemed relevant by the panel may be received in evidence. The panel shall have the power to administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel material to a just determination of the issues in dispute and to issue subpoenas. Costs of each party's appointee shall be paid by the party, and the costs of proceedings otherwise shall be borne by the commission.

In making its findings, the fact-finding panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards of guidelines to aid it in developing its recommendations, it shall take into consideration those factors set forth in RCW 41.56.460. [1975 1st ex.s. c 296 § 28; 1973 c 131 § 3.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction—1973 c 131: See RCW 41.56.905.

Severability—1973 c 131: See RCW 41.56.910.

41.56.450 Uniformed personnel—Arbitration panel—Powers and duties—Hearings—Findings and determination. If an agreement has not been reached within forty-five days after mediation and fact-finding has commenced, an arbitration panel shall be created in the following manner: Each party shall submit a list of three persons to the commission, which shall then name one from each list as members to the panel, all within two days. The two appointed members shall utilize one of the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the commission, and the commission shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (2) The two appointed members shall choose a third member within two days. The costs of each party's appointee shall be borne by each party respectively, and the costs of the proceedings otherwise shall be shared equally between the parties.

If the two members so appointed under alternative (2) cannot agree within two days to the appointment of a third member, either party may apply to the superior court of the county where the labor disputes exist and request that the third member of the panel be appointed as provided by RCW 7.04.050. The panel thus composed shall be deemed an agency of the executive director and a state agency for the purposes of *this 1973 amendatory act. The panel shall hold hearings on the matters in dispute within five days after the formation of the arbitration panel and take oral or written testimony.

Reasonable notice of such hearings shall be given to the parties who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. A recording of the proceedings shall be taken. Any oral or documentary evidence and other data deemed relevant by the panel may be received in evidence. The panel shall have the power to administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as may be deemed by the panel material to a just determination of the issues in dispute and to issue subpoenas. If any person refuses to obey such subpoena or refuses to be sworn to testify, or any witness, party or attorney of a party is guilty of any contempt while in attendance at any hearing held hereunder, the panel may invoke the jurisdiction of the superior court in the county where a labor dispute exists and such court shall have jurisdiction to issue an appropriate order. Any failure to obey such order may be punished by the court as a contempt thereof.

The hearing conducted by the panel shall be concluded within twenty days of the time of commencement and, within fifteen days after conclusion of the hearings, the chairman shall make written findings of fact and a written determination of the dispute based upon the issues presented, a copy of which shall be mailed or otherwise delivered to the employees' negotiating agent or its attorney or other designated representative and to the employer or the employer's attorney or designated representative. The decision made by the panel shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious. [1975 1st ex.s. c 296 § 29; 1973 c 131 § 4.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 41.56.430.

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction—1973 c 131: See RCW 41.56.905.

Severability—1973 c 131: See RCW 41.56.910.

41.56.480 Uniformed personnel—Refusal to submit to procedures—Invoking jurisdiction of superior court—Contempt. If the representative of either or both the uniformed personnel and the public employer refuse to submit to the procedures set forth in RCW 41.56.440 and 41.56.450, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof. A decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the commission in the superior court for the county where the dispute arose. [1975 1st ex.s. c 296 § 30; 1973 c 131 § 7.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Construction—1973 c 131: See RCW 41.56.905.

Severability—1973 c 131: See RCW 41.56.910.

Chapter 41.58

PUBLIC EMPLOYMENT LABOR RELATIONS

Sections	
41.58.005	Intent—Construction.
41.58.010	Public employment relations commission—Created—Membership—Terms—Vacancies—Quorum—Report.
41.58.015	Compensation and expenses of members—Executive director—Employees.
41.58.020	Powers and duties of commission.
41.58.030	Office.
41.58.040	Duties of employers and employees.
41.58.050	Rules and regulations.
41.58.800	Transfer of employees to commission.
41.58.801	Transfer of reports, documents, records, property, etc., funds, appropriations, etc.
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41.58.803	Continuation and savings.
41.58.900	Effective dates—1975 2nd ex.s. c 5.
41.58.901	Effective date—1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39.

41.58.005 Intent—Construction. (1) It is the intent of the legislature by the adoption of *this 1975 amendatory act to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer–employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in *this 1975 amendatory act shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.

(3) Nothing contained in *this 1975 amendatory act shall be construed to alter any power or authority regarding the scope of collective bargaining in the employment areas affected by *this 1975 amendatory act, but *this amendatory act shall be construed as transferring existing jurisdiction and authority to the public employment relations commission.

(4) Nothing contained in *this 1975 amendatory act shall be construed to prohibit the consideration or adjustment of complaints or grievances by the public employer. [1975 1st ex.s. c 296 § 1.]

***Reviser's note:** "this 1975 amendatory act" or "this amendatory act" [1975 1st ex.s. c 296] consists of chapter 41.58 RCW, amendments to RCW 28A.72.020, 28A.72.060, 28A.72.080, 28A.72.100, 28B.52.020, 28B.52.060, 28B.52.080, 41.56.030, 41.56.050, 41.56.060, 41.56.070, 41.56.080, 41.56.090, 41.56.100, 41.56.122, 41.56.125, 41.56.160, 41.56.170, 41.56.180, 41.56.190, 41.56.440, 41.56.450, 41.56.480, 43.22.260, 43.22.270, 47.64.010, 47.64.030, 47.64.040, 49.08.010, 49.08.020, 53.18.030, to the repeal of RCW 47.64.020, and to additions to chapter 41.58 RCW by 1975 2nd ex.s. c 5. RCW 28A.72.020, 28A.72.060, 28A.72.080 and 28A.72.100 were repealed by 1975 2nd ex.s. c 5 § 7.

41.58.010 Public employment relations commission—Created—Membership—Terms—Vacancies—Quorum—Report. (1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. The commission shall consist of three members who shall be citizens appointed by the governor by and with the advice and consent of the senate: *Provided*, That no member appointed when the legislature was not in session shall continue to be a member of the commission if that person's appointment shall have been rejected by the senate during the next legislative session. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chairman of the commission. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty

or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed. [1975 2nd ex.s. c 5 § 1.]

41.58.015 Compensation and expenses of members—Executive director—Employees. (1) Each member of the commission shall be paid fifty dollars for each day in which he has actually attended a meeting of the commission officially held. The members of the commission may receive any number of daily payments for official meetings of the commission actually attended. Members of the commission shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally in chapter 43.03 RCW.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. He shall perform such duties and have such powers as the commission shall prescribe in order to carry out the provisions of this chapter, including assisting employees and employers in the settlement of labor disputes through mediation and fact-finding. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, in matters concerning the investigation of charges and issuance of complaints under this chapter.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including all necessary traveling and subsistence expenses outside the city of Olympia incurred by the members or employees of the commission under its orders, shall be subject to the presentation of itemized vouchers therefor approved by the commission or by any individual it designates for that purpose and to the applicable provisions of chapter 43.03 RCW and the regulations promulgated thereunder. [1975 2nd ex.s. c 5 § 2.]

41.58.020 Powers and duties of commission. (1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute involving a political subdivision, municipal corporation, or the community college system of the state, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, he shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort. [1975 1st ex.s. c 296 § 4.]

41.58.030 Office. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state. [1975 1st ex.s. c 296 § 5.]

41.58.040 Duties of employers and employees. In order to prevent or minimize disruptions to the public welfare growing out of labor disputes, employers and employees and their representatives shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the commission under this chapter for the purpose of aiding in a settlement of the dispute. [1975 1st ex.s. c 296 § 6.]

41.58.050 Rules and regulations. The board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative

procedure act, chapter 34.04 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter. [1975 1st ex.s. c 296 § 7.]

41.58.800 Transfer of employees to commission. All employees of the department of labor and industries classified under the provisions of chapter 41.06 RCW, the state civil service law, whose positions are entirely concerned with functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall be transferred to the jurisdiction of the commission. [1975 2nd ex.s. c 5 § 3.]

41.58.801 Transfer of reports, documents, records, property, etc., funds, appropriations, etc. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the marine employee commission, the office of the superintendent of public instruction, the state board for community college education, and the department of labor and industries and pertaining to the functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be delivered to the custody of the commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the functions transferred by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be transferred to the commission.

Any appropriation or portion thereof remaining as of January 1, 1976, and which is made to an agency for the purpose of carrying out functions transferred from such agency pursuant to chapter 296, Laws of 1975 1st ex. sess., shall, by January 1, 1976, be transferred and credited to the commission for the purpose of carrying out such functions. This paragraph shall not affect the transfer of moneys prior to January 1, 1976, pursuant to section 67, chapter 169 [269], Laws of 1975 1st ex. sess.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the performance of the functions transferred under chapter 296, Laws of 1975 1st ex. sess., the director of program planning and fiscal management or his successor shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1975 2nd ex.s. c 5 § 4.]

41.58.802 Procedure for transfer of budgeted fund or equipment. Where transfers of budgeted funds or equipment are required under *this act, the director of program planning and fiscal management shall certify such transfers to the agencies affected, the state auditor and the state treasurer all of whom shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1975 2nd ex.s. c 5 § 5.]

*Reviser's note: "this act" [1975 2nd ex.s. c 5], see note following RCW 41.58.005.

41.58.803 Continuation and savings. On January 1, 1976, all rules and regulations, and all business pending before the agencies or divisions thereof from whom functions are transferred pursuant to chapter 296, Laws of 1975 1st ex. sess. and which pertain to such functions shall be continued and acted upon by the commission. All existing contracts and obligations pertaining to such functions shall remain in full force and effect, but shall be performed by the commission in lieu of the agency from whom the functions are transferred. The transfer of any functions shall not affect the validity of any act performed by such agency or division thereof or any officer or employee thereof prior to the effective date of the transferral of such functions.

Notwithstanding any other provisions of *this act, contracts or agreements are authorized between the commission and other agencies with respect to functions transferred from other agencies pursuant to chapter 296, Laws of 1975 1st ex. sess. Such contract or agreement may provide for an employee or employees of such other agencies or other person or persons to continue to provide services relating to pending business which is transferred to the commission as of January 1, 1976, until such pending business is completed. [1975 2nd ex.s. c 5 § 6.]

*Reviser's note: "this act" [1975 2nd ex.s. c 5], see note following RCW 41.58.005.

41.58.900 Effective dates—1975 2nd ex.s. c 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 8, 1975, except for the provisions of sections 6 and 7 which shall be effective on January 1, 1976. [1975 2nd ex.s. c 5 § 9.]

41.58.901 Effective date—1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39. Sections 4, 6, and 8 through 39 of chapter 296, Laws of 1975 1st ex. sess. shall not be effective until January 1, 1976. [1975 2nd ex.s. c 5 § 8.]

Chapter 41.59

EDUCATIONAL EMPLOYMENT RELATIONS ACT
(Effective date, see RCW 41.59.940)

Sections

- 41.59.010 Purpose.
- 41.59.020 Definitions.
- 41.59.040 Commission, expenses of, employees, and payments to members—Executive director, appointment and duties.
- 41.59.050 Commission, principal office of.
- 41.59.060 Employee rights enumerated—Fees and dues, deduction from pay.
- 41.59.070 Election to ascertain exclusive bargaining representative, when—Run-off election—Decertification election.
- 41.59.080 Determination of bargaining unit—Standards.
- 41.59.090 Certification of exclusive bargaining representative—Scope of representation.
- 41.59.100 Union security provisions—Scope—Agency shop provision, collection of dues or fees.
- 41.59.110 Commission, rules and regulations of—Federal precedents as standard.
- 41.59.120 Resolving impasses in collective bargaining—Mediation—Fact-finding with recommendations—Other.

- 41.59.130 Binding arbitration procedures authorized.
- 41.59.140 Unfair labor practices for employer, employee organization, enumerated.
- 41.59.150 Commission to prevent unfair labor practices—Scope.
- 41.59.160 Applicability of administrative procedure act provisions to commission action.
- 41.59.170 Effective date of certain agreements—Increased benefits during agreement authorized, when.
- 41.59.180 Employees in specialized job category may be excluded, when.
- 41.59.900 Short title.
- 41.59.910 Construction of chapter—Effect on existing agreements—Collective bargaining agreement prevails where conflict.
- 41.59.920 Construction of chapter—Employee's rights preserved.
- 41.59.930 Construction of chapter—Employer's responsibilities and rights preserved.
- 41.59.940 Effective date—1975 1st ex.s. c 288.
- 41.59.950 Severability—1975 1st ex.s. c 288.

Reviser's note: Phrase "the commission" is used throughout chapter 41.59 RCW; 1975 1st ex.s. c 288 § 4 wherein the commission created was vetoed by the governor; reference to the proviso in RCW 41.59.020(3) below, together with amendments and repeals in 1975 2nd ex.s. c 5 (codified in chapter 41.58 RCW) suggests commission to be that created in RCW 41.58.010.

41.59.010 Purpose. It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education. [1975 1st ex.s. c 288 § 2.]

41.59.020 Definitions. As used in this chapter:

(1) The term "employee organization" means any organization, union, association, agency, committee, council, or group of any kind in which employees participate, and which exists for the purpose, in whole or in part, of collective bargaining with employers.

(2) The term "collective bargaining" or "bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times in light of the time limitations of the budget-making process, and to bargain in good faith in an effort to reach agreement with respect to the wages, hours, and terms and conditions of employment: *Provided*, That prior law, practice or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which item(s) are mandatory subjects for bargaining and which item(s) are nonmandatory.

(3) The term "commission" means *the education employment relations commission established by section 4 of this 1975 act: *Provided*, That if the legislature creates another board, commission, or division of a state agency comprehensively assuming administrative

responsibilities for labor relations or collective bargaining in the public sector. "commission" for the purposes of ****this chapter shall mean such board, commission, or division as therein created.**

(4) The terms "employee" and "educational employee" means any certificated employee of a school district, except:

(a) The chief executive officer of the employer.

(b) The chief administrative officers of the employer, which shall mean the superintendent of the district, deputy superintendents, administrative assistants to the superintendent, assistant superintendents, and business manager. Title variation from all positions enumerated in this subsection (b) may be appealed to the commission for determination of inclusion in, or exclusion from, the term "educational employee"

(c) Confidential employees, which shall mean:

(i) Any person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of collective bargaining agreements, except that the role of such person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and

(ii) Any person who assists and acts in a confidential capacity to such person.

(d) Unless included within a bargaining unit pursuant to RCW 41.59.080, any supervisor, which means any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment, and shall not include any persons solely by reason of their membership on a faculty tenure or other governance committee or body. The term "supervisor" shall include only those employees who perform a preponderance of the above-specified acts of authority.

(e) Unless included within a bargaining unit pursuant to RCW 41.59.080, principals and assistant principals in school districts.

(5) The term "employer" means any school district.

(6) The term "exclusive bargaining representative" means any employee organization which has:

(a) Been selected or designated pursuant to the provisions of this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Prior to January 1, 1976, been recognized under a predecessor statute as the representative of the employees in an appropriate collective bargaining or negotiations unit.

(7) The term "person" means one or more individuals, organizations, unions, associations, partnerships, corporations, boards, committees, commissions, agencies, or other entities, or their representatives.

(8) The term "nonsupervisory employee" means all educational employees other than principals, assistant principals and supervisors. [1975 1st ex.s. c 288 § 3.]

Reviser's note: *(1) Phrase "the education employment relations commission established by section 4 of this 1975 act", see note following chapter digest.

** (2) Session law [1975 1st ex.s. c 288 § 3] language here reads "this 1975 amendatory act"; in addition to sections codified in this chapter, said act included section 4 thereof, vetoed by the governor, amendments to RCW 28A.01.130 and 28A.67.065, and the repeal of chapter 28A.72 RCW.

41.59.040 Commission, expenses of, employees, and payments to members—Executive director, appointment and duties.

(1) Each member of the commission shall be paid fifty dollars for each day during which the member has actually attended a meeting of the commission officially held, or in attending to such other business of the commission as may be authorized thereby. There shall be no limitation on the number of such daily payments that the members of the commission may receive for official meetings of the commission actually attended. Members of the commission shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally in chapter 43.03 RCW.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028, and who shall perform such duties and have such powers as the commission shall prescribe in order to carry out the provisions of this chapter. The executive director, unless otherwise provided in ***this chapter**, shall have authority to act on behalf of the commission in matters concerning the administration of this chapter and shall perform such administrative duties as prescribed by the commission, with such assistance as may be provided by the attorney general and such additional legal assistance not inconsistent with chapter 43.10 RCW.

(3) When necessary to carry out or enforce any action or decision of the commission, the executive director shall have authority to petition any court of competent jurisdiction for an order requiring compliance with commission action or decision.

(4) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties consistent with the provisions of this chapter and such rules and regulations promulgated thereunder.

(5) All of the expenses of the commission, including all necessary traveling and subsistence expenses outside the city of Olympia incurred by the members or employees of the commission, and under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission or by any individual it designates for that purpose. [1975 1st ex.s. c 288 § 5.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 5] language here reads "this 1975 act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

Compensation and expenses of members—Executive director—Employees: RCW 41.58.015.

41.59.050 Commission, principal office of. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its

powers at any other place in the state of Washington. [1975 1st ex.s. c 288 § 6.]

Office: RCW 41.58.030.

41.59.060 Employee rights enumerated—Fees and dues, deduction from pay. (1) Employees shall have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter.

(2) The exclusive bargaining representative shall have the right to have deducted from the salary of employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, an amount equal to the fees and dues required for membership. Such fees and dues shall be deducted monthly from the pay of all appropriate employees by the employer and transmitted as provided for by agreement between the employer and the exclusive bargaining representative, unless an automatic payroll deduction service is established pursuant to law, at which time such fees and dues shall be transmitted as therein provided. If an agency shop provision is agreed to and becomes effective pursuant to RCW 41.59.100, except as provided in that section, the agency fee equal to the fees and dues required of membership in the exclusive bargaining representative shall be deducted from the salary of employees in the bargaining unit. [1975 1st ex.s. c 288 § 7.]

41.59.070 Election to ascertain exclusive bargaining representative, when—Run-off election—Decertification election. (1) Any employee organization may file a request with the commission for recognition as the exclusive representative. Such request shall allege that a majority of the employees in an appropriate collective bargaining unit wish to be represented for the purpose of collective bargaining by such organization, shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate, shall be supported by credible evidence demonstrating that at least thirty percent of the employees in the appropriate unit desire the organization requesting recognition as their exclusive representative, and shall indicate the name, address, and telephone number of any other interested employee organization, if known to the requesting organization.

(2) The commission shall determine the exclusive representative by conducting an election by secret ballot, except under the following circumstances:

(a) In instances where a serious unfair labor practice has been committed which interfered with the election process and precluded the holding of a fair election, the commission shall determine the exclusive bargaining representative by an examination of organization membership rolls or a comparison of signatures on organization bargaining authorization cards.

(b) In instances where there is then in effect a lawful written collective bargaining agreement between the

employer and another employee organization covering any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained unless it shall be filed within the time limits prescribed in subsection (3) of this section for decertification or a new recognition election.

(c) In instances where within the previous twelve months another employee organization has been lawfully recognized or certified as the exclusive bargaining representative of any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained.

(d) In instances where the commission has within the previous twelve months conducted a secret ballot election involving any employees included in the unit described in the request for recognition in which a majority of the valid ballots cast chose not to be represented by any employee organization, the request for recognition shall not be entertained.

(3) Whenever the commission conducts an election to ascertain the exclusive bargaining representative, the ballot shall contain the name of the proposed bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the educational employees within the unit, together with a choice for any educational employee to designate that he or she does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority of the valid ballots cast by the educational employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which receive the largest and second largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. In the event that a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for three years, then the question of representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date of the agreement or any renewals or extensions thereof as long as such renewals and extensions do not exceed three years; and if the exclusive bargaining representative is removed as a result of such procedure, the then existing collective bargaining agreement shall be terminable by the new exclusive bargaining representative so selected within sixty days after its certification or terminated on its expiration date, whichever is sooner, or if no exclusive bargaining representative is so selected, then the agreement shall be deemed to be terminated at its expiration date or as of such third anniversary date, whichever is sooner.

(4) Within the time limits prescribed in subsection (3) of this section, a petition may be filed signed by at least thirty percent of the employees of a collective bargaining unit, then represented by an exclusive bargaining

representative, alleging that a majority of the employees in that unit do not wish to be represented by an employee organization, requesting that the exclusive bargaining representative be decertified, and indicating the name, address and telephone number of the exclusive bargaining representative and any other interested employee organization, if known. Upon the verification of the signatures on the petition, the commission shall conduct an election by secret ballot as prescribed by subsection (3) of this section. [1975 1st ex.s. c 288 § 8.]

41.59.080 Determination of bargaining unit—Standards. The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; and

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; and

(4) A unit that includes both principals and assistant principals and other supervisory employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts. [1975 1st ex.s. c 288 § 9.]

41.59.090 Certification of exclusive bargaining representative—Scope of representation. The employee organization which has been determined to represent a

majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent all the employees within the unit without regard to membership in that bargaining representative: *Provided*, That any employee at any time may present his grievance to the employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, as long as such representative has been given an opportunity to be present at that adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect. [1975 1st ex.s. c 288 § 10.]

41.59.100 Union security provisions—Scope—Agency shop provision, collection of dues or fees. A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. [1975 1st ex.s. c 288 § 11.]

41.59.110 Commission, rules and regulations of—Federal precedents as standard. (1) The commission shall promulgate, revise, or rescind, in the manner prescribed by the administrative procedure act, chapter 34.04 RCW, such rules and regulations as it may deem necessary and appropriate to administer the provisions of this chapter, in conformity with the intent and purpose of this chapter, and consistent with the best standards of labor-management relations.

(2) The rules, precedents, and practices of the national labor relations board, provided they are consistent with this chapter, shall be considered by the commission in its interpretation of this chapter, and prior to adoption of any aforesaid commission rules and regulations. [1975 1st ex.s. c 288 § 12.]

41.59.120 Resolving impasses in collective bargaining—Mediation—Fact-finding with recommendations—Other. (1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator

for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact-finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact-finder or to obtain such a commitment within that time, either party may request the commission to designate a fact-finder. The commission, within five days after receipt of such request, shall designate a fact-finder in accordance with rules and regulations for such designation prescribed by the commission. The fact-finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact-finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact-finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact-finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact-finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is

not settled within five days after their receipt from the fact-finder.

(4) The costs for the services of the fact-finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact-finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state. [1975 1st ex.s. c 288 § 13.]

41.59.130 Binding arbitration procedures authorized.

An employer and an exclusive bargaining representative who enter into a collective bargaining agreement may include in such agreement procedures for binding arbitration of such disputes as may arise involving the interpretation or application of such agreement. [1975 1st ex.s. c 288 § 14.]

41.59.140 Unfair labor practices for employer, employee organization, enumerated. (1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in RCW 41.59.060.

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: *Provided*, That subject to rules and regulations made by the commission pursuant to RCW 41.59.110, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment or any term or condition of employment, but nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100;

(d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under *this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed in RCW 41.59.060: *Provided*, That this paragraph shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership

therein; or (ii) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, provided it is the representative of its employees subject to RCW 41.59.090.

(3) The expressing of any views, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of *this chapter, if such expression contains no threat of reprisal or force or promise of benefit. [1975 1st ex.s. c 288 § 15.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 15] language here reads "this act" or "this 1975 act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.150 Commission to prevent unfair labor practices—Scope. (1) The commission is empowered to prevent any person from engaging in any unfair labor practice as defined in RCW 41.59.140. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, equity or otherwise.

(2) If the commission determines that any person has engaged in or is engaging in any such unfair labor practices as defined in RCW 41.59.140, then the commission shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and/or the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or wherein the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief. [1975 1st ex.s. c 288 § 16.]

41.59.160 Applicability of administrative procedure act provisions to commission action. Actions taken by or on behalf of the commission shall be pursuant to chapter 34.04 RCW, or rules and regulations adopted in accordance therewith, and the right of judicial review provided by chapter 34.04 RCW shall be applicable to all such actions and rules and regulations. [1975 1st ex.s. c 288 § 17.]

41.59.170 Effective date of certain agreements—Increased benefits during agreement authorized, when. (1) Whenever a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same employees, the effective date of such collective

bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with such effective date as established by this subsection, and may also accrue beginning with the effective date of any individual employee contracts affected thereby.

(2) Any collective bargaining agreement may provide for the increase of any wages, salaries and other benefits during the term of such agreement or the term of any individual employee contracts concerned, in the event that the employer receives by increased appropriation or from other sources, additional moneys for such purposes. [1975 1st ex.s. c 288 § 18.]

41.59.180 Employees in specialized job category may be excluded, when. Notwithstanding the definition of "employee" in RCW 41.59.020, the commission may exclude from the coverage of *this chapter any specialized job category of an employer where a majority of the persons employed in that job category consists of noncertificated employees. At such time as a majority of such employees are certificated, the job category may be considered an appropriate unit under *this chapter. [1975 1st ex.s. c 288 § 23.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 23] language here reads "this 1975 amendatory act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.900 Short title. This chapter may be cited as the educational employment relations act. [1975 1st ex.s. c 288 § 1.]

41.59.910 Construction of chapter—Effect on existing agreements—Collective bargaining agreement prevails where conflict. This chapter shall supersede existing statutes not expressly repealed to the extent that there is a conflict between a provision of this chapter and those other statutes. Except as otherwise expressly provided herein, nothing in this chapter shall be construed to annul, modify or preclude the renewal or continuation of any lawful agreement entered into prior to January 1, 1976 between an employer and an employee organization covering wages, hours, and terms and conditions of employment. Where there is a conflict between any collective bargaining agreement and any resolution, rule, policy or regulation of the employer or its agents, the terms of the collective bargaining agreement shall prevail. [1975 1st ex.s. c 288 § 19.]

41.59.920 Construction of chapter—Employee's rights preserved. Except as otherwise expressly provided herein, nothing contained in *this chapter shall be construed to deny or otherwise abridge any rights, privileges or benefits granted by law to employees. [1975 1st ex.s. c 288 § 20.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 20] language here reads "this 1975 act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.930 Construction of chapter—Employer's responsibilities and rights preserved. Nothing in *this chapter shall be construed to interfere with the responsibilities and rights of the employer as specified by federal and state law, including the employer's responsibilities to students, the public, and other constituent elements of the institution. [1975 1st ex.s. c 288 § 24.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 24] language here reads "this act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

41.59.940 Effective date—1975 1st ex.s. c 288. Except for RCW 41.59.040, 41.59.050, 41.59.110 and 41.59.160 which shall take effect ninety days following enactment hereof, this chapter and RCW 28A.01.130 and 28A.67.065 as amended by chapter 288, Laws of 1975 1st ex. sess. shall take effect on January 1, 1976. Where the term "effective date of this chapter" is used elsewhere in this chapter it shall mean January 1, 1976. [1975 1st ex.s. c 288 § 26.]

Reviser's note: Engrossed Substitute Senate Bill No. 2500 which is chapter 288, Laws of 1975 1st ex. sess., was passed by the Senate May 28, 1975, passed by the House June 2, 1975 and approved by the governor July 2, 1975, with the exception of section 4 thereof, vetoed by the governor; it includes the repeal of chapter 28A.72 RCW in section 28 thereof.

41.59.950 Severability—1975 1st ex.s. c 288. If any provision of *this chapter, or its application to any person or circumstance is held invalid, the remainder of *the chapter, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 288 § 25.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 25] language here reads "this 1975 act" or "the act"; for translation thereof see Reviser's note (2) following RCW 41.59.020.

Title 42

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Chapter 42.17

DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

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42.17.010 Declaration of policy. It is hereby declared by the sovereign people to be the public policy of the state of Washington:

(1) That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.

(2) That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty, and fairness in their dealings.

(3) That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest.

(4) That our representative form of government is founded on a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people.

(5) That public confidence in government at all levels is essential and must be promoted by all possible means.

(6) That public confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.

(7) That the concept of attempting to increase financial participation of individual contributors in political campaigns is encouraged by the passage of the Revenue Act of 1971 by the Congress of the United States, and

in consequence thereof, it is desirable to have implementing legislation at the state level.

(8) That the concepts of disclosure and limitation of election campaign financing are established by the passage of the Federal Election Campaign Act of 1971 by the Congress of the United States, and in consequence thereof it is desirable to have implementing legislation at the state level.

(9) That small contributions by individual contributors are to be encouraged, and that not requiring the reporting of small contributions may tend to encourage such contributions.

(10) That the public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.

(11) That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this chapter shall be enforced so as to insure that the information disclosed will not be misused for arbitrary and capricious purposes and to insure that all persons reporting under this chapter will be protected from harassment and unfounded allegations based on information they have freely disclosed. [1975 1st ex.s. c 294 § 1; 1973 c 1 § 1 (Initiative Measure No. 276 § 1).]

42.17.020 Definitions. (1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, public official, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, city and county, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency.

(2) "Ballot proposition" means any "measure" as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision or other voting constituency from and after the time when such proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(3) "Campaign depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

(4) "Campaign treasurer" and "deputy campaign treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

(5) "Candidate" means any individual who seeks election to public office. An individual shall be deemed to seek election when he first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(b) Announces publicly or files for office.

(6) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(7) "Commission" means the agency established under RCW 42.17.350.

(8) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: *Provided*, That for the purpose of compliance with RCW 42.17.240, as now or hereafter amended, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while such official is engaged in the official business of such governmental entity.

(9) "Continuing political committee" means a political committee which is an organization of continuing existence not established in anticipation of any particular election.

(10) "Contribution" includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services for less than full consideration, but does not include interest on moneys deposited in a political committee's account, ordinary home hospitality and the rendering of "part time" personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of twenty-five dollars personally paid for by such worker. "Part time" services, for the purposes of this chapter, means services in addition to regular full time employment, or, in the case of an unemployed person, services not in excess of twenty hours per week, excluding weekends. For the purposes of this chapter, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets to fund-raising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this chapter, by the actual cost of consumables furnished in connection with the purchase of such tickets, and only the excess over actual cost of such consumables shall be deemed a contribution.

(11) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(12) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: *Provided*. That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(13) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(14) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported, or payment of service charges against a political committee's campaign account.

(15) "Final report" means the report described as a final report in RCW 42.17.080(2).

(16) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household.

(17) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter which may be the subject of action by either house, or any committee of the legislature and all bills and resolutions which having passed both houses, are pending approval by the governor.

(18) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure acts, chapter 34.04 RCW and chapter 28B.19 RCW.

(19) "Lobbyist" includes any person who shall lobby either in his own or another's behalf.

(20) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he is compensated for acting as a lobbyist.

(21) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(22) "Person in interest" means the person who is the subject of a record or any representative designated by said person, except that if such person be under a legal disability, the term "person in interest" shall mean and include the parent or duly appointed legal representative.

(23) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(24) "Political committee" means any person (except a candidate or an individual dealing with his own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(25) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(26) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(27) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires. [1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276 § 2).]

CAMPAIGN FINANCING

42.17.040 Obligation of political committees to file statement of organization. (1) Every political committee, within ten days after its organization or, within ten days after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor of the county in which the candidate resides (or in the case of a political committee supporting or opposing a ballot proposition, the county in which the campaign treasurer resides). Each political committee in existence on the effective date of this act shall file a statement of organization with the commission within ninety days after such effective date.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;

(d) The name and address of its campaign treasurer and campaign depository;

(e) A statement whether the committee is a continuing one;

(f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made in the event of dissolution;

(i) The hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.065 and 42.17.080, as now or hereafter amended; and

(j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county auditor within the ten days following the change. [1975 1st ex.s. c 294 § 3; 1973 c 1 § 4 (Initiative Measure No. 276 § 4).]

Effective date—1973 c 1: See RCW 42.17.900.

42.17.060 Deposit of contributions—Statement of campaign treasurer—Unidentified contributions. (1) All monetary contributions received by a candidate or political committee shall be deposited by the campaign treasurer or deputy treasurer in a campaign depository in an account designated, "Campaign Fund of -----" (name of candidate or political committee).

(2) All deposits made by a campaign treasurer or deputy campaign treasurer shall be accompanied by a statement containing the name of each person contributing the funds so deposited and the amount contributed by each person: *Provided*, That contributions not exceeding ten dollars from any one person may be deposited without identifying the contributor. The statement shall be in triplicate, upon a form prescribed by the commission, one copy to be retained by the campaign depository for its records for the minimum term of three years, one copy to be filed by the campaign treasurer with the commission, and one copy to be retained by the campaign treasurer for his records. In the event of deposits made by a deputy campaign treasurer, the third copy shall be forwarded to the campaign treasurer to be retained by him for his records. Each statement shall be certified as correct by the campaign treasurer or deputy campaign treasurer making the deposit.

(3) Political committees which support or oppose more than one candidate or ballot proposition, or exist

for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose: *Provided*, That each such account shall bear the same name followed by an appropriate designation which accurately identifies its separate purpose: *And provided further*, That transfers of funds which must be reported under RCW 42.17.090(1)(d), as now or hereafter amended, may not be made from more than one such account.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's campaign treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), shall not be deposited, used, or expended, but shall be returned to the donor, if his identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund. [1975 1st ex.s. c 294 § 4; 1973 c 1 § 6 (Initiative Measure No. 276 § 6).]

42.17.065 Filing and reporting by continuing political committee. (1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060.

(2) A continuing political committee shall file with the commission and the auditor of the county in which the committee treasurer resides a report on the tenth day of the month detailing its activities for the preceding calendar month in which the committee has received a contribution or made an expenditure: *Provided*, That interest on moneys deposited or service charges shall not be deemed contributions or expenditures. The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17.090;

(b) Each expenditure made to retire previously accumulated debts of the committee; identified by recipient, amount, and date of payments;

(c) Such other information as the commission shall by rule prescribe.

(3) If a continuing political committee shall make a contribution in support of or in opposition to a candidate or ballot proposition within sixty days prior to the date on which such candidate or ballot proposition will be voted upon, such continuing political committee shall report pursuant to RCW 42.17.080, as now or hereafter amended, until twenty-one days after said election.

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the campaign treasurer shall cease and there shall be no obligation to make any further reports.

(5) The campaign treasurer shall maintain books of account in accordance with generally accepted accounting principles reflecting all contributions and expenditures on a current basis within three business days of receipt or expenditure. During the eight days immediately preceding the date of any election, for which the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040 as now or hereafter amended, at the principal campaign headquarters or, if there is no campaign headquarters, at the address of the campaign treasurer.

(6) All reports filed pursuant to this section shall be certified as correct by the campaign treasurer. [1975 1st ex.s. c 294 § 5.]

42.17.080 Candidates' and treasurers' duty to report.

(1) On the day the campaign treasurer is designated, each candidate or political committee shall file with the commission and the county auditor of the county in which the candidate resides (or in the case of a political committee supporting or opposing a ballot proposition, the county in which the campaign treasurer resides), in addition to any statement of organization required under RCW 42.17.040, a report of all contributions received and expenditures made in the election campaign prior to that date.

(2) At the following intervals each campaign treasurer shall file with the commission and the county auditor of the county in which the candidate resides (or in the case of a political committee supporting or opposing a ballot proposition the county in which the campaign treasurer resides) a further report of the contributions received and expenditures made since the date of the last report:

(a) On the fifth and nineteenth days immediately preceding the date on which the election is held; and

(b) Within ten days after the date of a primary election, and within twenty-one days after the date of all other elections; and

(c) On the tenth day of each month preceding the election in which no other reports are required to be filed under this section: *Provided*, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month. Interest on moneys deposited or service charges shall not be deemed contributions or expenditures.

The report filed under paragraph (b) above shall be the final report if there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and if in the case of a political committee, the committee has ceased to function and has dissolved. If the candidate or political committee has any outstanding debt or obligation, additional reports shall be filed at least once every six months until the obligation or indebtedness is entirely satisfied at which time a final report shall be filed. Upon

submitting a final report, the duties of the campaign treasurer shall cease and there shall be no obligation to make any further reports.

(3) The campaign treasurer shall maintain books of account in accordance with generally accepted accounting principles reflecting all contributions and expenditures on a current basis within three business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day and shall be open for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040 as now or hereafter amended, at the principal campaign headquarters or, if there is no campaign headquarters, at the address of the campaign treasurer.

(4) All reports filed pursuant to this section shall be certified as correct by the candidate and the campaign treasurer.

(5) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040 as now or hereafter amended, at the principal campaign headquarters or, if there is no campaign headquarters, at the address of the campaign treasurer. [1975 1st ex.s. c 294 § 6; 1973 c 1 § 8 (Initiative Measure No. 276 § 8).]

42.17.090 Contents of report. (1) Each report required under RCW 42.17.080 shall disclose for the period beginning at the end of the period for the last report or, in the case of an initial report, at the time of the first contribution or expenditure, and ending not more than three days prior to the date the report is due:

(a) The funds on hand at the beginning of the period;

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the preceding twelve-month period: *Provided*, That contributions not exceeding ten dollars in aggregate from any one person during the election campaign may be reported as one lump sum so long as the campaign treasurer maintains a separate and private list of the names, addresses, and amounts of each such contributor;

(c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(d) The name and address of each political committee from which the reporting committee or candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts, dates, and purpose of all such transfers;

(e) All other contributions not otherwise listed or exempted:

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of twenty-five dollars or more, and the amount, date, and purpose of each such expenditure;

(g) The total sum of expenditures;

(h) The surplus or deficit of contributions over expenditures;

(i) The disposition made of any surplus of contributions over expenditures;

(j) Such other information as shall be required by the commission by regulation in conformance with the policies and purposes of this chapter; and

(k) Funds received from a political committee not domiciled in Washington state and not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee or the recipient of such funds has filed or within three days following such receipt shall file with the commission a statement disclosing: (i) its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) a statement whether the nonreporting committee is a continuing one; (v) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (vi) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vii) the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions to the nonreporting committee during the preceding twelve-month period, together with the money value and date of such contributions; (viii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of twenty-five dollars or more, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (ix) such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter.

(2) The campaign treasurer and the candidate shall certify the correctness of each report. [1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276 § 9).]

42.17.120 Identification of contributions and communications. No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment. [1975 1st ex.s. c 294 § 8; 1973 c 1 § 12 (Initiative Measure No. 276 § 12).]

LOBBYIST REPORTING

42.17.155 Photograph and information—Booklet—Publication—Lobbyists' booklet revolving fund.

(1) Each lobbyist shall at the time he registers submit to the commission a recent three inch by five inch black-and-white photograph of himself together with the name of the lobbyist's employer, the length of his employment as a lobbyist before the legislature, a brief biographical description, and any other information he may wish to submit not to exceed fifty words in length; such photograph and information to be published at least annually in a booklet form by the commission for distribution to legislators and the public.

(2) There is established a fund to be known as the "lobbyists' booklet revolving fund" which shall consist of all receipts from sales of the booklets described in subsection (1) of this section. This fund shall be used for expenses of production and sale of such booklets and for no other purpose. [1975 1st ex.s. c 294 § 21.]

42.17.160 Exemption from registration. The following persons and activities shall be exempt from registration and reporting under RCW 42.17.150, 42.17.170, 42.17.190, and 42.17.200:

(1) Persons who limit their lobbying activities to appearance before public sessions of committees of the legislature, or public hearings of state agencies.

(2) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station.

(3) Persons who lobby without compensation or other consideration for acting as a lobbyist: *Provided*, Such person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. Any person exempt under this subsection (3) may at his option register and report under this chapter.

(4) Persons who restrict their lobbying activities to no more than four days or parts thereof during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed fifteen dollars: *Provided*, That the commission shall promulgate regulations to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (4) may at his option register and report under this chapter.

(5) The governor.

(6) The lieutenant governor.

(7) Except as provided by RCW 42.17.190(1), members of the legislature.

(8) Except as provided by RCW 42.17.190(1), persons employed by the legislature for the purpose of aiding in

the preparation or enactment of legislation or the performance of legislative duties.

(9) Except as provided by RCW 42.17.190 elected state officers, state officers appointed by the governor subject to confirmation by the senate, and employees of any state agency. [1975 1st ex.s. c 294 § 9; 1973 c 1 § 16 (Initiative Measure No. 276 § 16).]

42.17.170 Reporting by lobbyists. (1) Any lobbyist registered under RCW 42.17.150 and any person who lobbies shall file with the commission periodic reports of his activities signed by both the lobbyist and the lobbyist's employers. The reports shall be made in the form and manner prescribed by the commission. They shall be due quarterly and shall be filed within thirty days after the end of the calendar quarter covered by the report. In addition to the quarterly reports, while the legislature is in session, any lobbyist who lobbies with respect to any legislation shall file interim weekly periodic reports for each week that the legislature is in session, which reports need be signed only by the lobbyist and which shall be filed on each Tuesday for the activities of the week ending on the preceding Saturday: *Provided*, That it shall not be necessary to file any such interim weekly periodic reports for any week during which no expenditure reportable under subsection (2) hereof was made by the reporting person.

(2) Each such quarterly and weekly periodic report shall contain:

(a) The totals of all expenditures made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report, which totals shall be segregated according to financial category, including food and refreshments; living accommodations; advertising; travel; telephone; contributions; office expenses, including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount thereof, paid or incurred for lobbying activities; and other expenses or services: *Provided however*, That unreimbursed personal living and travel expenses of a lobbyist not incurred directly or indirectly for any lobbying purpose need not be reported: *And provided further*, That the interim weekly reports of legislative lobbyists for the legislative session need show only the expenditures for food and refreshments; living accommodations; travel; contributions; and such other categories as the commission shall prescribe by rule. Each individual expenditure of more than fifteen dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein but without allocating any portion of such expenditure to individual participants.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(c) An itemized listing of each such expenditure in the nature of a contribution of money or of tangible or intangible personal property to any legislator, or for or on behalf of any legislator. All contributions made to,

or for the benefit of, any legislator shall be identified by date, amount, and the name of the legislator receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or rulemaking; the proposed rules, standards, rates, or other legislative enactments under chapter 34.04 RCW and chapter 28B.19 RCW (the state administrative procedure acts) and the state agency considering the same; and the number of each senate or house bill, resolution, or other legislative activity which the lobbyist has been engaged in supporting or opposing during the reporting period: *Provided*, That in the case of appropriations bills the lobbyist shall enumerate the specific section or sections which he supported or opposed. [1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276 § 17).]

42.17.180 Reports by employers of registered lobbyists. Every employer of a lobbyist registered under this chapter during the preceding calendar year shall file with the commission on or before March 31st of each year a statement disclosing for the preceding calendar year the following information:

(1) The name of each state elected official and the name of each candidate for state office who was elected to such office and any member of the immediate family of such persons to whom such employer has paid any compensation in the amount of five hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which such person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of such compensation in accordance with the reporting provisions set out in RCW 42.17.240(2), as now or hereafter amended, and the consideration given or performed in exchange for such compensation.

(2) The name of each state elected official, successful candidate for state office or members of his immediate family to whom the lobbyist employer made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of such expenditures and the purpose for such expenditures: *Provided*, That for the purposes of this subsection, the term expenditure shall not include any expenditure made by the employer in the ordinary course of business if such expenditure is not made for the purpose of influencing, honoring, or benefiting such elected official, successful candidate or member of his immediate family, as an elected official or candidate.

(3) The total expenditures made by the employer for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(4) All contributions made to a candidate for state office, to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(5) The name and address of each registered lobbyist employed by such employer.

(6) Such other information as the commission shall by rule prescribe. [1975 1st ex.s. c 294 § 11; 1973 c 1 § 18 (Initiative Measure No. 276 § 18).]

42.17.190 Legislative activities of state agencies and other units of government. (1) Every legislator and every committee of the legislature shall file with the commission quarterly reports listing the names, addresses, and salaries of all persons employed by the person or committee making the filing for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties of such legislator or committee during the preceding quarter. The reports shall be made in the form and the manner prescribed by the commission and shall be filed between the first and tenth days of each calendar quarter: *Provided*, That the information required by this subsection may be supplied, insofar as it is available, by the chief clerk of the house of representatives or by the secretary of the senate on a form prepared by the commission.

(2) Unless expressly authorized by law, no state funds shall be used directly or indirectly for lobbying: *Provided*, This shall not prevent state officers or employees from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: *Provided further*, That this subsection shall not apply to the legislative branch.

(3) Each state agency which expends state funds for lobbying pursuant to an express authorization by law or whose officers or employees communicate on legislation directly affecting the agency to members of the legislature on request of any member or communicate to the legislature requests for legislation shall file with the commission quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each employee engaged in such legislative activity, a general description of the nature of his legislative activities, and the proportionate amount of his time spent on such activities.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within thirty days after the end of the quarter covered by the report.

(4) The provisions of this section shall not relieve any state officer or any employee of a state agency from complying with other provisions of this chapter, if such officer or employee is not otherwise exempted. [1975 1st ex.s. c 294 § 12; 1973 c 1 § 19 (Initiative Measure No. 276 § 19).]

REPORTING OF ELECTED OFFICIALS FINANCIAL AFFAIRS

42.17.240 Elected officials reports of financial affairs.

(1) Every elected official (except president, vice president, and precinct committeemen) shall after January 1st and before January 31st of each year; and every candidate, and every person appointed to fill a vacancy in an elective office (except for the offices of president, vice president, and precinct committeeman) shall, within two weeks of becoming a candidate, or being appointed to such elective office, file with the commission a written statement sworn as to its truth and accuracy stating for himself and all members of his immediate family, for the preceding twelve months: *Provided*, That no individual shall be required to file more than once in any calendar year:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest which exceeded five thousand dollars at any time during such period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded five hundred dollars during such period; and the name, address, nature of entity, nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: *Provided*, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship and position as trustee held; and

(e) All persons for whom any legislation, or any rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: *Provided*, That for the purposes of this subsection, "compensation" shall not include payments made to an elected official by the governmental entity for which such person serves as an elected official for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of such compensation; and the consideration given or performed in exchange for such compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or

more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the elected official holds any elective office, if such entity has received compensation in any form during the preceding twelve months from such governmental unit, the value of such compensation and the consideration given or performed in exchange for such compensation; (ii) The name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which such entity has received compensation in any form in the amount of two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for such compensation: *Provided*, That the term "compensation" for purposes of this subsection (1)(g)(ii) shall not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing such service; (iii) The name, address, and occupation of every other director and/or officer of any bank or commercial lending institution, the name of which is required to be reported under this subsection or all interest paid by a borrower on loans from and all interest paid to a depositor by such bank or commercial lending institution if such interest exceeds six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for such interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for such interest, and the name and address of the person furnishing such consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which a direct financial interest was held: *Provided*, That if a description of such property has been included in a report previously filed, such property may be listed, for purposes of this provision, by reference to such previously filed report;

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation,

partnership, firm or enterprise a ten percent or greater ownership interest was held; and

(1) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall by rule prescribe.

(2) Where an amount is required to be reported under subsection (1), paragraphs (a) through (k) of this section, it shall be sufficient to comply with such requirement to report whether the amount is less than one thousand dollars, at least one thousand dollars but less than five thousand dollars, at least five thousand dollars but less than ten thousand dollars, at least ten thousand dollars but less than twenty-five thousand dollars, or twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection shall be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Elected officials and candidates reporting under this section shall not be required to file the statements required to be filed with the secretary of state under RCW 42.21.060. [1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276 § 24).]

PUBLIC RECORDS

42.17.260 Documents and indexes to be made public.

(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records. To the extent required to prevent an unreasonable invasion of personal privacy, an agency shall delete identifying details when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) Each agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the

state, the public, a subdivision of state government, or of any private party.

(3) An agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(4) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if—

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(5) This chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law: *Provided, however,* That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: *Provided further,* That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.04 RCW. [1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276 § 26).]

42.17.270 Facilities for copying—Availability of public records. Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter. [1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276 § 27).]

42.17.290 Protection of public records—Public access. Agencies shall adopt and enforce reasonable rules and regulations, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies from honoring requests received by mail for copies of identifiable public records. [1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276 § 29).]

42.17.310 Certain personal and other records exempt.

(1) The following shall be exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, except as the complainant may authorize: *Provided,* That this subsection shall not apply to persons who file complaints with the public disclosure commission about any elected official or candidate for elective office: *Provided, further,* That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(2) The exemptions of this section shall be 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 shall 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. [1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276 § 31).]

42.17.315 Certain records obtained by colleges, universities, libraries or archives exempt. Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, as now or hereafter amended, no state college, university, library, or archive shall be required by chapter 42.17 RCW to make available for public inspection and copying any records or documents obtained by said college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to such records or documents: *Provided*, That this section shall not apply to any public records as defined in RCW 40.14.010. [1975 1st ex.s. c 294 § 22.]

42.17.320 Prompt responses required. Responses to requests for public records shall be made promptly by agencies. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action for the purposes of judicial review. [1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276 § 32).]

42.17.330 Court protection of public records. The examination of any specific public record may be enjoined if, upon motion and affidavit, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. [1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276 § 33).]

42.17.340 Judicial review of agency actions. (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a

record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is required.

(2) Judicial review of all agency actions taken or challenged under RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section.

(3) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not to exceed twenty-five dollars for each day that he was denied the right to inspect or copy said public record. [1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276 § 34).]

ADMINISTRATION AND ENFORCEMENT

42.17.350 Public disclosure commission—Established—Membership—Per diem. There is hereby established a "Public Disclosure Commission" which shall be composed of five members who shall be appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party. The original members shall be appointed within sixty days after the effective date of this act. The term of each member shall be five years except that the original five members shall serve initial terms of one, two, three, four, and five years, respectively, as designated by the governor. No member of the commission, during his tenure, shall (1) hold or campaign for elective office; (2) be an officer of any political party or political committee; (3) permit his name to be used, or make contributions, in support of or in opposition to any candidate or proposition; (4) participate in any way in any election campaign; or (5) lobby or employ or assist a lobbyist. No member shall be eligible for appointment to more than one full term. A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission. Three members of the commission shall constitute a quorum. The commission shall elect its own chairman and adopt its own rules of procedure in the manner provided in chapter 34.04 RCW. Any member of the commission may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

Each member shall receive per diem in the amount of forty dollars in lieu of expenses for each day or portion thereof spent in performance of his duties as a member of the commission, and in addition shall be reimbursed for travel expenses actually incurred while engaged in the business of the commission as provided in chapter 43.03 RCW. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state.

Nothing in this section shall prohibit the commission, or any of its members or staff on the authority of the commission, from responding to communications from the legislature or any of its members or from any state agency or from appearing and testifying at an open public meeting (as defined by RCW 42.30.030) or a hearing to adopt rules held pursuant to RCW 34.04.025 on matters directly affecting the exercise of their duties and powers under this chapter. [1975 1st ex.s. c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276 § 35).]

Effective date—1973 c 1: See RCW 42.17.900.

42.17.370 Commission—Additional powers. The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules and regulations to carry out the policies and purposes of this chapter, which rules and regulations shall be promulgated pursuant to the provisions of chapter 34.04 RCW;

(2) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(3) Make from time to time, on its own motion, audits and field investigations;

(4) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(5) 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 commission deems relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(6) Adopt and promulgate a code of fair campaign practices;

(7) Relieve, by published regulation of general applicability, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars; and

(8) Enact regulations prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties,

cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information", for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his regular examination of each agency under chapter 43.09 RCW shall review such regulations, accounts, and reports and make appropriate findings, comments, and recommendations in his examination reports concerning those agencies.

(9) The commission, after hearing, by order approved and ratified by a majority of the membership of the commission, may suspend or modify any of the reporting requirements hereunder in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that such suspension or modification will not frustrate the purposes of the chapter. Any such suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required hereunder. Any citizen shall have standing to bring an action in Thurston county superior court to contest the propriety of any order entered hereunder within one year from the date of the entry of such order. [1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276 § 37).]

42.17.380 Secretary of state, attorney general—

Duties. (1) The secretary of state, through his office, shall perform such ministerial functions as may be necessary to enable the commission to carry out its responsibilities under this chapter. The office of the secretary of state shall be designated as the place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.

(2) The attorney general, through his office, shall supply such assistance as the commission may require in order to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter. [1975 1st ex.s. c 294 § 26; 1973 c 1 § 38 (Initiative Measure No. 276 § 38).]

42.17.400 Enforcement. (1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390.

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to

appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or the production of the accounts, bills, receipts, books, papers, and documents which may be relevant or material to any investigation authorized under this chapter, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, shall be effective state-wide, and, upon application of the attorney general or said prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and such action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) Any person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter. This citizen action may be brought only if the attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after such notice and such person has thereafter further notified the attorney general and prosecuting attorney that said person will commence a citizen's action within ten days upon their failure so to do, and the attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice. If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he shall be entitled to be reimbursed by the state of Washington for costs and attorney's fees he has incurred: *Provided*, That in the case of a citizen's action which is dismissed and which the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable attorney's fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including a reasonable attorney's fee to be fixed by the court. If the violation is found to have been

intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he shall be awarded all costs of trial, and may be awarded a reasonable attorney's fee to be fixed by the court to be paid by the state of Washington. [1975 1st ex.s. c 294 § 27; 1973 c 1 § 40 (Initiative Measure No. 276 § 40).]

42.17.911 Severability—1975 1st ex.s. c 294. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 294 § 29.]

Chapter 42.20 MISCONDUCT OF PUBLIC OFFICERS

School officials, beneficial interests in contracts prohibited—Second and third class school districts—Exception: RCW 28A.60.355.

Chapter 42.23 CODE OF ETHICS FOR MUNICIPAL OFFICERS—CONTRACT INTERESTS

School officials, beneficial interests in contracts prohibited—Second and third class districts—Exception: RCW 28A.60.355.

Chapter 42.24 PAYMENT OF CLAIMS FOR EXPENSES, MATERIAL, PURCHASES—ADVANCEMENTS

Sections

42.24.035 Manner of payment for postage, books and periodicals.

42.24.035 Manner of payment for postage, books and periodicals. Notwithstanding the provisions of chapter 42.24 RCW or any other existing statute, school districts and other public agencies including but not limited to state agencies and municipal corporations which are expressly or by necessary implication authorized to subscribe to magazines or other periodical publications or books or to purchase postage or publications from the United States government or any other publisher may make payment of the costs of such purchases in a manner as consistent as possible and practicable with normal and usual business methods, and in the case of subscriptions, for periods not in excess of three years. [1975 1st ex.s. c 72 § 1; 1963 c 116 § 1.]

Chapter 42.28 NOTARIES PUBLIC AND COMMISSIONERS OF DEEDS

Sections

42.28.030 Bond, fee, seal or stamp, oath of office.

42.28.035 Rubber stamp may be used by notary public.

- 42.28.060 Seal or stamp must be affixed—Judicial papers excepted.
- 42.28.070 Record of notices of protest.
- 42.28.090 Fees of notary—Collection of fees by public officers.

42.28.030 Bond, fee, seal or stamp, oath of office.

Before a commission shall issue to the person appointed he shall—(1) execute a bond, payable to the state of Washington, in the sum of one thousand dollars, with sureties to be approved by the county clerk of the county in which the applicant resides, conditioned for the faithful discharge of the duties of his office; (2) pay into the state treasury the sum of ten dollars for special state library fund [state general fund], taking the treasurer's receipt therefor; (3) procure a seal or stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington", and date of expiration of his commission, with surname in full, and at least the initials of his Christian name; (4) to take and subscribe the oath of office required of state officers; (5) file the said oath of office, bond and treasurer's receipt in the office of the secretary of state, and before performing any official acts, shall file in the office of the secretary of state a clear impression of his official seal or stamp, which seal or stamp shall be approved by the governor: *Provided*, That if a stamp is used the following requirements shall apply:

- (1) The type shall be a minimum of 8 point type.
- (2) The stamp shall be two inches minimal in diameter.
- (3) The imprint shall be affixed with indelible ink only.
- (4) The face of any notary stamp shall contain permanently affixed letters and numerals and shall not be preprinted. [1975 1st ex.s. c 85 § 1; 1890 p 473 § 3; RRS § 9901. Prior: Code 1881 § 2616; 1873 p 467 § 3; 1869 p 376 § 3; 1863 p 52 § 3; 1854 p 545 § 5.]

Reviser's note: Since the enactment of 1907 c 8 § 1 (RCW 43.79-.010) the fee herein specified to be paid into the special state library fund has been paid into the state general fund.

Official bonds: Chapter 42.08 RCW.

42.28.035 Rubber stamp may be used by notary public. Notwithstanding any other provision of law, any requirement that a notary public affix his seal or his official seal shall be fully satisfied if such notary uses instead a rubber stamp which complies with the requirements of RCW 42.28.030 as now or hereafter amended. [1975 1st ex.s. c 85 § 5.]

42.28.060 Seal or stamp must be affixed—Judicial papers excepted. It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of his official seal or stamp, but in all other cases when the notary public shall sign any instrument officially, he shall, in addition to his name and the words "Notary Public", add his place of residence and affix his official seal or stamp. [1975 1st ex.s. c 85 § 2; 1890 p 474 § 5; RRS § 9904. Prior: Code 1881 § 2619; 1873 p 468 § 7; 1869 p 376 § 5; 1862 p 52 § 5.]

Corporate seals—Effect of absence from instrument: RCW 64.04.105.

42.28.070 Record of notices of protest. Every notary public is required to keep a true record of all notices of protest given or sent by him, with the time and manner in which the same were given or sent, and the names of all the parties to whom the same were given or sent, with the copy of the instrument in relation to which the notice is served, and of the notice itself; said record, or a copy thereof, duly certified under the hand and seal or stamp of the notary public, or county clerk having the custody of the original record, shall be competent evidence to prove the facts therein stated, but the same may be contradicted by other competent evidence. [1975 1st ex.s. c 85 § 3; 1890 p 474 § 6; RRS § 9905. Prior: Code 1881 § 2620; 1877 p 254 § 7; 1873 p 469 § 8.]

Protests of bills of exchange: RCW 62A.3-501, 62A.3-502, 62A.3-509, 62A.3-511.

42.28.090 Fees of notary—Collection of fees by public officers. Notaries public may make but not exceed the following charges for their services:

Protest of a bill of exchange or promissory note, one dollar;

Attesting any instrument of writing with or without seal or stamp, one dollar;

Taking acknowledgment, two persons, with seal or stamp, one dollar;

Taking acknowledgment, each person over two, fifty cents;

Certifying affidavit, with or without seal or stamp, one dollar;

Registering protest of bill of exchange or promissory note for nonacceptance or nonpayment, fifty cents;

Being present at demand, tender, or deposit, and noting the same, besides mileage at the rate of ten cents per mile, fifty cents;

Noting a bill of exchange or promissory note, for nonacceptance or nonpayment, fifty cents;

For copying any instrument or record, per folio, besides certificate and seal or stamp, fifteen cents.

All public officers who are paid a salary in lieu of fees shall collect the prescribed fees for the use of the state or county as the case may be. [1975 1st ex.s. c 85 § 4; 1951 c 51 § 7; 1907 c 56 § 1, part; RRS § 9907. Prior: (i) 1903 c 151 § 1; 1893 c 130 § 1; Code 1881 § 2086; 1869 p 371 § 6; 1863 p 396; 1861 p 39; 1854 p 373. (ii) 1890 p 475 § 8; Code 1881 § 2622; 1877 p 254 § 9; 1873 p 469 § 10; 1869 p 375 § 2; 1863 p 501 § 2.]

Daily remittance of moneys to state treasurer required: RCW 43.01.050.

Disposition of fees: RCW 42.16.030.

Payment of fees to county treasurer: RCW 36.18.140.

Title 43

STATE GOVERNMENT—EXECUTIVE

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Chapter 43.01

STATE OFFICERS—GENERAL PROVISIONS

Sections

- 43.01.150 Power to employ or appoint personnel not to include
authority to provide state owned or leased motor
vehicle.

Actions against, defense by state: RCW 10.01.150.

43.01.150 Power to employ or appoint personnel not to include authority to provide state owned or leased motor vehicle. Notwithstanding any other provision of law, whenever any state agency, institution of higher education, or other appointing authority is empowered to employ or appoint administrators or other personnel and to fix their compensation, such power, in the absence of a specific contrary statutory authorization to the agency, institution of higher education, or appointing authority, shall not extend to the power to provide a state owned or leased motor vehicle for any use other than official state business. [1975 1st ex.s. c 33 § 1.]

Providing motor vehicle transportation services for public employees: RCW 43.19.560–43.19.635.

Chapter 43.03 SALARIES AND EXPENSES

Sections

- 43.03.010 Salaries of elective state officers.
- 43.03.015 Emoluments of office for appointees to office of state
legislator.

43.03.010 Salaries of elective state officers. The annual salaries of the following named state elected officials shall be: Governor, forty-two thousand one hundred fifty dollars; lieutenant governor, seventeen thousand eight hundred dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death or disability of the governor; secretary of state, twenty-one thousand four hundred dollars; state treasurer, twenty-four thousand one hundred fifty dollars; state auditor, twenty-four thousand nine hundred fifty dollars; attorney general, thirty-one thousand five hundred dollars; superintendent of public instruction, thirty-one thousand five hundred dollars; commissioner of public lands, twenty-nine thousand two hundred fifty dollars; state insurance commissioner, twenty-four thousand fifty dollars; members of the legislature shall receive for their service three thousand eight hundred dollars per annum; and in addition, ten cents per mile for travel to and from legislative sessions. [1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010. Prior: 1965 c 1 § 2; 1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965–1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Severability—1975 1st ex.s. c 263: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 263 § 7.]

Effective date—1975 1st ex.s. c 263: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 263 § 8.]

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): "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." [Initiative Measure No. 282 § 7.]

43.03.015 Emoluments of office for appointees to office of state legislator.

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

Chapter 43.08 STATE TREASURER

Sections

43.08.061 Warrants—Public printer to print—Retention of redeemed warrants.

Actions against state on warrant appearing to be redeemed: RCW 4.92.200.

43.08.061 Warrants—Public printer to print—Retention of redeemed warrants. The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of six years, following their issuance, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW. [1975 c 48 § 2.]

Actions against state on redeemed warrants, time limitation: RCW 4.92.200.

Chapter 43.09 STATE AUDITOR

Sections

DEPARTMENTAL AUDITS

43.09.310 Post-audit of state departments—Periodic audits—Reports—Filing (as amended by 1975 1st ex.s. c 193).

43.09.310 Post-audit of state departments—Periodic audits—Reports—Filing (as amended by 1975 1st ex.s. c 293).

Studies and adoption of classifications for school district budgets—Publication: RCW 28A.03.350.

DEPARTMENTAL AUDITS

43.09.310 Post-audit of state departments—Periodic audits—Reports—Filing (as amended by 1975 1st ex.s. c 193). The state auditor, through the division of departmental audits, shall make a post-audit of every state department at such reasonable periodic intervals as he shall determine but in each case an audit shall be conducted every two years: *Provided*, That for any state department whose biennial appropriation is less than six hundred thousand dollars, such interval may exceed two years, but shall not exceed five years. A report of each post-audit upon completion thereof, shall be made in sextuplet, and one copy shall be transmitted to the governor, one to the director of the office of program planning and fiscal management, one to the attorney general, one to the state department audited, one to the legislative budget committee, and one shall be kept on file in the office of the state auditor. [1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310. Prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

43.09.310 Post-audit of state departments—Periodic audits—Reports—Filing (as amended by 1975 1st ex.s. c 293). The state auditor, through the division of departmental audits, shall make a post-audit of every state department at such reasonable periodic intervals as he shall determine but in each case an audit shall be conducted every two years. A report shall be made of each post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of the office of program planning and fiscal management, one to the attorney general, one to the state department audited, one to the legislative budget 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. [1975 1st ex.s. c 293 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310. Prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

Reviser's note: RCW 43.09.310 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

Reports of post-audits: RCW 43.88.160(3).

Chapter 43.10 ATTORNEY GENERAL

Sections

43.10.030 General powers and duties.

Criminal charges arising from official acts of state officers or employees—Defense: RCW 10.01.150.

43.10.030 General powers and duties. The attorney general shall:

(1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;

(2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer;

(3) Defend all actions and proceedings against any state officer or employee acting in his official capacity, in any of the courts of this state or the United States;

(4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he shall attend the trial of any person accused of a crime, and assist in the prosecution;

(5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;

(6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;

(7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;

(8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;

(9) Keep in proper books a record of all cases prosecuted or defended by him, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his successor in office;

(10) Keep books in which he shall record all the official opinions given by him during his term of office, and deliver the same to his successor in office;

(11) Pay into the state treasury all moneys received by him for the use of the state. [1975 c 40 § 5; 1971 c 81 § 109; 1965 c 8 § 43.10.030. Prior: (i) 1929 c 92 § 3; RRS § 112. (ii) 1929 c 92 § 4; RRS § 11032; prior: 1891 c 55 § 2; 1888 p 8 § 6.]

Chapter 43.17
ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections

- 43.17.080 through 43.17.090 Repealed.
- 43.17.100 Official bonds.

43.17.080 through 43.17.090 Repealed. See supplementary Table of Disposition of Former RCW Sections, this volume.

43.17.100 Official bonds. Before entering upon the discharge of the duties of his office or employment, every appointive state officer and employee of the state shall give a surety bond, payable to the state, in such sum as is provided by law or in such sum as shall be deemed necessary by the director of the department of general administration, conditioned for the faithful performance of the duties of the office or employment, and accounting for all property of the state that shall come into his possession by virtue of his office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state. [1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

Chapter 43.19
DEPARTMENT OF GENERAL ADMINISTRATION

Sections

- 43.19.010 Divisions of department—Authority and salary of director.
- 43.19.030 Oath and bond of examiners—Liability for acts performed in good faith.
- 43.19.1925 Combined purchases of commonly used items—Advance payments by state agencies—Costs of operating central stores.
- 43.19.1935 Insurance, public official bonds, procurement.
- 43.19.540 Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director.
- 43.19.560 Motor vehicle transportation service—Definitions.
- 43.19.565 Motor vehicle transportation service—Powers and duties.
- 43.19.570 Motor vehicle transportation service—Responsibilities—Agreements with other agencies—Facilities.
- 43.19.575 Passenger motor vehicles owned or operated by state agencies—Duty of OPPFM to establish policies as to acquisition, operation, authorized use, etc.
- 43.19.580 Motor vehicle transportation service—Automotive policy board—Members—Officers—Powers and duties.
- 43.19.585 Motor vehicle transportation service—Supervisor of motor transport—Powers and duties.
- 43.19.590 Motor vehicle transportation service—Transfer of employees—Retention of employment rights.
- 43.19.595 Motor vehicle transportation service—Transfer of motor vehicles, property, etc., from motor pool to department.
- 43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies.
- 43.19.605 Motor vehicle transportation service—Reimbursement for property transferred—Credits—Accounting—Disputes.
- 43.19.610 Motor vehicle transportation service—Motor transport account—Created—Sources—Disbursements.

- 43.19.615 Motor vehicle transportation service—Deposits—Disbursements.
- 43.19.620 Motor vehicle transportation service—Rules and regulations.
- 43.19.625 Employee commuting in state owned or leased vehicle—Policies and regulations.
- 43.19.630 Motor vehicle transportation service—Use of personal motor vehicle.
- 43.19.635 Motor vehicle transportation service—Unauthorized use of state vehicles—Procedure—Disciplinary action.

43.19.010 Divisions of department—Authority and salary of director. The department of general administration shall be organized into divisions, which shall include (1) the division of banking, (2) the division of savings and loan associations, (3) the division of capitol buildings, (4) the division of purchasing, (5) the division of engineering and architecture, and [(6)] the division of motor vehicle transportation service.

The director of general administration shall have charge and general supervision of the department. He may appoint and deputize such clerical and other assistants as may be necessary for the general administration of the department. The director of general administration shall receive a salary in an amount fixed by the governor. [1975 1st ex.s. c 167 § 1; 1965 c 8 § 43.19.010. Prior: 1959 c 301 § 1; 1955 c 285 § 4; 1955 c 195 § 6; 1935 c 176 § 11; prior: 1909 c 38 §§ 1–7; 1907 c 166 §§ 3–5; 1901 c 119 §§ 1–9; RRS § 10786–10.]

Severability—1975 1st ex.s. c 167: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1975 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 167 § 20.]

43.19.030 Oath and bond of examiners—Liability for acts performed in good faith. Before entering upon his office each bank examiner shall take and subscribe an oath faithfully to discharge the duties of his office and shall each execute to the state a bond to be approved by the governor in such sum as may be deemed necessary by the director of the department of general administration, with a surety company authorized to do business in this state, as surety, conditioned for the faithful performance of his duties. The premiums on such bonds shall be paid by the state.

Oaths and bonds shall be filed with the secretary of state.

Neither the supervisor of banking, any deputy supervisor, nor any bank examiner shall be personally liable for any act done by him in good faith in the performance of his duties. [1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210.]

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.1925 Combined purchases of commonly used items—Advance payments by state agencies—Costs of operating central stores. To supply such funds as may be necessary for making combined purchases of items or services of common use by central stores, state agencies shall, upon request of the division of purchasing, from time to time, make advance payments into the

central stores revolving fund from funds regularly appropriated to them for the procurement of supplies, equipment, and services: *Provided*, That advance payment for services shall be on a quarterly basis: *Provided further*, That any person, firm or corporation other than central stores rendering services for which advance payments are made shall deposit cash or furnish surety bond coverage to the state in an amount as shall be fixed 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. 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. Funds so advanced to central stores shall be used only for the combined procurement, storage, and delivery of such stocks of supplies, equipment, and services as are requisitioned by the agency and shall be offset and repaid to the respective state agencies by an equivalent value in merchandise supplied and charged out from time to time from central stores. Costs of operation of central stores may be recovered by charging as part of the value of materials, supplies, or services an amount sufficient to cover the costs of operating central stores. [1975 c 40 § 8; 1973 c 104 § 2; 1965 c 8 § 43.19.1925. Prior: 1959 c 178 § 13.]

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.1935 Insurance, public official bonds, procurement. As a means of providing for the procurement of insurance and public official bonds on a volume rate basis, the director of general administration through the division of purchasing shall purchase or contract for the needs of state agencies in relation to all such insurance and public official bonds: *Provided*, That the individual public official bonds of elected state officials, insurance requirements of colleges and universities, insurance requirements of toll project agencies, and insurance covering proprietary activities of state agencies, other than motor vehicle coverage, may be procured directly and independently by them. Insurance in force shall be reported periodically under rules established by the director.

The amounts of insurance or surety bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director of the department of general administration.

The premium cost for insurance acquired and surety bonds furnished shall be paid from appropriations made to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the division of purchasing prior to the issuance of the state warrant in payment therefor. [1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18.]

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.540 Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director. In addition to other powers and duties prescribed by this chapter, the director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his judgment their powers and duties are such as not to require a bond. [1975 c 40 § 13.]

43.19.560 Motor vehicle transportation service—Definitions. As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the state printer, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business. [1975 1st ex.s. c 167 § 2.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Power to appoint or employ personnel does not include power to provide state owned or leased vehicle: RCW 43.01.150.

43.19.565 Motor vehicle transportation service—Powers and duties. The department of general administration shall establish a motor vehicle transportation service which is hereby empowered to (1) provide suitable motor vehicle transportation services to any state agency on either a temporary or permanent basis upon requisition from a state agency and upon such demonstration of need as the department may require; (2) provide motor pools for the use of state agencies located in the Olympia and Seattle areas and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies.

Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department; (3) establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to cover replacement of vehicles and to recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles. Additions to capital such as the purchase of additional vehicles shall be budgeted and purchased from funds appropriated for such purposes under such procedures as may be provided by law. [1975 1st ex.s. c 167 § 3.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.570 Motor vehicle transportation service—Responsibilities—Agreements with other agencies—Facilities. (1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control;

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. Any such agreement shall be subject to the approval of the automotive policy board established pursuant to RCW 43.19.580. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature. [1975 1st ex.s. c 167 § 4.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.575 Passenger motor vehicles owned or operated by state agencies—Duty of OPPFM to establish policies as to acquisition, operation, authorized use, etc. See RCW 43.41.130.

43.19.580 Motor vehicle transportation service—Automotive policy board—Members—Officers—Powers and duties. There is hereby established an automotive policy board consisting of the governor, the commissioner of public lands, the state attorney general, the secretary of the department of social and health services, the director of the department of motor vehicles, and a representative of four-year institutions of higher education to be designated by a majority vote of the presidents of such institutions. The governor, the commissioner of public lands and the attorney general are each authorized to designate a member of their agency's staffs to serve on the board as their alternates when they are unable to attend. The board shall be

empowered to select its own chairman, vice chairman, and any other necessary officers by majority vote and to make rules and regulations for the orderly conduct of business. The board shall approve all state-wide policies relating to passenger motor vehicle acquisition, utilization, and disposition and shall perform such additional functions as may be directed by law. The board shall also arbitrate and decide by majority vote the issue in any case of a dispute over the economic justification and benefits to be gained by the transfer to a state motor pool of passenger motor vehicles owned or operated by a state agency pursuant to RCW 43.19.600(3). Any necessary staff support and administrative services required by the board shall be furnished by the department of general administration. [1975 1st ex.s. c 167 § 6.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.585 Motor vehicle transportation service—Supervisor of motor transport—Powers and duties. The director of general administration shall appoint a supervisor of motor transport, who shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.

With the approval of the director, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, (3) provide for necessary storage, upkeep, and repair, and (4) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements. [1975 1st ex.s. c 167 § 7.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.590 Motor vehicle transportation service—Transfer of employees—Retention of employment rights. All employees of any state agency who are employed exclusively or principally in performing the powers, duties, and functions transferred pursuant to RCW 43.19.595 through 43.19.610 to the department of general administration shall, upon such transfer to employment with the department of general administration, continue to be governed by the provisions of chapter 41.06 RCW, the state civil service law, as now or hereafter amended, and shall automatically retain their permanent or probationary status together with all rights, privileges, and immunities attaching thereto. [1975 1st ex.s. c 167 § 8.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.595 Motor vehicle transportation service—Transfer of motor vehicles, property, etc., from motor pool to department. All passenger motor vehicles, property, facilities, equipment, credits, funds, and all other

assets and obligations of the automobile pool and pertaining to passenger motor vehicles currently operated by the department of highways and funded by that portion of the highway equipment fund known as "District No. 8 (Motor Pool)" shall be transferred to the department of general administration on July 1, 1975. The director of general administration may accept such property prior thereto if he deems it expedient to accomplish an orderly transition. [1975 1st ex.s. c 167 § 9.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies. (1) On or after July 1, 1975, any passenger motor vehicles currently owned or hereafter acquired by any state agency, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may be purchased by or transferred to the department of general administration with the consent of the state agency concerned. The director of general administration may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of program planning and fiscal management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall recommend transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The automotive policy board shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, or after a public hearing if a finding is made based on testimony and data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of testimony and data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by a majority vote of the automotive policy board established by RCW 43.19.580. [1975 1st ex.s. c 167 § 10.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.605 Motor vehicle transportation service—Reimbursement for property transferred—Credits—Accounting—Disputes. No cash reimbursement shall be made to agencies for property transferred under RCW 43.19.600 to the extent that such property was originally acquired without cost or was purchased from general fund appropriations. The value of such property shall be entered upon the accounts of the motor transport account as an amount due the agency from which the vehicle was transferred. For such property purchased from dedicated, revolving, or trust funds, the

value at the time of transfer shall also be entered upon the accounts of the motor transport account as an amount due the agency and fund from which the vehicle transferred was purchased and maintained. If surplus funds are available in the motor transport account, the agency may be paid all or part of the amount due to the dedicated, revolving, or trust fund concerned. Otherwise, the credit for the amount due shall be applied proportionately over the remaining undepreciated life of such property. The prorated credits shall be applied monthly by the director of general administration against any monthly or other charges for motor vehicle transportation services rendered the agency.

To the extent surplus funds are available in the motor transport account, the automotive policy board may direct a cash reimbursement to a dedicated, revolving, or trust fund where an amount due such a fund will not be charged off to services rendered by the department of general administration within a reasonable time.

Any disagreement between the supervisor of motor transport and an agency as to the amount of reimbursement to which it may be entitled shall be resolved by the director of general administration with the advice and consent of the automotive policy board. [1975 1st ex.s. c 167 § 11.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.610 Motor vehicle transportation service—Motor transport account—Created—Sources—Disbursements. There is hereby established in the general fund of the state treasury an account to be known as the motor transport account into which shall be paid all moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or his duly authorized representative and as may be provided by law. [1975 1st ex.s. c 167 § 12.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.615 Motor vehicle transportation service—Deposits—Disbursements. The director of general administration shall deposit in the motor transport account all receipts, including the initial transfer of automobile pool capital from the highway equipment fund and any other funds transferred, rentals or other fees and charges for transportation services furnished, proceeds from the sale of surplus or replaced property under the control of the supervisor of motor transport and other income, and from which shall be paid operating costs, including salaries and wages, administrative expense, overhead, the cost of replacement vehicles, additional passenger vehicles authorized pursuant to RCW 43.19.565, and any other expenses. If it is necessary at any time for the department to request any appropriation from the general fund or various dedicated, revolving, or trust funds to purchase additional vehicles, any appropriation therefor may provide that such advance shall be repaid together with reasonable interest

from surpluses of the motor transport account. [1975 1st ex.s. c 167 § 13.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.620 Motor vehicle transportation service—Rules and regulations. The director of general administration, through the supervisor of motor transport, shall adopt, promulgate, and enforce such regulations as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140. Such regulations, in addition to other matters, shall provide authority for any agency director or his delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

Such regulations shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of program planning and fiscal management pursuant to RCW 43.41.130, after approval by the automotive policy board. [1975 1st ex.s. c 167 § 14.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.625 Employee commuting in state owned or leased vehicle—Policies and regulations. See RCW 43.41.140.

43.19.630 Motor vehicle transportation service—Use of personal motor vehicle. RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall not be construed to prohibit a state officer or employee from using his personal motor vehicle on state business and being reimbursed therefor, where permitted under state travel policies, rules, and regulations promulgated by the office of program planning and fiscal management after concurrence of the automotive policy board, and where such use is in the interest of economic, efficient, and effective management and performance of official state business. [1975 1st ex.s. c 167 § 16.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.635 Motor vehicle transportation service—Unauthorized use of state vehicles—Procedure—Disciplinary action. (1) The governor, acting through the department of general administration and any other appropriate agency or agencies as he may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any

such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any wilful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay. [1975 1st ex.s. c 167 § 17.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Chapter 43.21C STATE ENVIRONMENTAL POLICY

Sections

43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act.

43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act. The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

Chapter 43.21D ELECTRIC POWER USE—EMERGENCY CURTAILMENT, ALLOCATION

Sections

43.21D.010 through 43.21D.910 Expired.

43.21D.010 through 43.21D.910 Expired. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.21E
GRASS BURNING RESEARCH ADVISORY
COMMITTEE

Sections

- 43.21E.010 Committee created—Members.
43.21E.020 Duties of committee.
43.21E.030 Travel and per diem.
43.21E.900 Termination and dissolution of committee.
43.21E.910 Severability—1975 1st ex.s. c 44.

Grass burning permits, etc.: RCW 70.94.650–70.94.656.

43.21E.010 Committee created—Members. Within thirty days of May 15, 1975 the director of the Washington state department of ecology shall appoint a grass burning research advisory committee consisting of five voting members.

Two members shall be grass growers selected from the area of the state east of the Cascade mountain range, one representing irrigated and one representing dryland growing areas. One member shall be a grass grower selected from the area of the state west of the Cascade mountain range. One member shall be a representative of the Washington state department of agriculture, and one member shall represent the public, and may be selected at large. The committee shall select its own chairman. The state department of ecology shall provide an ex officio, nonvoting member to the committee to act as secretary. [1975 1st ex.s. c 44 § 1.]

43.21E.020 Duties of committee. The grass burning research advisory committee as provided for in RCW 43.21E.010 shall solicit and review research proposals for reducing or to develop alternates to open burning of grass fields. The committee shall advise and make recommendations to the director of the Washington state department of ecology regarding research priorities and the expenditure of mandatory research permit fees and such other grass burning research funds that may be provided by the legislature or from any other sources. [1975 1st ex.s. c 44 § 2.]

43.21E.030 Travel and per diem. Travel and per diem expenses shall be paid to the grass burning research advisory committee members not otherwise employed by the state for meetings called by the director of the department of ecology at the same rate that would otherwise apply to state employees under chapter 43.03 RCW upon vouchers approved by said director and paid from funds budgeted for operation purposes of the state department of ecology. [1975 1st ex.s. c 44 § 3.]

43.21E.900 Termination and dissolution of committee. It is the intent and purpose of this chapter that as soon as an alternative means of grass burning is developed for the state, or by January 1, 1980, whichever is sooner the grass burning research advisory committee shall be dissolved and its actions terminated, and the director of the state department of ecology shall see that such purpose is so carried out. [1975 1st ex.s. c 44 § 4.]

43.21E.910 Severability—1975 1st ex.s. c 44. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 44 § 6.]

Chapter 43.22
DEPARTMENT OF LABOR AND INDUSTRIES

Sections

- 43.22.260 Supervisor of industrial relations—Appointment—Personnel.
43.22.270 Powers and duties.
43.22.500 Printing and distribution of publications—Revolving fund—Fees.
43.22.505 Printing and distribution of publications—Authorized subject matters.

43.22.260 Supervisor of industrial relations—Appointment—Personnel. The director of labor and industries shall appoint and deputize an assistant director, to be known as the supervisor of industrial relations, who shall have charge and supervision of the division of industrial relations.

With the approval of the director, he may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ experts, clerks, and other assistants as may be necessary to carry on the work of the division. [1975 1st ex.s. c 296 § 31; 1973 2nd ex.s. c 16 § 11; 1973 1st ex.s. c 154 § 82; 1965 c 8 § 43.22.260. Prior: 1921 c 7 § 77; RRS § 10835.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

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

43.22.270 Powers and duties. The director of labor and industries shall have the power, and it shall be his duty, through and by means of the division of industrial relations:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state, now vested in, and required to be performed by, the secretary of state, and to report to, and file with, the secretary of state duly certified copies of the statistical information collected, assorted, systematized, and compiled, and in collecting, assorting, and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to any other division of the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law. [1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c 16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

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

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

43.22.500 Printing and distribution of publications—Revolving fund—Fees. There is hereby created within the state treasury a revolving fund to be known as the "department of labor and industries revolving fund", which shall be used by the director of the department of labor and industries to defray the costs of printing, reprinting, or distributing printed matter issued by the department of labor and industries including, but not limited to, the matters listed in RCW 43.22.505. The department of labor and industries may charge a fee for such publications in an amount which will reimburse the department for the costs of printing, reprinting, and distributing such publications: *Provided*, That every person subject to regulation by the department may upon request receive without charge one copy of any publication printed pursuant to RCW 43.22.505 whenever such person is affected by any statute, rule or regulation printed therein. All fees collected shall be deposited in the department of labor and industries revolving fund. In order to maintain an effective expenditure and revenue control the department of labor and industries revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. [1975 1st ex.s. c 123 § 1.]

43.22.505 Printing and distribution of publications—Authorized subject matters. The department of labor and industries is specifically authorized to print, reprint, and distribute subject matter including but not limited to the following:

- (1) The provisions of Title 51 RCW;
- (2) The provisions of Title 49 RCW;
- (3) The provisions of chapter 7.68 RCW;
- (4) The provisions of chapter 88.16 RCW;

- (5) The provisions of chapter 19.28 RCW;
- (6) The provisions of chapter 43.22 RCW;
- (7) The provisions of chapter 41.56 RCW;
- (8) The provisions of chapter 49.66 RCW;
- (9) The provisions of chapter 70.79 RCW;
- (10) The provisions of chapter 70.74 RCW;
- (11) The provisions of chapter 70.87 RCW;
- (12) The provisions of all other statutes administered by the department or such statutes as have a relationship to the functions and obligations of the department; and

(13) The rules and regulations of the department of labor and industries, the state apprenticeship council, the state board of pilotage commissioners and the board of boiler rules promulgated pursuant to the statutory provisions cited above. [1975 1st ex.s. c 123 § 2.]

Chapter 43.24

DEPARTMENT OF MOTOR VEHICLES

Sections

- 43.24.010 Authority of director—Personnel.
43.24.085 License or registration fees for businesses, occupations and professions—Policy—Minimums and maximums—Determination.

43.24.010 Authority of director—Personnel.

Medical practice investigator, powers duties: RCW 18.71A.070.

43.24.085 License or registration fees for businesses, occupations and professions—Policy—Minimums and maximums—Determination. It shall be the policy of the state of Washington that the director of the department of motor vehicles shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or registration of professions, occupations, or businesses, administered by the professional licensing division of the department of motor vehicles. In fixing said fees the director shall, insofar as is practicable, fix the fees relating to each profession, occupation, or business in such a manner that the income from each will match the anticipated expenses to be incurred in the administration of the laws relating to each such profession, occupation, or business. All such fees shall be fixed by rule and regulation adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW: *Provided*, That

(1) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than five dollars or in excess of fifteen dollars:

- Barber
- Student barber
- Cosmetologist (manager-operator)
- Cosmetologist (operator)
- Cosmetologist (instructor-operator)
- Apprentice embalmers
- Manicurist
- Apprentice funeral directors
- Registered nurse
- Licensed practical nurse
- Charitable organization
- Professional solicitor;

(2) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than ten dollars or in excess of twenty dollars:

Dental hygienist
 Barber instructor
 Barber manager instructor
 Psychologist
 Embalmer
 Funeral director
 Sanitarian
 Veterinarian
 Cosmetology shop
 Barber shop
 Proprietary school agent
 Specialized and advance registered nurse
 Physician's assistant
 Osteopathic physician's assistant;

(3) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than fifteen dollars or in excess of thirty-five dollars:

Architect
 Dentist
 Engineer
 Land Surveyor
 Podiatrist
 Chiropractor
 Drugless therapeutic
 Osteopathic physician
 Osteopathic physician and surgeon
 Physical therapist
 Physician and surgeon
 Optometrist
 Dispensing optician
 Landscape architect
 Nursing home administrator
 Hearing aid fitter;

(4) In no event shall the license or registration renewal fee in the following cases be fixed at an amount less than fifty dollars or in excess of two hundred dollars:

Engineer corporation
 Engineer partnership
 Cosmetology school
 Barber school
 Debt adjuster agency
 Debt adjuster branch office
 Debt adjuster
 Proprietary school
 Employment agency
 Employment agency branch office
 Collection agency
 Collection agency branch office
 Professional fund raiser. [1975 1st ex.s. c 30 § 93; 1971 ex.s. c 266 § 21.]

Chapter 43.31 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Sections	
43.31.090	Advisory council—Appointment, term, vacancies, expenses.
43.31.525	Provisions relating to Seattle world fair—Department authorized to dispose of property—Approval of world fair commission—Consideration—Transfer of balance to state general fund—Bond redemption fund abolished.
43.31.790	State international trade fairs—Declaration of purpose.
43.31.810	State international trade fairs—State aid eligibility requirements.
43.31.820	State international trade fairs—Application for funds.
43.31.830	State international trade fairs—Certification of fairs—Allotments—Division and payment from state trade fair fund.
43.31.832	State international trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Subsequent transfers.
43.31.840	State international trade fairs—Post audit of participating fairs—Reports.
43.31.850	State international trade fairs—State international trade fair defined.

43.31.090 Advisory council—Appointment, term, vacancies, expenses. To aid and advise the director in the performance of his functions as specified in this chapter, an advisory council shall be appointed by the governor, such council to be composed of not more than fifteen members, all of whom shall be residents of this state, representing such geographical and economic areas the governor shall determine will best further the purposes of this chapter. Terms of council members shall not exceed two years and shall continue until their successors are appointed. Vacancies shall be filled in the same manner as original appointments. Members shall receive no per diem but shall receive reimbursement for actual subsistence and traveling expenses incurred in the performance of their duties.

In addition to the members of the advisory council there shall be four ex officio members without vote from the legislature consisting of: (1) Two members of the senate, both to be appointed by the president of the senate, and not more than one to be affiliated with any one political party; (2) two members of the house of representatives, both to be appointed by the speaker of the house of representatives, and not more than one to be affiliated with any one political party; such appointments shall be for the term of two years or for the period in which the appointee serves as a legislator, whichever expires first; members may be reappointed; vacancies shall be filled in the same manner as original appointments are made. Such ex officio members who shall collect data deemed essential to future legislative proposals and exchange information with the council shall be deemed engaged in legislative business while in attendance upon the business of the council and shall be limited to such allowances therefor as otherwise provided in RCW 44.04.120, the same to be paid from the "state international trade fair fund" as being expenses relative to such business. [1975 1st ex.s. c 292 § 1; 1965 c 8 § 43.31.090. Prior: 1959 c 228 § 1; 1957 c 215 § 9.]

Reviser's note: Section 9 of chapter 292, Laws of 1975 1st ex.s. which would have changed the name of the "state trade fair fund" to the "state international trade fair fund" was vetoed.

43.31.525 Provisions relating to Seattle world fair—Department authorized to dispose of property—Approval of world fair commission—Consideration—Transfer of balance to state general fund—Bond redemption fund abolished. The department of commerce and economic development, with the approval of the commission, is authorized to sell or otherwise dispose of any property acquired or constructed by it under the provisions of RCW 43.31.500 through 43.31.640: *Provided*, That the sale price, or valuable consideration to be received with or without interest, shall not be less than one hundred percent of the purchase price of the real property acquired by the state for fair purposes and fifty percent of the construction cost of the principal state building constructed for world fair or exposition use by the department: *Provided further*, That when all outstanding obligations payable from the world fair bond redemption fund are paid, redeemed, and retired, the remaining balance therein shall be transferred to the state general fund and all subsequent receipts otherwise payable to the world fair bond redemption fund including, but not limited to receipts as set forth in this section, shall instead be credited to the state general fund. The world fair bond redemption fund as created by RCW 43.31.620(1) is abolished as of September 8, 1975. [1975 1st ex.s. c 149 § 1; 1965 c 8 § 43.31.525. Prior: 1961 c 152 § 4; 1959 c 310 § 1.]

43.31.790 State international trade fairs—Declaration of purpose. The legislature hereby recognizes the economic benefits resultant from the participation in and presentation of state international trade fairs; to a large degree the present export of state products from the ports of this state has resulted from state international trade fair presentation or participation; as this state is the natural gateway to the Orient, participation in trade fairs in that area is essential to the furtherance of industrial markets of this state; Washington products must be put on view to the people of the state, this country, and the world; nothing serves this purpose more appropriately than state international trade fairs, the support of which through state aid the legislature herewith proposes. [1975 1st ex.s. c 292 § 2; 1965 c 148 § 1.]

Horse racing, state trade fair fund: RCW 67.16.100.

43.31.810 State international trade fairs—State aid eligibility requirements. For the purposes of RCW 43.31.790 through 43.31.860 and 67.16.100, as now or hereafter amended, state international trade fair organizations, to be eligible for state financial aid hereunder (1) must have had at least two or more years of experience in the presentation of or participation in state international trade fairs, whether held in this state, another state or territory of the United States or a foreign country, however these need not be consecutive years; (2) must be able to provide, from its own resources derived from general admission or otherwise,

funds sufficient to match at least one-half the amount of state financial aid allotted. [1975 1st ex.s. c 292 § 3; 1965 c 148 § 3.]

43.31.820 State international trade fairs—Application for funds. The board of trustees of any state international trade fair sponsored by any public agency, qualifying under the provisions of RCW 43.31.790 through 43.31.860 and 67.16.100, as now or hereafter amended, may apply to the director for moneys to carry on the continued development as well as the operation of said fair, said money to be appropriated from the state international trade fair fund as provided for in RCW 67.16.100, as now or hereafter amended. [1975 1st ex.s. c 292 § 4; 1965 c 148 § 4.]

Reviser's note: Section 9 of chapter 292, Laws of 1975 1st ex.s. which would have changed the name of the "state trade fair fund" to the "state international trade fair fund" was vetoed.

43.31.830 State international trade fairs—Certification of fairs—Allotments—Division and payment from state trade fair fund. It shall be the duty of the director to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds under RCW 43.31.790 through 43.31.860 and 67.16.100, as now or hereafter amended. The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state international trade fair fund and shall fix times for the division of and payment from the state international trade fair fund: *Provided*, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: *Provided further*, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director of commerce and economic development the treasurer shall proceed to pay the same to carry out the purposes of RCW 43.31.790 through 43.31.860 and 67.16.100, as now or hereafter amended. [1975 1st ex.s. c 292 § 5; 1965 c 148 § 5.]

Reviser's note: Section 9 of chapter 292, Laws of 1975 1st ex.s. which would have changed the name of the "state trade fair fund" to the "state international trade fair fund" was vetoed.

43.31.832 State international trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Subsequent transfers. In addition to the sum transferred in RCW 43.31.831, additional funds determined to be surplus funds by the director of the department of commerce and economic development may be transferred from the state international trade fair fund to the general fund upon the recommendation of the director of the department of commerce and economic development and the state treasurer. [1975 1st ex.s. c 292 § 8; 1972 ex.s. c 93 § 2.]

Reviser's note: Section 9 of chapter 292, Laws of 1975 1st ex.s. which would have changed the name of the "state trade fair fund" to the "state international trade fair fund" was vetoed.

State trade fair fund: RCW 67.16.100.

43.31.840 State international trade fairs—Post audit of participating fairs—Reports. The director shall at the end of each year for which an annual allotment has been made, cause to be conducted, a post audit of all of the books and records of each state international trade fair participating in the state trade fair fund. The purpose of such post audit shall be to determine how and to what extent each participating state international trade fair has expended all of its funds.

The audit required by this section shall be a condition to future allotments of money from the state international trade fair fund, and the director shall make a report of the findings of each post audit and shall use such report as a consideration in an application for any future allocations. [1975 1st ex.s. c 292 § 6; 1965 c 148 § 6.]

Reviser's note: Section 9 of chapter 292, Laws of 1975 1st ex.s. which would have changed the name of the "state trade fair fund" to the "state international trade fair fund" was vetoed.

43.31.850 State international trade fairs—State international trade fair defined. State international trade fair as used in RCW 43.31.790 through 43.31.860 and 67.16.100, as now or hereafter amended, shall mean a fair supported by public agencies basically for the purpose of introducing and promoting the sale of manufactured or cultural products and services of a given area, whether presented in this state, the United States or its territories, or in a foreign country. [1975 1st ex.s. c 292 § 7; 1965 c 148 § 8.]

Reviser's note: Section 9 of chapter 292, Laws of 1975 1st ex.s. which would have changed the name of the "state trade fair fund" to the "state international trade fair fund" was vetoed.

Chapter 43.33 FINANCE COMMITTEE—INVESTMENT ADVISORY COMMITTEE

Community colleges

1975 capital projects bond act: Chapter 28B.57 RCW.

1975 general capital projects bond act: Chapter 28B.58 RCW.

Institutions of higher education, 1975 bond issue for capital improvements for: Chapter 28B.14 RCW.

University of Washington hospital capital improvement project bonds: RCW 28B.20.750–28B.20.759.

Chapter 43.38 TAX ADVISORY COUNCIL

Sections

43.38.040 Officers—Meetings—Executive secretary.

43.38.040 Officers—Meetings—Executive secretary. The governor shall designate one member to be chairman of the council. The council at its first meeting shall elect a vice chairman. Meetings shall be held at times and places determined by the chairman. The

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chairman shall appoint from the staff of the state department of revenue, an executive secretary, whose salary shall be paid by the department of revenue, who shall attend all meetings of the council and perform such duties as it shall direct. [1975 1st ex.s. c 278 § 24; 1965 c 8 § 43.38.040. Prior: 1957 c 291 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 43.41 DIRECTOR OF PROGRAM PLANNING AND FISCAL MANAGEMENT

Sections

43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.

43.41.140 Employee commuting in state owned or leased vehicle—Policies and regulations.

43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc. The director of the office of program planning and fiscal management, after consultation with other interested or affected state agencies and approval of the automotive policy board established pursuant to RCW 43.19.580, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of, all passenger motor vehicles owned or operated by any state agency. Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. Any use other than such defined use shall be considered as personal use. [1975 1st ex.s. c 167 § 5.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Motor vehicle transportation: RCW 43.19.560–43.19.635.

43.41.140 Employee commuting in state owned or leased vehicle—Policies and regulations. Pursuant to policies and regulations promulgated by the office of program planning and fiscal management after consultation with and approval by the automotive policy board, an elected state officer or his delegate or a state agency director or his delegate may permit employee commuting in a state owned or leased vehicle only if such travel is on official business, as determined in accordance with RCW 43.41.130, and is determined to be economical and advantageous to the state. [1975 1st ex.s. c 167 § 15.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Chapter 43.51 PARKS AND RECREATION COMMISSION

Sections

43.51.215 Exchange of state land by commission—Public notice—News release—Hearing—Procedure.

43.51.290 Winter recreational parking areas—Establishment, permits, snow removal, maps.

- 43.51.300 Winter recreational area parking permit—Fee, duration.
 43.51.310 Winter recreational parking account.
 43.51.320 Winter recreational parking areas—Restriction of overnight parking.
 43.51.321 Penalty for violation of RCW 43.51.320 or 46.61.585.
 43.51.330 Winter recreational parking areas—Rules.
 43.51.340 Winter recreation advisory committee.

YOUTH DEVELOPMENT AND CONSERVATION CORPS

- 43.51.530 Composition of youth corps—Qualifications, conditions, period of enrollment, etc.
 43.51.540 Compensation—Quarters—Hospital services, etc.
 43.51.570 Agreements with private persons to enroll additional people—Commercial activities prohibited—Authorized closures of area.

Archaeological sites and resources: Chapter 27.53 RCW.

43.51.215 Exchange of state land by commission—Public notice—News release—Hearing—Procedure. At least ten days but not more than twenty-five days before the director of parks and recreation presents a proposed exchange to the parks and recreation commission involving an exchange of state land pursuant to this chapter, the director shall hold a public hearing on the proposal in the county where the state lands or the greatest proportion thereof is located. Ten days but not more than twenty-five days prior to such hearing, the director shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the state owned land is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the state land is located. The public notice and news release also shall identify lands involved in the proposed exchange and describe the purposes of the exchange and proposed use of the lands involved. A summary of the testimony presented at the hearings shall be prepared for the commission's consideration when reviewing the director's exchange proposal. If there is a failure to substantially comply with the procedures set forth in this section, then the exchange agreement shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the exchange agreement. [1975 1st ex.s. c 107 § 1.]

Exchange of land under control of department of natural resources, procedure: RCW 79.08.015.

43.51.290 Winter recreational parking areas—Establishment, permits, snow removal, maps. In addition to its other powers, duties, and functions the state parks and recreation commission may:

- (1) Plan, construct, and maintain suitable parking areas for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies by agreement;
- (2) Provide and issue upon payment of the proper fee, with the assistance of such authorized agents as may be necessary for the convenience of the public, a

permit to park in designated winter recreational area parking spaces;

- (3) Administer the snow removal operations for all designated winter recreational area parking spaces; and
- (4) Compile, publish, and distribute maps indicating such parking spaces and adjacent trails and areas suitable for winter recreational activities.

The commission may contract with any public or private agency for the actual conduct of such duties, but shall remain responsible for the proper administration thereof. [1975 1st ex.s. c 209 § 1.]

Severability—1975 1st ex.s. c 209: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 209 § 9.] This applies to RCW 43.51.290 through 43.51.340, 46.61.585, and 46.61.587.

43.51.300 Winter recreational area parking permit—Fee, duration. The fee for the issuance of the special winter recreational area parking permit for each winter season commencing on October 1st of each year shall be five dollars annually, unless the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, in which case there shall be no fee for the issuance of the permit. All special winter recreational area parking permits shall expire on the last day of September following the issuance of such permit. [1975 1st ex.s. c 209 § 2.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.310 Winter recreational parking account. There is hereby created the winter recreational parking account in the general fund. All moneys from special winter recreational area parking permits shall be credited to such account and, after the costs of administration, shall be used for the planning, construction, publicity, and maintenance, including snow removal, of winter recreational parking areas and enforcement of laws and rules relating thereto.

The commission may accept gifts, grants, donations, or moneys from any source for deposit in the winter recreational parking account. [1975 1st ex.s. c 209 § 3.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.320 Winter recreational parking areas—Restriction of overnight parking. The commission may adopt rules and regulations prohibiting or restricting overnight parking at any special state winter recreational parking areas owned or administered by it. Where such special state winter recreational parking areas are administered by the commission pursuant to an agreement with other public agencies, such agreement may provide for prohibition or restriction of overnight parking. [1975 1st ex.s. c 209 § 4.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.321 Penalty for violation of RCW 43.51.320 or 46.61.585. See RCW 46.61.587.

43.51.330 Winter recreational parking areas—
Rules. The commission may adopt such rules as are necessary to implement and enforce RCW 43.51.290 through 43.51.320 and 46.61.585 after consultation with the advisory committee created pursuant to RCW 43.51.340. [1975 1st ex.s. c 209 § 7.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.340 Winter recreation advisory committee. The parks and recreation commission is hereby directed to form a winter recreation advisory committee to advise in the administration of RCW 43.51.290 through 43.51.330, 46.61.585, and 46.61.587. The advisory committee shall consist of nine persons representing all aspects of winter recreation activities. [1975 1st ex.s. c 209 § 8.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

YOUTH DEVELOPMENT AND CONSERVATION CORPS

43.51.530 Composition of youth corps—Qualifications, conditions, period of enrollment, etc. Composition of the corps shall consist of youths who are citizens of the United States and residents of the state of Washington of good character and health, and who are not more than twenty-one years of age. In order to enroll, an individual must agree to comply with rules and regulations promulgated by the commission. The period of enrollment shall be for thirty, sixty or ninety days or for such shorter period as determined by the commission. If permitted by the commission an individual may reenroll. Enrollment shall basically be allocated on a percentage basis to each of the forty-nine legislative districts on the basis of the ratio that the population of each district bears to the total population of the state of Washington, but the commission may also take into account problems of substantial unemployment in certain areas. [1975 c 7 § 1; 1969 ex.s. c 96 § 3; 1965 c 8 § 43.51.530. Prior: 1961 c 215 § 3.]

43.51.540 Compensation—Quarters—Hospital services, etc. (1) The base compensation shall be at the rate of twenty-five dollars per week, except that up to an additional twenty-five dollars per week may be paid on the basis of assigned leadership responsibilities or special skills.

(2) Enrollees shall be furnished quarters, subsistence, medical and hospital services, transportation, equipment, as the commission may deem necessary and appropriate for their needs. Such quarters, subsistence, and equipment may be furnished by any governmental or public agency. [1975 c 7 § 2; 1965 c 8 § 43.51.540. Prior: 1961 c 215 § 5.]

43.51.570 Agreements with private persons to enroll additional people—Commercial activities prohibited—Authorized closures of area. The commission

may, by agreement with an individual or company enroll and supervise additional young persons, who shall be furnished compensation, subsistence, quarters, supplies and materials by the cooperating private company or individual, to develop, maintain or improve natural and artificial recreational areas for the health and happiness of the general public. The corps shall not be engaged in the development, improvement or maintenance of a commercial recreational area or resort, and the individual or corporation entering such agreement with the commission shall make such improved areas available to the general public without cost for a period of at least five years. Private individuals may reserve the right to close the area during periods of fire hazard or during periods when excess damage would be caused by public use. [1975 c 7 § 3; 1973 1st ex.s. c 154 § 85; 1965 c 8 § 43.51.570. Prior: 1961 c 215 § 8.]

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

Chapter 43.52 OPERATING AGENCIES (POWER COMMISSION)

Sections

43.52.300 Powers and duties of commission or operating agency.

43.52.300 Powers and duties of commission or operating agency. The commission, or an operating agency formed under RCW 43.52.360, shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that the commission shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. The commission shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works

and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies of any state of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the commission. When any revenue bonds or warrants are outstanding the commission shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the commission which shall be fair and non-discriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the commission is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the commission and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the commission.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the commission may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the commission shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the commission.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state

and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper. [1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

Chapter 43.62

**DETERMINATION OF POPULATIONS—
STUDENT ENROLLMENTS**

Sections

- 43.62.040 Assistance to board—Determination by board conclusive.
- 43.62.050 Student enrollment forecasts—Reports.

43.62.040 Assistance to board—Determination by board conclusive. The department of revenue or any other state officer or officials of cities, towns, or counties shall upon request of the board furnish such information, aid, and assistance as may be required by the board in the performance of its duties. The action of the board in determining the population shall be final and conclusive. [1975 1st ex.s. c 278 § 25; 1965 c 8 § 43.62.040. Prior: 1957 c 175 § 4; 1951 c 96 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.62.050 Student enrollment forecasts—Reports. The board shall develop and maintain student enrollment forecasts of Washington schools, including both public and private, elementary schools, junior high schools, high schools, colleges and universities. The board shall submit reports on such forecasts to the governor, the legislative budget committee, and the standing committees on ways and means of the house and the senate on or before the fifteenth day of November of each even-numbered year. [1975 1st ex.s. c 293 § 2; 1965 c 8 § 43.62.050. Prior: 1959 c 171 § 1; 1957 c 229 § 1.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

Chapter 43.63A

PLANNING AND COMMUNITY AFFAIRS

Sections

- 43.63A.040 Planning and community affairs agency—Director—Appointment, salary, bond.

43.63A.040 Planning and community affairs agency—Director—Appointment, salary, bond. The executive head of the planning and community affairs agency shall be a director appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. He shall be paid a salary fixed by the governor in accordance with the provisions of

RCW 43.03.040. He shall be bonded in an amount to be determined by the director of the department of general administration under the provisions of RCW 43.19.540, the cost of which shall be considered an office expense. [1975 c 40 § 10; 1967 c 74 § 4.]

Chapter 43.79 STATE FUNDS

Sections

- 43.79.330 Miscellaneous state funds—Moneys transferred to general fund.
43.79.423 Miscellaneous state funds or accounts—Moneys transferred to state general fund.

43.79.330 Miscellaneous state funds—Moneys transferred to general fund.

Public school building construction account—Moneys transferred to state general fund: RCW 43.79.423.

43.79.423 Miscellaneous state funds or accounts—Moneys transferred to state general fund. All moneys to the credit of the following state funds or accounts as of September 8, 1975 are transferred to the state general fund on that date:

(1) The public school building construction account of the general fund created under RCW 43.79.330; and

(2) The general administration construction fund in the general fund created under RCW 43.82.090. [1975 1st ex.s. c 91 § 1.]

Chapter 43.82 STATE AGENCY HOUSING

Sections

- 43.82.090 General administration construction fund—Designation of bonds as to project—Investment of bond proceeds, interest.

43.82.090 General administration construction fund—Designation of bonds as to project—Investment of bond proceeds, interest.

General administration construction fund—Moneys transferred to state general fund: RCW 43.79.423.

Chapter 43.83 CAPITAL IMPROVEMENTS

Sections

1959–1961 BOND ISSUE

- 43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.

1961–1963 BOND ISSUE

- 43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.

1965–1967 BOND ISSUE

- 43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy.

1967–1969 BOND ISSUE

- 43.83.094 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy.

1975 BOND ISSUE

- 43.83.130 General obligation bonds—Authorized—Issuance—Payment.
43.83.132 General obligation bonds—Powers and duties of state finance committee.
43.83.134 General obligation bonds—Anticipation notes—Proceeds.
43.83.136 General obligation bonds—Administration of proceeds from sale.
43.83.138 General obligation bonds—Payment from bond redemption fund—Procedure.
43.83.140 General obligation bonds—General obligation of state.
43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund.
43.83.144 General obligation bonds—Legislature may provide additional means for payment.
43.83.146 General obligation bonds—Legal investment for state and other public bodies.
43.83.148 Severability—1975 1st ex.s. c 249.

1959–1961 BOND ISSUE

43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.010 through 43.83.050 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June 30th of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.010 through 43.83.050. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to the charges thereon created by chapters 229 and 230, Laws of 1949, and chapter 298, Laws of 1957. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.010 through 43.83.050, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.010 through 43.83.050 shall have been paid. [1975 1st ex.s. c 278 § 26; 1965 c 8 § 43.83.030. Prior: 1959 ex.s. c 9 § 3.]

Reviser's note: Chapter 298, Laws of 1957 and chapter 230, Laws of 1949 referred to herein are codified in chapter 72.99 RCW, and chapter 229, Laws of 1949 is codified in chapter 28A.47 RCW.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

1961–1963 BOND ISSUE

43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.060 through 43.83.068 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June thirtieth of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.060 through 43.83.068. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.060 through 43.83.068, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.060 through 43.83.068 shall have been paid. [1975 1st ex.s. c 278 § 27; 1965 c 8 § 43.83.064. Prior: 1961 ex.s. c 23 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

State building construction bond redemption fund: RCW 72.99.120.

1965–1967 BOND ISSUE

43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.070 through 43.83.084. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the

ensuing twelve months to meet bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in said state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 28; 1965 ex.s. c 172 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

1967–1969 BOND ISSUE

43.83.094 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.090 through 43.83.104. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections; and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof which has been heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 29; 1967 ex.s. c 148 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

1975 BOND ISSUE

43.83.130 General obligation bonds—Authorized—Issuance—Payment. For the purpose of providing funds for the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, and fixed equipment of capital campus facilities and such other buildings and facilities as are determined to be necessary to provide space for

the legislature by way of offices, committee rooms, hearing rooms, and work rooms and such other state agencies as may be necessary, as provided in the capital appropriations act, chapter, Laws of 1975 [chapter 276, Laws of 1975 1st ex.s.], for such purposes, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the aggregate principal amount of six million four hundred thousand dollars or so much thereof as may be required to finance said projects, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 249 § 1.]

43.83.132 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds as authorized in RCW 43.83.130 shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of such bonds and the conditions of sale and issuance thereof. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1975 1st ex.s. c 249 § 2.]

43.83.134 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds as authorized in RCW 43.83.130 through 43.83.148 or a portion thereof, pending the issuance of such bonds, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.130 through 43.83.148 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.130 through 43.83.148 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: *Provided*, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 43.83.138. [1975 1st ex.s. c 249 § 3.]

43.83.136 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes authorized in RCW 43.83.130 through 43.83.148 and deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1975 1st ex.s. c 249 § 4.]

43.83.138 General obligation bonds—Payment from bond redemption fund—Procedure. The state building bond redemption fund, 1975, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.130 through 43.83.148. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in such state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. [1975 1st ex.s. c 249 § 5.]

43.83.140 General obligation bonds—General obligation of state. Bonds issued under the provisions of RCW 43.83.130 through 43.83.148 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds, by a mandamus or other appropriate proceeding, may require the transfer and payment of funds as directed herein. [1975 1st ex.s. c 249 § 6.]

43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund. In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes authorized in RCW 43.83.130 through 43.83.148, the director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user of any facility or other building as authorized in RCW 43.83.130 for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1975 1st ex.s. c 249 § 7.]

43.83.144 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of an interest on the bonds authorized in RCW 43.83.130 through 43.83.148, and RCW 43.83.130 through 43.83.148 shall not be deemed to provide an exclusive method for such payment. [1975 1st ex.s. c 249 § 8.]

43.83.146 General obligation bonds—Legal investment for state and other public bodies. The bonds authorized in RCW 43.83.130 through 43.83.148 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1975 1st ex.s. c 249 § 9.]

43.83.148 Severability—1975 1st ex.s. c 249. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 249 § 10.]

Chapter 43.83B WATER SUPPLY FACILITIES BOND ISSUE

Sections

43.83B.050 Definitions.

AGRICULTURAL WATER SUPPLY FACILITIES

- 43.83B.200 Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—water supply facilities—Use.
- 43.83B.210 Loans or grants from department of ecology—Authorized—Limitations.
- 43.83B.220 Contractual agreements.
- 43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits.
- 43.83B.900 Severability—1975 1st ex.s. c 295.

43.83B.050 Definitions. 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, 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. [1975 c 18 § 1; 1972 ex.s. c 128 § 5.]

AGRICULTURAL WATER SUPPLY FACILITIES

43.83B.200 Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—water supply facilities—Use. The proceeds from repayment of any loans made for agricultural water supply facilities and the interest earned from such loans, any gifts, grants, or other funds provided to the state for agricultural water supply facilities, and any interest earned on the interim investment of such funds or proceeds shall be deposited in the state and local improvements revolving account—water supply facilities and shall be used exclusively for

agricultural water supply facilities. [1975 1st ex.s. c 295 § 1.]

43.83B.210 Loans or grants from department of ecology—Authorized—Limitations. The department of ecology is authorized to make loans or grants or combinations thereof to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project costs for any single proposed project. Any grant or grant portion of a combination loan and grant for any single proposed project shall not exceed fifteen percent of the eligible project costs. [1975 1st ex.s. c 295 § 3.]

43.83B.220 Contractual agreements. In addition to the powers granted by *sections 2 and 3 of this act, the director of the department of ecology or his designee is authorized to make contractual agreements in accordance with provisions of this chapter on behalf of the state of Washington. Contractual agreements shall include provisions to secure such loans, and shall assure the proper and timely payment of said loans or loan portions of combination loans and grants. [1975 1st ex.s. c 295 § 5.]

*Reviser's note: Section 2 of 1975 1st ex.s. c 295 was vetoed. Section 3 is codified as RCW 43.83B.210.

43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits. In the course of considering applications under this chapter, the department of ecology shall make known to other state agencies possibilities which may arise to provide public benefits such as recreation or fish and wildlife enhancement in connection with proposed projects. Such agencies, including the department of ecology, are authorized to participate in said projects provided agency funds are made available to pay the full cost of their participation. [1975 1st ex.s. c 295 § 14.]

43.83B.900 Severability—1975 1st ex.s. c 295. If any provision of *this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 295 § 17.]

*Reviser's note: "this act" [1975 1st ex.s. c 295] consists of RCW 43.83B.200–43.83B.230.

Chapter 43.83G SOCIAL AND HEALTH SERVICES FACILITIES—1975 BOND ISSUE

Sections

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43.83G.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-three million six hundred twenty thousand dollars or so much thereof as shall be required to finance social and health services facilities as is set forth by appropriation from the social and health services facilities construction account in the general fund by chapter ..., Laws of 1975 [chapter 276, Laws of 1975 1st ex.s.], the capital appropriation act, for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

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

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1975 1st ex.s. c 258 § 1.]

43.83G.020 Definitions. As used in this chapter, the term "social and health services facilities" shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the social and health services facilities construction account in the general fund by chapter ..., Laws of 1975 [chapter 276, Laws of 1975 1st ex.s.], the capital appropriations act, or subsequent capital appropriations acts. [1975 1st ex.s. c 258 § 2.]

43.83G.030 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 43.83G.010 or a portion thereof, pending the issuance of such bonds, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by this chapter shall be deposited in the state social and health services facilities construction account of the general fund in the

state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds and notes: *Provided*, Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 43.83G.050. [1975 1st ex.s. c 258 § 3.]

43.83G.040 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the social and health services facilities construction account in the general fund shall be administered by the secretary of the department of social and health services. [1975 1st ex.s. c 258 § 4.]

43.83G.050 Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders. The state social and health services construction bond redemption fund of 1975 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter or any social and health services facilities bonds and notes hereafter authorized by the legislature. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state social and health services facilities bond redemption fund of 1975 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 258 § 5.]

43.83G.060 Legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 258 § 6.]

43.83G.900 Severability—1975 1st ex.s. c 258. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 258 § 7.]

Chapter 43.84

INVESTMENTS AND INTERFUND LOANS

Sections

- 43.84.080 Investment of current state funds.
 43.84.150 Authorized investments for state finance committee,
 boards and trustees—Power of trustees of funds to

authorize state finance committee to make investments, etc. (as amended by 1975 1st ex.s. c 81).

43.84.150 Authorized investments for state finance committee, boards and trustees—Power of trustees of funds to authorize state finance committee to make investments, etc. (as amended by 1975 1st ex.s. c 252).

43.84.080 Investment of current state funds. Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state finance committee, or upon authorization from the state finance committee, then the state treasurer, may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following defined securities or classes of investments: *Provided*, That the state treasurer shall provide a monthly report of such investments and reinvestments to the state finance committee:

(1) 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;

(2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. 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. The state finance committee may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In motor vehicle fund warrants when authorized by agreement between the committee and the state highway commission requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;

(4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system. [1975 1st ex.s. c 4 § 1; 1971 c 16 § 1; 1967 c 211 § 1; 1965 c 8 § 43.84.080. Prior: 1961 c 281 § 11; 1955 c 197 § 1; 1935 c 91 § 1; RRS § 5508-1.]

Motor vehicle fund warrants for state highway acquisition: RCW 47-12.180-47.12.240.

43.84.150 Authorized investments for state finance committee, boards and trustees—Power of trustees of funds to authorize state finance committee to make investments, etc. (as amended by 1975 1st ex.s. c 81). Except where otherwise specifically provided by law, the state finance committee and those boards otherwise responsible for the management of their respective funds shall have full power to invest and reinvest funds in the following classes of securities, and not otherwise:

(1) Bonds, notes, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, or those guaranteed by, or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof, or the obligation of any other government sponsored corporation whose obligations are or may become eligible

as collateral for advances to member banks as determined by the board of governors of the federal reserve system.

(2) Bonds, debentures, notes, or other obligations issued, assumed, or unconditionally guaranteed by the international bank for reconstruction and development, the inter-American development bank, or by the federal national mortgage association; in addition to bonds, debentures, or other obligations issued by a federal land bank, or by a federal intermediate credit bank, under the act of congress of July 17, 1961, known as the "Federal Farm Loan Act", (as from time to time amended).

(3) First mortgages on unencumbered real property which are insured by the federal housing administration under the national housing act (as from time to time amended) or are guaranteed by the veterans' administration under the servicemen's readjustment act of 1944 (as from time to time amended), or are otherwise insured or guaranteed by the United States of America, or by an agency or instrumentality thereof to the extent that the investor protection thereby given is essentially the same as that as provided under the foregoing federal enactments.

(4) Conventional fee simple or leasehold first mortgages on real property located within the state of Washington.

(5) Bonds or other evidences of indebtedness of this state or a duly authorized authority or agency thereof; bonds, notes, or other obligations of any municipal corporation, political subdivision or state supported institution of higher learning of this state, issued pursuant to the laws of this state; obligations of any public housing authority or urban redevelopment authority issued pursuant to the laws of this state relating to the creation or operation of a public housing or urban redevelopment authority.

(6) Bonds, notes, or other obligations issued, guaranteed or assumed by any other state or municipal or political subdivision thereof.

(7) Bonds, debentures, notes or other full faith and credit obligations issued, guaranteed, or assumed as to both principal and interest by the government of the Dominion of Canada, or by any province of Canada, or by any city of Canada, which has a population of not less than one hundred thousand inhabitants: *Provided*, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder: *Provided further*, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(8) Bonds, debentures, notes, or other obligations of any corporation duly organized and operating in any state of the United States: *Provided*, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(9) Capital notes, debentures, or other obligations of any national or state commercial or mutual savings bank doing business in the United States of America.

(10) Equipment trust certificates issued by any corporation duly organized and operating in any state of the United States of America: *Provided*, That the bonds or debentures of the company are rated "A" or better by at least one nationally recognized rating agency.

(11) Commercial paper: *Provided*, That it is given the highest attainable rating by at least two nationally recognized rating agencies.

(12) Subject to the limitations hereinafter provided, those funds created under chapters 2.10, 2.12, 41.24, 41.26, 41.32, 41.40, and 43.43 RCW and the accident reserve fund created by RCW 51.44.010 may be invested in the common or preferred stock or shares, whether or not convertible as well as convertible bonds and debentures of corporations created or existing under the laws of the United States, or any state, district or territory thereof: *Provided*, That:

(a) Those trustees responsible for the management of their respective funds shall contract with an investment counseling firm or firms or the trust department of a national or state chartered commercial bank having its principal office or a branch in this state and/or the staff of the state finance committee for the purpose of managing issues defined by subsection (12) of this section. The trustees shall receive advice which shall become part of the official minutes of the next succeeding meeting of the board. No investment counseling firm shall be engaged in buying, selling or otherwise marketing securities in which commissions or profit credits arising from these activities accrue to the firm during the time of its employment by the boards. Nothing in the preceding sentence shall be deemed to apply to the marketing of bonds, notes or other obligations of the United States or any agency thereof, or of a state or any municipal or political subdivision thereof by a bank in the normal course of its business.

(b) Stock investments to include convertible preferred stock investments, and investments in convertible bonds and debentures shall not

exceed twenty-five percent of the total investments (cost basis) of the system: *Provided*, That in the case of the accident reserve fund created by RCW 51.44.010 such stock investments shall not exceed ten percent of the total investments.

(c) Investment in the stock of any one corporation shall not exceed five percent of the common shares outstanding.

(d) No single common stock investment, based on cost, may exceed two percent of the assets of the total investments (cost basis) of the system.

(e) Such corporation has paid a cash and/or stock dividend on its common stock in at least eight of the ten years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an earned cash and/or stock dividend in each of the last three years.

(f) In the case of convertible bond, debenture and convertible preferred stock investments, the common stock into which such investments are convertible otherwise qualifies as an authorized investment under the provisions of this section.

(g) The common stock of any corporation concerned is registered on a national securities exchange provided in the "Securities Exchange Act of 1934" (as from time to time amended). Such registration shall not be required with respect to the following stocks:

(i) The common stock of a bank which is a member of the federal deposit insurance corporation and has capital funds represented by capital, surplus, and undivided profits of at least fifty million dollars.

(ii) The common stock of an insurance company which has capital funds, represented by capital, special surplus, and unassigned surplus of at least fifty million dollars.

(iii) Any preferred stock, as well as any convertible bond, debenture or preferred stock.

(iv) The common stock of Washington corporations meeting all the other qualifications except that of being registered on a national exchange.

(13) Investments in savings and loan associations organized under federal or state law, insured by the federal savings and loan insurance corporation, and operating in this state, including investment in their savings accounts, deposit accounts, bonds, debentures and other obligations or securities (except capital stock) which are insured or guaranteed by an agency of the federal government or by a private corporation approved by the state insurance commissioner and licensed to insure real estate loans in the state of Washington; savings deposits in commercial banks and mutual savings banks organized under federal or state law, insured by the federal deposit insurance corporation, and operating in this state: *Provided*, That the investment of any one fund in the foregoing institutions shall not exceed the amount insured or guaranteed.

(14) Appropriate contracts of life insurance or annuities from insurers duly organized to do business in the state of Washington, if and when such purchase or purchases would in the judgment of the board be appropriate or necessary to carry out the purposes of this chapter.

(15) Any obligation, equipment trust certificate, or interest in any obligation arising out of any transaction involving the sale of any equipment by, or the lease of any equipment from, any corporation engaged in the business of transportation or manufacturing, with its principal place of business located in Washington state, or by or from any wholly owned subsidiary of any such corporation, provided that either (a) the obligation shall be secured by ownership of the equipment or by a first mortgage or other security interest creating a first lien on such equipment or (b) the obligation shall be guaranteed by the United States government or any agency or instrumentality thereof or by a foreign government or any agency or instrumentality thereof or by any province of Canada.

Subject to the above limitations, the trustees of the several funds shall have the power to authorize the state finance committee to make purchases, sales, exchanges, investments and reinvestments, of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any money belonging to said funds. [1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

43.84.150 Authorized investments for state finance committee, boards and trustees—Power of trustees of funds to authorize state finance committee to make investments, etc. (as amended by 1975 1st ex.s. c 252). Except where otherwise specifically provided by law, the

state finance committee and those boards otherwise responsible for the management of their respective funds shall have full power to invest and reinvest funds in the following classes of securities, and not otherwise:

(1) Bonds, notes, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, or those guaranteed by, or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof, or the obligation of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system.

(2) Bonds, debentures, notes, or other obligations issued, assumed, or unconditionally guaranteed by the international bank for reconstruction and development, the inter-American development bank, the Asian development bank, or by the federal national mortgage association; in addition to bonds, debentures, or other obligations issued by a federal land bank, or by a federal intermediate credit bank, under the act of congress of July 17, 1961, known as the "Federal Farm Loan Act", (as from time to time amended).

(3) First mortgages on unencumbered real property which are insured by the federal housing administration under the national housing act (as from time to time amended) or are guaranteed by the veterans' administration under the servicemen's readjustment act of 1944 (as from time to time amended), or are otherwise insured or guaranteed by the United States of America, or by an agency or instrumentality thereof to the extent that the investor protection thereby given is essentially the same as that as provided under the foregoing federal enactments.

(4) Conventional fee simple or leasehold first mortgages on real property located within the state of Washington.

(5) Bonds or other evidences of indebtedness of this state or a duly authorized authority or agency thereof; bonds, notes, or other obligations of any municipal corporation, political subdivision or state supported institution of higher learning of this state, issued pursuant to the laws of this state; obligations of any public housing authority or urban redevelopment authority issued pursuant to the laws of this state relating to the creation or operation of a public housing or urban redevelopment authority.

(6) Bonds, notes, or other obligations issued, guaranteed or assumed by any other state or municipal or political subdivision thereof.

(7) Bonds, debentures, notes or other full faith and credit obligations issued, guaranteed, or assumed as to both principal and interest by the government of the Dominion of Canada, or by any province of Canada, or by any city of Canada, which has a population of not less than one hundred thousand inhabitants: *Provided*, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder: *Provided further*, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(8) Bonds, debentures, notes, or other obligations of any corporation duly organized and operating in any state of the United States: *Provided*, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(9) Capital notes, debentures, or other obligations of any national or state commercial or mutual savings bank doing business in the United States of America.

(10) Equipment trust certificates issued by any corporation duly organized and operating in any state of the United States of America: *Provided*, That the bonds or debentures of the company are rated "A" or better by at least one nationally recognized rating agency.

(11) Commercial paper: *Provided*, That it is given the highest attainable rating by at least two nationally recognized rating agencies.

(12) Subject to the limitations hereinafter provided, those funds created under chapters 2.10, 2.12, 41.24, 41.26, 41.32, 41.40, and 43.43 RCW and the accident reserve fund created by RCW 51.44.010 may be invested in the common or preferred stock or shares, whether or not convertible as well as convertible bonds and debentures of corporations created or existing under the laws of the United States, or any state, district or territory thereof: *Provided*, That:

(a) Those trustees responsible for the management of their respective funds shall contract with an investment counseling firm or firms or the trust department of a national or state chartered commercial bank having its principal office or a branch in this state and/or the staff of the state finance committee for the purpose of managing issues defined by subsection (12) of this section. The trustees shall receive advice which shall become part of the official minutes of the

next succeeding meeting of the board. No investment counseling firm shall be engaged in buying, selling or otherwise marketing securities in which commissions or profit credits arising from these activities accrue to the firm during the time of its employment by the boards. Nothing in the preceding sentence shall be deemed to apply to the marketing of bonds, notes or other obligations of the United States or any agency thereof, or of a state or any municipal or political subdivision thereof by a bank in the normal course of its business.

(b) Stock investments to include convertible preferred stock investments, and investments in convertible bonds and debentures shall not exceed twenty-five percent of the total investments (cost basis) of the system: *Provided*, That in the case of the accident reserve fund created by RCW 51.44.010 such stock investments shall not exceed ten percent of the total investments.

(c) Investment in the stock of any one corporation shall not exceed five percent of the common shares outstanding.

(d) No single common stock investment, based on cost, may exceed two percent of the assets of the total investments (cost basis) of the system.

(e) Such corporation has paid a cash and/or stock dividend on its common stock in at least eight of the ten years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an earned cash and/or stock dividend in each of the last three years.

(f) In the case of convertible bond, debenture, and convertible preferred stock investments, the common stock into which such investments are convertible otherwise qualifies as an authorized investment under the provisions of this section.

(g) The common stock of any corporation concerned is registered on a national securities exchange provided in the "Securities Exchange Act of 1934" (as from time to time amended). Such registration shall not be required with respect to the following stocks:

(i) The common stock of a bank which is a member of the federal deposit insurance corporation and has capital funds represented by capital, surplus, and undivided profits of at least fifty million dollars.

(ii) The common stock of an insurance company which has capital funds, represented by capital, special surplus, and unassigned surplus of at least fifty million dollars.

(iii) Any preferred stock, as well as any convertible bond, debenture or preferred stock.

(iv) The common stock of Washington corporations meeting all the other qualifications except that of being registered on a national exchange.

(13) Investments in savings and loan associations organized under federal or state law, insured by the federal savings and loan insurance corporation, and operating in this state, including investment in their savings accounts, deposit accounts, bonds, debentures and other obligations or securities (except capital stock) which are insured or guaranteed by an agency of the federal government or by a private corporation approved by the state insurance commissioner and licensed to insure real estate loans in the state of Washington; savings deposits in commercial banks and mutual savings banks organized under federal or state law, insured by the federal deposit insurance corporation, and operating in this state: *Provided*, That the investment of any one fund in the foregoing institutions shall not exceed the amount insured or guaranteed.

(14) Appropriate contracts of life insurance or annuities from insurers duly organized to do business in the state of Washington, if and when such purchase or purchases would in the judgment of the board be appropriate or necessary to carry out the purposes of this chapter.

Subject to the above limitations, the trustees of the several funds shall have the power to authorize the state finance committee to make purchases, sales, exchanges, investments, and reinvestments, of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any money belonging to said funds. [1975 1st ex.s. c 252 § 1; 1973 1st ex.s. c 103 § 12.]

Reviser's note: RCW 43.84.150 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

Chapter 43.85 STATE DEPOSITARIES

Sections

43.85.010 Qualifications of depositaries—Record of commission proceedings.

43.85.010 Qualifications of depositaries—Record of commission proceedings. Any national or state banking corporation, or other incorporated bank, or branch banks or branches thereof, authorized to do business in the state and approved by the public deposit protection commission, may, upon segregating collateral as provided in RCW 39.58.050 as now or hereafter amended and upon compliance with all other requirements of law, become a qualified public depositary.

No state funds shall be deposited in any institution other than a qualified public depositary except that such funds may be deposited in exempted institutions as defined in RCW 39.58.110 and subject to the limitations referred to therein.

The record of the proceedings of the commission shall be kept in the office of the commission and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceedings in any court of this state. [1975 1st ex.s. c 77 § 7; 1973 c 126 § 15; 1969 ex.s. c 193 § 14; 1965 c 8 § 43.85.010. Prior: 1935 c 139 § 1; 1927 c 304 § 1; 1907 c 37 § 1; RRS § 5548.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Chapter 43.88 BUDGET AND ACCOUNTING

Sections

43.88.090 Development of budget.
43.88.110 Expenditure programs—Allotments—Reserves.
43.88.115 Reductions in general fund expenditures for elected public officials and educational agencies.
43.88.160 Fiscal management—Powers and duties of officers and agencies.
43.88.195 Establishment of accounts or funds outside treasury without permission of director of the office of program planning and fiscal management prohibited.
43.88.205 Federal funds and programs—Participating agencies to give notice—Progress reports.
43.88.230 Legislative agencies and committees deemed part of legislative branch.
43.88.902 Severability—1975 1st ex.s. c 293.
43.88.910 Effective date—1975 1st ex.s. c 293.

43.88.090 Development of budget. For purposes of developing his budget proposals to the legislature, the governor shall have the power, and it shall be his duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as he shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget. Estimates for the legislature and for the supreme court shall be included in the budget without revision. 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 program planning and fiscal management. In the year

of the gubernatorial election, the governor shall invite the governor-elect or his designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or his designee with such information as will enable him to gain an understanding of the state's budget requirements. The governor-elect or his designee may ask such questions during the hearings and require such information as he 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. [1975 1st ex.s. c 293 § 5; 1973 1st ex.s. c 100 § 6; 1965 c 8 § 43.88.090. Prior: 1959 c 328 § 9.]

43.88.110 Expenditure programs—Allotments—Reserves. Subdivisions (1) and (2) of this section set forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch.

(1) Before the beginning of the fiscal period, all agencies shall submit to the governor a statement of proposed agency expenditures at such times and in such form as may be required by him. The statement of proposed expenditures shall show, among other things, the requested allotments of appropriations for the ensuing fiscal period for the agency concerned for such periods as may be determined by the budget director for the entire fiscal period. The governor shall review the requested allotments in the light of the agency's plan of work and, with the advice of the budget director, he may revise or alter agency allotments: *Provided*, That revision of allotments shall not be made for agencies headed by elective officials. The aggregate of the allotments for any agency shall not exceed the total of appropriations available to the agency concerned for the fiscal period.

(2) Except for agencies headed by elective officials, approved allotments may be revised during the course of the fiscal period in accordance with the regulations issued pursuant to this chapter. If at any time during the fiscal period the governor shall ascertain that available revenues for the applicable period will be less than the respective appropriations, he shall revise the allotments concerned so as to prevent the making of expenditures in excess of available revenues. To the same end, and with the exception stated in this section for allotments involving agencies headed by elective officials the governor is authorized to withhold and to assign to, and to remove from, a reserve status any portion of an agency appropriation which in the governor's discretion is not needed for the allotment. No expenditures shall be made from any portion of an appropriation which has been assigned to a reserve status except as provided in this section.

(3) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter.

[1975 1st ex.s. c 293 § 6; 1965 c 8 § 43.88.110. Prior: 1959 c 328 § 11.]

43.88.115 Reductions in general fund expenditures for elected public officials and educational agencies. Either the legislative budget committee or the standing committees on ways and means of the house and senate are authorized and may order reductions in general fund expenditures for other elected public officials and all public educational agencies and their facilities up to the amount of reductions which are required by agencies under the control of the governor, to the end that while the independence of such elective offices and educational agencies be assured, necessary measures of economy shall be shared by all agencies concerned with the functions of government. [1975 1st ex.s. c 293 § 7; 1971 ex.s. c 263 § 1.]

43.88.160 Fiscal management—Powers and duties of officers and agencies. 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 program planning and fiscal management. The governor, through his director of program planning and fiscal 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 comprehensive central accounts in the office of program planning and fiscal management. The director of program planning and fiscal management may require such financial, statistical and other reports as he deems necessary from all agencies covering any period.

In addition, the director of program planning and fiscal management, as agent of the governor, shall:

(a) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and he shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(b) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(c) 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. He 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.

(d) 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 him except that he shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(e) Promulgate regulations to effectuate provisions contained in subsections (a) through (d) hereof.

(2) 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) Disburse public funds under his supervision or custody by warrant or check;

(c) Keep a correct and current account of all moneys received and disbursed by him, classified by fund or account;

(d) 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 issue any warrant or check for public funds in the treasury except upon forms duly prescribed by the director of program planning and fiscal management. Said forms shall provide for authentication and certification by the agency head or his designee that the services have been rendered or the materials have been furnished; 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 program planning and fiscal management; and the treasurer shall not be liable under his surety bond for erroneous or improper payments so made: *Provided*, That 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: *And provided further*, That 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 his designee in accordance with regulations issued pursuant to this chapter.

(3) 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 he may, in his discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public funds. The current post audit of each agency may include a section on recommendations to the legislature as provided in subsection (3)(c) of this section.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make his 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 at least the following:

Determinations as to whether agencies, in making expenditures, complied with the laws of this state: *Provided*, That nothing in *this act shall be construed to grant the state auditor the right to perform performance audits. A performance audit for the purpose of this act shall be the examination of the effectiveness of the administration, its efficiency and its adequacy in terms of the programs of departments or agencies as previously approved by the legislature. The authority and responsibility to conduct such an examination shall be vested in the legislative budget committee as prescribed in RCW 44.28.085 as now or hereafter amended.

(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 program planning and fiscal management. It shall be the duty of the director of program planning and fiscal 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) Shall promptly report any irregularities to the attorney general.

(4) 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 now or hereafter amended. 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. [1975 1st ex.s. c 293 § 8; 1975 c 40 § 11; 1973 c 104 § 1; 1971 ex.s. c 170 § 4; 1967 ex.s. c 8 § 49; 1965 c 8 § 43.88.160. Prior: 1959 c 328 § 16.]

***Reviser's note:** The term "this act" first appeared in 1971 ex.s. c 170, which act consists of the 1971 amendments to RCW 43.09.050, 43.09.310, 43.88.160 and to RCW 44.28.085.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

Legislative budget committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290–43.09.330.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

State auditor, duties: Chapter 43.09 RCW.

State director of program planning and fiscal management: Chapter 43.41 RCW.

State treasurer, duties: Chapter 43.08 RCW.

43.88.195 Establishment of accounts or funds outside treasury without permission of director of the office of program planning and fiscal management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher education, which shall include all state universities, state colleges, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: *Provided*, That the office of program planning and fiscal management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of the office of program planning and fiscal management authorizes the creation of such fund or account, he shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate. [1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

43.88.205 Federal funds and programs—Participating agencies to give notice—Progress reports. (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 program planning and fiscal management may prescribe, or the chairman of the legislative budget 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. [1975 1st ex.s. c 293 § 10; 1973 2nd ex.s. c 17 § 3; 1967 ex.s. c 41 § 4.]

Acceptance of funds by governor, administration, payment of expenses, reports to legislature: RCW 43.06.120–43.06.140.

43.88.230 Legislative agencies and committees deemed part of legislative branch. For the purposes of this chapter, the statute law committee, the legislative budget committee, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government. [1975 1st ex.s. c 293 § 11; 1965 c 8 § 43.88.230. Prior: 1959 c 328 § 23.]

43.88.902 Severability—1975 1st ex.s. c 293. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 293 § 22.]

43.88.910 Effective date—1975 1st ex.s. c 293. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1975. [1975 1st ex.s. c 293 § 23.]

Chapter 43.91 AUTOMOBILE POOL

Sections

43.91.010 through 43.91.080 Repealed.

Motor vehicle transportation services for state employees: RCW 43.19.560–43.19.635.

43.91.010 through 43.91.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.96A WORLD FAIR COMMISSION—OSAKA EXPOSITION

Sections

43.96A.010 through 43.96A.100 Repealed.

43.96A.900 Repealed.

43.96A.010 through 43.96A.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.96A.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.97

COLUMBIA RIVER GORGE COMMISSION

Sections

43.97.005	Legislative finding and declaration.
43.97.020	Commission created—Members—Terms—Vacancies.
43.97.030	Preparation of plan to carry out purpose of chapter—Implementation.
43.97.040	Powers and duties—Limitation.
43.97.050	Repealed.
43.97.060	Travel and subsistence.
43.97.070	Environmental impact statements filed with commission.
43.97.080	Staff services of office of planning and community affairs—Authorized.
43.97.090	Washington portion of Columbia River Gorge—Jurisdiction.
43.97.900	Severability—1975 1st ex.s. c 48.

43.97.005 Legislative finding and declaration. The legislature finds that a portion of the Columbia River Gorge is among the most valuable of the state's natural resources and that there is great concern throughout the state relating to its utilization, protection, preservation and restoration. The legislature, therefore, declares that portion of the Columbia River Gorge beginning at the western-most boundary of the Columbia River Gorge as described in RCW 43.97.090 and extending easterly to include all of Section 17 and the west halves of Sections 9 and 4 in Township 2 North, Range 13 East, to be an area of state-wide significance, wherein preference shall be given to uses which:

- (1) Recognize and protect the state-wide interest.
- (2) Result in long term rather than short term benefit.
- (3) Protect the resources and ecology of the Gorge.
- (4) Increase public access to publicly owned areas.
- (5) Increase recreational opportunities for the public.
- (6) Explore economic utilization.

The legislature further declares that all agencies of state and local government, shall, in their planning and management, give full consideration to the environmental protection and economic utilization of the Columbia River Gorge, and the best interests of the state and people in general, in conformity with the plan to be prepared pursuant to RCW 43.97.030. [1975 1st ex.s. c 48 § 4.]

43.97.020 Commission created—Members—Terms—Vacancies. There is hereby created a nonpartisan and nonsalaried commission to be known as the Columbia River Gorge commission consisting of six members three of whom are residents of Skamania county, two of whom are residents of Klickitat county, and one of whom is a resident of Clark county, to be appointed by the governor for six year terms and who shall be removable at his pleasure. The term of office shall commence January 1st of the year of appointment; provided original terms shall be of such length as to require appointment of one member to the commission annually: *Provided*, That the terms of any present members of the commission shall not be reduced because of the provisions of *this 1975 amendatory act.

Vacancies shall be filled for the unexpired term in the same manner as other appointments are made. [1975 1st ex.s. c 48 § 1; 1965 c 8 § 43.97.020. Prior: 1959 c 74 § 2.]

***Reviser's note:** "this 1975 amendatory act" consists of RCW 43.97.005, 43.97.060–43.97.090, 43.97.900, amendments to RCW 43.97.020–43.97.040, and the repeal of RCW 43.97.050.

43.97.030 Preparation of plan to carry out purpose of chapter—Implementation. For the purpose of preserving, developing and protecting the scenic, historical and geological qualities of the Columbia River Gorge in a manner which provides for environmental protection and for economic utilization within the Gorge, the commission shall be responsible for preparation of a plan to accomplish the purpose of this chapter. In carrying out this responsibility, the commission is directed to act as an advisory and coordinating body for the involvement of affected local, state and federal agencies and of private entities for the development of the plan, which shall be submitted to the governor for his consideration and approval. The plan may then be implemented by local government ordinances and by the services of existing state agencies acting within their respective areas of normal responsibility. [1975 1st ex.s. c 48 § 2; 1965 c 8 § 43.97.030. Prior: 1959 c 74 § 3.]

43.97.040 Powers and duties—Limitation. The commission shall have the following duties and powers:

(1) To acquire land in the name of the state by purchase, exchange, transfer, gift, or devise, but shall not have the right of eminent domain.

(2) To make expenditures, from available funds for the development, protection, and maintenance of land and property under its control.

(3) To enter into such contracts as are necessary to carry out the provisions of this chapter.

(4) To assist, coordinate, and cooperate with other agencies and political subdivisions of the state, state agencies and political subdivisions of the state of Oregon, the federal government, special purpose districts, private organizations and individuals to the extent necessary to carry out the provisions of this chapter.

(5) To receive any gifts, either inter vivos or testamentary in character.

(6) To review and comment on all environmental impact statements regarding developments within the Columbia River Gorge as defined in this chapter. [1975 1st ex.s. c 48 § 3; 1965 c 8 § 43.97.040. Prior: 1959 c 74 § 4.]

43.97.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.97.060 Travel and subsistence. Members of the commission shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the commission as provided for state officials and employees generally in chapter 43.03 RCW. [1975 1st ex.s. c 48 § 5.]

43.97.070 Environmental impact statements filed with commission. All environmental impact statements relating to projects within the Columbia River Gorge as defined in this chapter shall be filed with the commission. [1975 1st ex.s. c 48 § 6.]

43.97.080 Staff services of office of planning and community affairs—Authorized. The office of planning and community affairs is hereby authorized to provide certain staff services from its existing personnel as are feasible and necessary to assist the commission to perform its duties and powers as set forth in the provisions of this chapter. [1975 1st ex.s. c 48 § 7.]

43.97.090 Washington portion of Columbia River Gorge—Jurisdiction. As used in this chapter unless the context requires otherwise, the Washington portion of the Columbia River Gorge means the eighty-four mile strip along the Washington shore of the Columbia river, and including the islands in the Washington portion of the Columbia river, incorporating the visual basin, consisting of the area falling within the approximate line of sight from interstate highway 80 North to the hillcrests running along the course of the Columbia river between Reed Island and Miller Island, and including all the area between state road No. 14 and the river bank, including all islands and portions thereof lying within the Washington portion of the Columbia river between Reed Island and Miller Island in Klickitat county.

The area over which the Columbia River Gorge commission shall have jurisdiction as set forth in this chapter, shall be particularly described as follows:

All islands and portions thereof lying within the Washington portion of the Columbia river beginning with and including Reed Island in the west, and running to Miller Island in the east as well as the mainland portion of the Washington portion of the Columbia River Gorge which is an area described as follows:

In township 1 north, range 4 east: All of section 21, township 1 north, range 4 east, lying east of Cottonwood Point on the bank of the Columbia; that portion of section 16 lying to the east of a line beginning at Cottonwood Point and running north for approximately five-eighths of a mile, and thence east for approximately one-eighth of a mile, and thence north to the north section line of section 16; all of section 22; all of section 15; all of section 23; all of section 14; all of section 24; and all of section 13.

In township 1 north, range 5 east: All of section 19, township 1 north, range 5 east; The southern half and the northwest quarter of section 18; all of section 20; all of section 17; all of section 16; the southern half and the northeast quarter of section 9; all of section 15; all of section 10; the southeast quarter of section 3; all of section 11; all of section 2; all of section 12; and all of section 1.

In township 2 north, range 5 east: The southern half and the northeast quarter of section 36, township 2 north, range 5 east.

In township 1 north, range 6 east: All of section 6, township 1 north, range 6 east; all of section 5; all of section 4; and all of section 3.

In township 2 north, range 6 east: All of section 31, township 2 north, range 6 east; the southeast quarter of section 30; all of section 32; the southern half and the northeast quarter of section 29; all of section 33; the southern half and the northwest quarter of section 28; all of section 34; the southern half of section 27; all of section 35; all of section 26; the eastern half of section 23; the southeast quarter of section 14; all of section 36; all of section 25; all of section 24; and the southern half of section 13.

In township 2 north, range 7 east: All of section 30, township 2 north, range 7 east; all of section 19; all of section 18; all of section 29; all of section 20; all of section 17; the southeast quarter of section 18; all of section 21; all of section 16; all of section 22; the southern half of section 15; all of section 14; all of section 11; all of section 2; and all of section 1.

In township 3 north, range 7 east: The southeast quarter of section 35, township 3 north, range 7 east; all of section 36; and the southeast quarter of section 25.

In township 3 north, range 7 1/2 east: All of section 36, township 3 north, range 7 1/2 east; and the southern half of section 25.

In township 3 north, range 8 east: All of section 31, township 3 north, range 8 east; the southern half and the northeast quarter of section 30; all of section 32; all of section 29; all of section 28; all of section 34; the southern half and the northwest quarter of section 27; all of section 35; the southern half of section 26; all of section 36; and the southwest quarter of section 25.

In township 3 north, range 9 east: All of section 31, township 3 north, range 9 east; the southeast quarter of section 30; all of section 32; the southern half and the northeast quarter of section 29; all of section 33; all of section 28; the southern half of section 21; all of section 34; all of section 27; the southern half of section 22; all of section 35; all of section 26; the southern half of section 23; all of section 36; and all of section 25.

In township 3 north, range 10 east: All of section 30, township 3 north, range 10 east; the southern half of section 19; all of section 29; the southern half and the northeast quarter of section 20; the eastern half of section 17; the southeast quarter of section 8; all of section 28; all of section 21; all of section 16; the southern half of section 9; all of section 22; all of section 15; the southern half of section 10; all of section 23; all of section 14; the southern half of section 11; all of section 25; and the southern half and the northwest quarter of section 24.

In township 3 north, range 11 east: All of section 31, township 3 north, range 11 east, all of section 30; the southern half and the northeast quarter of section 19; all of section 32; all of section 29; all of section 20; the southwest quarter of section 17; all of section 33; the southern half and the northwest quarter of section 28; all of section 34; all of section 35; the southeast quarter of section 26; all of section 36; and the southern half of section 25.

In township 2 north, range 12 east: All of section 3, township 2 north, range 12 east; all of section 2; all of section 12; and all of section 1.

In township 3 north, range 12 east: All of section 31, township 3 north, range 12 east; the southern half of section 30; all of section 32; the southern half of section 29; all of section 33; the southeast quarter of section 28; all of section 34; the southwest quarter of section 27; and the southern half of section 35.

In township 2 north, range 13 east: All of section 7, township 2 north, range 13 east; all of section 6; all of section 17; all of section 8; all of section 5; the western half of section 9; and the western half of section 4.

In township 2 north, range 6 east: The eastern half of section 4, township 2 north, range 6 east; the eastern half of section 15; the southeastern quarter and the northern half of section 10; all of section 3; the western half of section 23; the southwestern quarter and the northern half of section 14; all of section 11; all of section 2; the northern half of section 13; all of section 12; and all of section 1.

In township 3 north, range 6 east: The southwestern quarter of section 34, township 3 north, range 6 east; all of section 36; and the southeastern quarter of section 25.

In township 2 north, range 7 east: All of section 7, township 2 north, range 7 east; all of section 6; the southwestern quarter and the northern half of section 8; all of section 5; all of section 9; all of section 4; the northern half of section 15; all of section 10; and all of section 3.

In township 3 north, range 7 east: All of section 31, township 3 north, range 7 east; all of section 30; all of section 32; the southern half and the northwest quarter of section 29; all of section 33; the southern half and the northeastern quarter of section 28; the southeastern quarter of section 21; all of section 34; all of section 27; the southern half of section 22; the southwestern quarter and the northern half of section 35; all of section 26; the southern half of section 23; the southwestern quarter and the northern half of section 25; and the southern half of section 24.

In township 3 north, range 8 east: The southeastern quarter of section 21, township 3 north, range 8 east; the northeastern quarter of section 27; all of section 22; the southern half of section 15; the northern half of section 26; all of section 23; the southeastern quarter and the northern half of section 25; all of section 24; and the southern half of section 13.

In township 3 north, range 9 east: The southwestern quarter and the northern half of section 30, township 3 north, range 9 east; all of section 19; all of section 18; the southern half of section 7; the northwestern quarter of section 29; the western half of section 20; and the western half of section 17.

In township 3 north, range 11 east: The northeastern quarter of section 28, township 3 north, range 11 east; the southeastern quarter of section 21; all of section 27; the southern half and the northeastern quarter of section 22; the southwestern quarter and the northern half of section 26; all of section 23; the southeastern quarter

of section 14; the northern half of section 25; all of section 24; and the southern half of section 13.

In township 3 north, range 12 east: The northern half of section 30, township 3 north, range 12 east; all of section 19; all of section 18; the northwestern quarter of section 29; all of section 20; and the southern half and the northwestern quarter of section 17.

In township 2 north, range 13 east: All of section 33, township 2 north, range 13 east; all of section 28; all of section 21; all of section 16; the eastern half of section 9; the eastern half of section 4; all of section 34; all of section 27; all of section 22; all of section 15; all of section 10; all of section 3; all of section 35; all of section 26; all of section 23; all of section 14; all of section 11; all of section 2; all of section 36; all of section 25; all of section 24; all of section 13; all of section 12; and all of section 1.

In township 3 north, range 13 east: The southern half of section 34, township 3 north, range 13 east; the southern half and the northeastern quarter of section 35; and all of section 36.

In township 2 north, range 14 east: All of section 30, township 2 north, range 14 east; all of section 19; all of section 18; all of section 7; all of section 6; all of section 20; all of section 17; all of section 8; all of section 5; all of section 16; all of section 9; all of section 4; all of section 15; all of section 10; all of section 3; all of section 14; all of section 11; all of section 2; all of section 13; all of section 12; and all of section 1.

In township 3 north, range 14 east: All of section 31, township 3 north, range 14 east; all of section 32; and the southern half of section 33.

In township 2 north, range 15 east: All of section 18, township 3 north, range 15 east; all of section 7; all of section 6; all of section 17; all of section 8; the southern half and the northwestern quarter of section 5; all of section 16; all of section 9; the southern half of section 4; all of section 22; all of section 15; all of section 10; the southern half of section 3; all of section 23; all of section 14; all of section 11; and the southern half and the northeastern quarter of section 2. [1975 1st ex.s. c 48 § 8.]

43.97.900 Severability—1975 1st ex.s. c 48. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 48 § 10.]

Chapter 43.101
CRIMINAL JUSTICE TRAINING
COMMISSION—EDUCATION AND TRAINING
STANDARDS BOARDS

Sections	
43.101.080	Commission powers and duties—Rules and regulations (as amended by 1975 1st ex.s. c 82).
43.101.080	Commission powers and duties—Rules and regulations (as amended by 1975 1st ex.s. c 103).
43.101.150	Training standards and education boards—Powers—Reports.

43.101.080 Commission powers and duties—Rules and regulations (as amended by 1975 1st ex.s. c 82). The commission shall have all of the following powers:

- (1) To meet at such times and places as it may deem proper;
 - (2) To adopt any rules and regulations as it may deem necessary;
 - (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
 - (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
 - (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;
 - (6) To select and employ an executive director, and to empower him to perform such duties and responsibilities as it may deem necessary;
 - (7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;
 - (8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;
 - (9) To establish and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel: *Provided*, That the commission shall not have the power to invest any moneys received by it from any source for the purchase or lease of a training facility without prior approval of the legislature;
 - (10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;
 - (11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;
 - (12) To direct the development of alternative, innovate, and interdisciplinary training techniques;
 - (13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;
 - (14) To allocate financial resources among training and education programs conducted by the commission;
 - (15) To allocate training facility space among training and education programs conducted by the commission;
 - (16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;
 - (17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;
 - (18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision.
- All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.04 RCW, and the open public meetings act, chapter 42.30 RCW. [1975 1st ex.s. c 82 § 1; 1974 ex.s. c 94 § 8.]
- 43.101.080 Commission powers and duties—Rules and regulations (as amended by 1975 1st ex.s. c 103).** The commission shall have all of the following powers:
- (1) To meet at such times and places as it may deem proper;
 - (2) To adopt any rules and regulations as it may deem necessary;
 - (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
 - (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
 - (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;

(6) To select and employ an executive director, and to empower him to perform such duties and responsibilities as it may deem necessary;

(7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;

(8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;

(9) To establish and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to lease for a period not to exceed three years a training facility or facilities necessary to the conducting of such programs: *Provided*, That the commission shall not have the power to invest any moneys received by it from any source for the purchase of a training facility without prior approval of the legislature;

(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;

(11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovate, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.04 RCW, and the open public meetings act, chapter 42.30 RCW. [1975 1st ex.s. c 103 § 1; 1974 ex.s. c 94 § 8.]

Reviser's note: RCW 43.101.080 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

43.101.150 Training standards and education boards—Powers—Reports. The training standards and education boards shall have all of the following powers:

(1) To meet at such times and places as they may deem proper;

(2) To adopt rules and regulations as to the conduct of their business as deemed necessary by each board;

(3) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, or city government, and commissions affected by or concerned with the business of the commission;

(4) To do any and all things necessary or convenient to enable them fully and adequately to perform their duties and to exercise the power granted to them;

(5) To advise the commission of the training and education needs of criminal justice personnel within their specific purview;

(6) To recommend to the commission standards for the training and education of criminal justice personnel within their specific purview;

(7) To recommend to the commission minimum curriculum standards for all training and education programs conducted for criminal justice personnel within their specific purview;

(8) To recommend to the commission standards for instructors of training and education programs for criminal justice personnel within their specific purview;

(9) To recommend to the commission alternative, innovative, and interdisciplinary training and education techniques for criminal justice personnel within their specific purview;

(10) To review and recommend to the commission the approval of training and education programs for criminal justice personnel within their specific purview;

(11) To monitor and evaluate training and education programs for criminal justice personnel within their specific purview;

(12) To recommend to the commission minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel within their specific purview where such standards are not prescribed by statute or constitutional provision.

Each training standards and education board shall report to the commission at the end of each fiscal year on the effectiveness of training and education programs for criminal justice personnel within its specific purview. [1975 1st ex.s. c 82 § 2; 1974 ex.s. c 94 § 15.]

**Chapter 43.110
MUNICIPAL RESEARCH COUNCIL**

Sections

43.110.010 Council created—Membership—Terms—Compensation.

43.110.010 Council created—Membership—Terms—Compensation. There shall be a state agency which shall be known as the municipal research council. The council shall be composed of eighteen members. Four members shall be appointed by the president of the senate, with equal representation from each of the two major political parties; four members shall be appointed by the speaker of the house of representatives, with equal representation from each of the two major political parties; one member shall be appointed by the governor, and the other nine members, who shall be city officials, shall be appointed by the board of directors of the Association of Washington Cities. Of the members appointed by the association, at least one shall be an official of a city having a population of twenty thousand or more; at least one shall be an official of a city having a population of one thousand five hundred to twenty thousand; and at least one shall be an official of a town having a population of less than one thousand five hundred.

No members shall be appointed by the speaker of the house of representatives until the second Monday in January, 1971, and no members shall be appointed by the president of the senate until the second Monday in January, 1973. In the meantime the governor shall appoint two additional members, one from each of the

two major political parties, and the municipal research council shall consist of ten members only during such interim period until January, 1971.

The terms of members shall be for two years and shall not be dependent upon continuance in legislative or city office. Vacancies shall be filled in the same manner as original appointments were made. The first members shall be appointed on or before July 31, 1969, and shall take office August 1, 1969. The terms of all members except legislative members shall commence on the first day of August in every odd-numbered year. The speaker of the house of representatives and the president of the senate shall make their appointments on or before the third Monday in January in each odd-numbered year, and the terms of the members thus appointed shall commence on the third Monday of January in each odd-numbered year. The terms of the two interim members appointed by the governor shall expire on the third Monday of January in each odd-numbered year until January, 1973, when they shall not be renewed. Certificates of appointment of all members shall be filed in the offices of the association within ten days after the appointments are made. The initial meeting of the council shall be held on or before September 1, 1969, and shall be called by the member who is an official of a city having a population of at least twenty thousand who shall act as a temporary chairman. At such first meeting, the council shall elect a chairman and a vice chairman and appoint a secretary.

Council members shall receive no compensation but shall be reimbursed from the municipal research account for travel expense and subsistence at rates provided by law for state officials generally: *Provided*, That members of the council who are also members of the legislature shall be reimbursed from such account at the rates provided by RCW 44.04.120. None of the funds derived herein from motor vehicle excise taxes shall be used for any other expenses of the council. [1975 1st ex.s. c 218 § 1; 1969 c 108 § 2.]

Severability—Effective date—1969 c 108: See notes following RCW 82.44.160.

**Chapter 43.126
GEOGRAPHIC NAMES**

Sections

43.126.020 State board on geographic names—Created—Members—Chairman.

43.126.020 State board on geographic names—Created—Members—Chairman. There is hereby created a Washington state board on geographic names. It shall be composed of:

- (1) The state librarian or representative;
- (2) The commissioner of public lands or representative who shall be chairman of the board;
- (3) The president of the Washington state historical society or representative;
- (4) The chairman of the department of geography, University of Washington or representative;
- (5) The chairman of the department of geography, Washington State University or representative;

(6) Two members from the general public to be appointed by and serve at the pleasure of the commissioner of public lands. [1975 1st ex.s. c 26 § 1; 1973 1st ex.s. c 178 § 2.]

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.04** General provisions.
44.28 Legislative budget committee.
44.40 Legislative transportation committee—Senate and house transportation and utilities committees.

Reports to legislature

learning/language disabilities, screening for: RCW 28A.03.310.
learning resources services, concerning: RCW 28A.03.095.

Chapter 44.04

GENERAL PROVISIONS

Sections

44.04.125 Allowances of members—elect when attending meetings.

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

Studies and adoption of classifications for school district budgets—Publication: RCW 28A.03.350.

44.04.125 Allowances of members—elect when attending meetings. Each member—elect of the senate or house of representatives who attends any meeting of the legislature or any of its committees, upon the invitation of the committee on rules of his or her respective house, shall be entitled to receive per diem, mileage, and incidental expense allowances at the rates prescribed in chapter 44.04 RCW, as now or hereafter amended. [1975 1st ex.s. c 185 § 1.]

Chapter 44.28

LEGISLATIVE BUDGET COMMITTEE

Sections

- 44.28.060 Powers of committee—General.
 44.28.080 Powers—Appropriations, expenses, revenues.
 44.28.085 Management surveys and program reviews—Review of state auditor's report, recommendations.
 44.28.090 Repealed.
 44.28.100 Powers—Reports, minutes.
 44.28.140 Legislative auditor and other assistants—Employment—Duties of legislative auditor.
 44.28.150 Cooperation with legislative committees and others.
 44.28.160 Repealed.

44.28.060 Powers of committee—General. The 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. [1975 1st ex.s. c 293 § 13; 1951 c 43 § 2.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

44.28.080 Powers—Appropriations, expenses, revenues. The committee shall have 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 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. [1975 1st ex.s. c 293 § 14; 1955 c 206 § 10; 1951 c 43 § 4.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

44.28.085 Management surveys and program reviews—Review of state auditor's report, recommendations. The legislative budget committee shall make management surveys and program reviews as to every public body, officer or employee subject to the provisions of RCW 43.09.290 through 43.09.340. The legislative budget committee may also make management surveys and program reviews of local school districts, intermediate school districts, and other units of local government receiving state funds as grants-in-aid or as shared revenues. Management surveys for the purposes of this section shall be an independent examination for the purpose of providing the legislature with an evaluation and report of the manner in which any public agency, officer, administrator, or employee has discharged the responsibility to faithfully, efficiently, and effectively administer any legislative purpose of the state. Program reviews for the purpose of this section shall be an examination of state or local government programs to ascertain whether or not such programs continue to serve their intended purposes, are conducted in an efficient and effective manner, or require modification or elimination: *Provided*, That nothing in this section shall limit the power or duty of the state auditor to report to the legislature as directed by subsection (3) of RCW 43.88.160 as now or hereafter amended. The authority in this section conferred excludes a like authority in the state auditor.

The legislative budget committee shall receive a copy of each report of examination issued by the state auditor under RCW 43.09.310, shall review all such reports, and shall make such recommendations to the legislature and to the state auditor as it deems appropriate. [1975 1st ex.s. c 293 § 15; 1971 ex.s. c 170 § 3.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

44.28.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

44.28.100 Powers—Reports, minutes. The committee shall have the power to 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 committee shall keep complete minutes of its meetings. The committee shall make and distribute its final report to the members of the ensuing legislature at least ten days prior to the convening of the legislature. [1975 1st ex.s. c 293 § 16; 1951 c 43 § 6.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

44.28.140 Legislative auditor and other assistants—Employment—Duties of legislative auditor. 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 assist the several standing committees of the house and senate in consideration of legislation affecting state departments and their efficiency; to appear before other legislative committees and to assist any other legislative committee upon instruction by the legislative budget committee.

(3) To provide the legislature with information obtained under the direction of the legislative budget committee.

(4) To maintain a record of all work performed by the legislative auditor under the direction of the legislative budget committee and to keep and make available all documents, data and reports submitted to him by any legislative committee. [1975 1st ex.s. c 293 § 17; 1955 c 206 § 9; 1951 c 43 § 11.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

44.28.150 Cooperation with legislative committees and others. The committee shall cooperate, act and function with legislative committees and with the councils or committees of other states similar to this committee and with other interstate research organizations. [1975 1st ex.s. c 293 § 18; 1951 c 43 § 7.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

44.28.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 44.40
LEGISLATIVE TRANSPORTATION
COMMITTEE—SENATE AND HOUSE
TRANSPORTATION AND UTILITIES
COMMITTEES**

Sections	
44.40.020	Powers, duties and studies.
44.40.025	Study of funds related to state transportation programs.
44.40.026	Repealed.
44.40.040	Members' allowances—Procedure for payment of committee's expenses.
44.40.060	Repealed.
44.40.100	Contracts and programs authorized.
44.40.110	Review and study of taxing structure for transportation programs and activities.
44.40.120	Periodic review of plans for bicycle, pedestrian and equestrian facilities.
44.40.125	Studies—Additions or deletions to system—Mileage and weight enforcement—Increase vehicle occupancy.
44.40.130	Study—Third level air carrier regulations.

44.40.020 Powers, duties and studies. The committee is authorized and directed to continue its studies and for that purpose shall have the powers set forth in chapter 111, Laws of 1947. The committee is further authorized to make studies related to bills assigned to the house and senate transportation and utilities committees and such other studies as provided by law. The executive committee of the committee may assign responsibility for all or part of the conduct of studies to the house and/or senate transportation and utilities committees. [1975 1st ex.s. c 268 § 1; 1963 ex.s. c 3 § 36.]

Powers and studies set forth in chapter 268, Laws of 1975 1st ex.s.: "NEW SECTION. Sec. 4. The legislative transportation committee is authorized to conduct the following studies and such other related studies as it deems appropriate, may employ consultants, and shall report findings and recommendations, as appropriate, to the legislature during or prior to the 1977 regular legislative session:

(1) A comprehensive review of state and national needs studies, and of state, urban arterial, and other functional classification of highways, streets, and roads for the purpose of evaluating the consolidation of needs studies and functional classification systems. The studies shall make use of previous applicable studies and shall make a progress report of findings and recommendations of said evaluation plus a defined scope of work to implement changes required to make the consolidation, if such consolidation is deemed appropriate, to the 1976 legislative session;

(2) Reevaluation of the necessity for state regulation of common and contract carriers, log carriers, dump truck operators, and agricultural product carriers;

(3) Establishing and assisting in the planning, programming, and implementation of an intermodal transportation center which would utilize existing structures on the national register of historic buildings or appropriate alternatives, including, but not limited to, the development of master site plans and building programs and necessary studies which would enhance the interrelationship of all transportation needs and modes;

(4) Alternatives to comply with vehicle safety inspection requirements and vehicle emission standards, taking into consideration cost effectiveness, correlation with accidents caused by mechanical failure, health hazards inherent in vehicle exhaust, and federal penalties for noncompliance;

(5) Determination of the extent of use fuel tax evasion and alternative methods in addition to dye marking to avoid such evasion;

(6) Review of federal and state laws relative to regulation of mobile homes, specifically in relation to consumer protection, and consideration combining such regulations and administration into a single agency;

(7) In cooperation with the department of motor vehicles and the department of revenue analyze alternative methods of determining fair market values and depreciation schedules as an equitable basis for determining vehicle excise tax. Recommendations for changes as appropriate should be submitted to the 1976 legislative session;

(8) In cooperation with the trident transportation regional technical advisory committee evaluate the impact of the trident development upon transportation and related facilities and services in Kitsap and adjacent counties;

(9) As part of size and weight fee schedule alternatives to be developed in conjunction with the transportation tax study include necessary statutory revisions to reflect changes in federal truck size and weight regulations, a draft of said alternatives to be prepared for consideration at the next reconvening of the forty-fourth legislative session following August 31, 1975;

(10) In cooperation with the department of highways conduct an extension study of the Horn Rapids road from Kiona to Richland via Benton City, taking into consideration seasonal traffic variations;

(11) Evaluate the international registration plan for commercial interstate vehicles with respect to its applicability to the state of Washington;

(12) The interrelationship of highway and railroad facilities with respect to the potential of shifting automobile and passenger traffic to rail facilities for the purpose of decreasing the demands for highway facilities, including inventory of existing railroad facilities for future potential and preliminary feasibility of contracting with Amtrak for intrastate service;

(13) Adequacy and effectiveness of traffic and regulatory fines and penalties as deterrents to repeated offenses;

(14) Design project to demonstrate the application of economic pricing as a means of making more efficient use of highways;

(15) A comprehensive review and analysis of alternative means of funding the installation of emergency traffic lights at fire district stations;

(16) A comprehensive review of provisions of the pilotage act;

(17) Review of respective roles of the Washington utilities and transportation commission and the department of labor and industries with respect to railroad safety regulations;

(18) Impact of elimination of on-street parking on state-numbered routes upon construction needs, traffic flow, and safety;

(19) A comprehensive analysis of traffic patterns and services exemplified by the state ferry system, taking into consideration previous studies and patron interests, and with the intent of determining methods for encouraging more nonpeak usage and federal urban mass transportation support for programs aimed at increasing passenger usage;

(20) A comprehensive review and evaluation of the Washington habitual traffic offender's act;

(21) A review and analysis of the interrelationship of state and federal laws and regulations with respect to administering federal programs within the state, including but not limited to laws affecting right-of-way and environmental protection, considering alternatives of decentralization of administration and supervision to the state;

(22) Analysis of objectives and goals, criteria to determine manpower levels, and relationships of alternative manpower levels to output and service level indicators of the State Patrol;

(23) An update review of needs, programs, and funding relative to railroad grade crossing protection;

(24) In cooperation with the department of highways review the landscaping practices along state highways;

(25) A review of driver licensing procedures, in general, and the feasibility of lengthening the license period taking into consideration safety, administrative costs, and revenue flow;

(26) A comprehensive review and evaluation of rest stops and their management on the state's interstate system with respect to the adequacy of facilities provided to users and including the desirability of demonstration projects for the alternative treatment and handling of solid wastes in an economical and ecologically efficient manner;

(27) In cooperation with the Washington state highway commission, develop and evaluate short and long-range alternative plans for implementation of a passenger-only ferry service as a major component of the total cross-Sound ferry system. The combined system shall provide a water transportation system integrated with existing and future land transportation systems.

Consideration during the development and evaluation of alternative plans shall include, but not necessarily be limited to, the following:

(a) Passenger-only vessels ranging from conventional displacement vessels to sophisticated advance marine systems craft;

(b) The impact of passenger-only vessels on assignment of existing vehicular vessels and the impact on future vehicular vessel needs;

(c) An analysis to identify and determine the financial impact of new markets that can be served by passenger-only vessels;

(d) Relative economic impact on the state and region, the ferry patrons, and the residents of the areas served by the ferry system;

(e) The cost of construction and a time schedule for implementing a combined system;

(f) Fixed facilities for the accommodation and movement of foot passengers including parking lots and landing facilities for the vessels;

(g) Impact of the short and long-range alternative plans on existing and future land transportation systems;

(h) Short and long-term financial impact on the operations and capital improvements of the existing system;

(i) Identification of alternative funding sources and methods of financing construction, operation, and maintenance of a combined system including revenue bonds, contribution from the motor vehicle fund and federal-aid assistance;

(j) Public involvement;

(k) New or relocation of terminals and ferry routes;

(l) Restrictions and limitations imposed upon the ferry system by existing federal and state statutes and the governing bond resolution;

(m) Utilization of all existing surveys, reports, and data available concerning cross-Sound transportation.

A final report incorporating the findings and recommendations of the legislative transportation committee and the state highway commission shall be accomplished by December 1, 1975, and presented to the next session of the legislature.

(28) A review of policies relative to providing reasonably safe bicycle traveling facilities adjacent to or in conjunction with public highways, in general, and on bridges and structures, in particular." [1975 1st ex.s. c 268 § 4.]

Reviser's Note: For other powers, duties and studies contained in 1975 1st ex.s. c 268, see RCW 44.40.120-44.40.130.

Powers set forth in chapter 111, Laws of 1947: "Sec. 2. The committee is hereby authorized and directed to ascertain, study and analyze all available facts and matters relating or pertaining to: (a) A study of the policies relating to and the cost of the administration, operation, construction and maintenance of public highways and streets of the state, with recommendations for such changes as may be deemed necessary;

(b) the need for and cost of bringing the highways and streets in the state to acceptable standards, the cost of maintaining them in such condition, the need and cost of expanding the highway and street systems of the state to meet the increasing demands for travel and the demands arising from the changing economic and industrial development, and the determination of long-range programs to provide the needed construction;

(c) the making of a study of motor vehicle taxation including the assignment of the total highway costs among property owners, general taxpayers and highway users;

(d) the determination of the portion of highway and street operation and construction costs assignable to the various highway users and classes of users so that all vehicles and classes of vehicles shall bear their fair share of such costs;

(e) the determination of the tax basis and rates to be exacted from each vehicle or user;

(f) a determination of what roads should be included in the state highway system and what changes should be made in the existing system;

(g) other studies of motor vehicle transport economics including but not limited to the inspection of motor vehicles to insure the safety of operation upon the highways, the control of loads and weights for the protection of the highway and street investments, and a study of such other factors and conditions as may appear necessary;

(h) the revision of any and all laws bearing upon or relating to the subject of this resolution together with the committee's recommendations for appropriate legislation. [1947 c 111 § 2.]

Sec. 3. The committee is authorized to act during this session of the legislature, including any recess, and after final adjournment until the commencement of the next regular session. It shall file a final report not later than the 15th legislative day of the next regular session. The committee may prepare and submit a preliminary report to the legislature at any extraordinary session which may be convened. [1947 c 111 § 3.]

Sec. 4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon legislative committees and their members by the provisions of chapter 6, Laws of 1895 and chapter 33, Laws of 1897 (secs. 8178 through 8194, Rem. Rev. Stat.; secs. 722-1, -3, -5, -7, -9, -11, -13, -15, -17, -19, -21, -23, -25, -27, -29, -31, and -33, PPC) [chapter 44.16 RCW] and shall have additional powers: (a) To select a chairman and vice-chairman from its membership;

(b) to employ an executive secretary and such expert, clerical and other help as may be necessary to carry out its duties;

(c) to cooperate with and secure the cooperation of county, city and other local law enforcement agencies in investigating any matter within the scope of this act and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee;

(d) to do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this act." [1947 c 111 § 4.]

Reviser's note: Successive study authorizations, not codified in RCW, are to be found in the various session laws subsequent to 1947, for example: 1949 c 213; 1951 c 269; 1953 c 254; 1955 c 384; 1957 c 172; 1959 c 319; 1961 ex.s. c 21; 1963 ex.s. c 3; 1965 ex.s. c 170; 1967 ex.s. c 145; 1969 ex.s. c 281; 1970 ex.s. c 85; 1971 ex.s. c 195; 1973 1st ex.s. c 210; and 1975 1st ex.s. c 268.

44.40.025 Study of funds related to state transportation programs. In addition to the powers and duties authorized in RCW 44.40.020 the committee, the standing committees on ways and means and on transportation and utilities of the house and senate shall, in coordination with the legislative budget committee, 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 related to transportation programs of the state. [1975 1st ex.s. c 293 § 19; 1971 ex.s. c 195 § 2.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.026 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

44.40.040 Members' allowances—Procedure for payment of committee's expenses. The members of the legislative transportation committee and the house and senate transportation and utilities committees shall receive allowances while attending meetings of the committees or subcommittees and while engaged in other

authorized business of the committees as provided in RCW 44.04.120. All expenses incurred by the committee, and the house and senate transportation and utilities committees, including salaries of employees of the legislative transportation committee, shall be paid upon voucher forms as provided by the office of program planning and fiscal management and signed by the chairman or vice chairman or authorized designee of the chairman of the committee, and the authority of said chairman or vice chairman to sign vouchers shall continue until their successors are selected. Vouchers may be drawn upon funds appropriated for the expenses of the committee. [1975 1st ex.s. c 268 § 3; 1971 ex.s. c 195 § 4; 1963 ex.s. c 3 § 39.]

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

44.40.100 Contracts and programs authorized. The legislative transportation committee and/or the senate and house transportation and utilities committees may enter into contracts on behalf of the state to carry out the purposes of this 1975 act [1975 1st ex.s. c 268] and chapter 44.40 RCW; and it or they may act for the state in the initiation of or participation in any multigovernmental program relative to transportation planning or programming; and it or they may enter into contracts to receive federal or other funds, grants, or gifts to carry out said purposes and to be used in preference to or in combination with state funds. When federal or other funds are received, they shall be deposited with the state treasurer and thereafter expended only upon approval by the committee or committees. [1975 1st ex.s. c 268 § 7; 1973 1st ex.s. c 210 § 3.]

44.40.110 Review and study of taxing structure for transportation programs and activities. The senate and house transportation and utilities committees are authorized to undertake a review of the total taxing structure for transportation programs and activities including:

(1) Alternative methods of taxing fuels and establishing license and road use fees;

(2) And the equity of the taxing structure, including but not limited to motor vehicle tonnage and excise taxes, between various classes of vehicles and users.

Said study shall be divided into two phases, a preliminary phase for the purpose of specifically defining the scope and guidelines of the study, and the major study phase for the conduct of the detailed study work.

The committees are authorized to employ a consultant to conduct the study and cooperate with state and federal government agencies in the conduct of said study.

The findings and recommendations of the study shall be submitted to the legislature prior to June 30, 1977.

There is hereby reappropriated from the motor vehicle fund the sum of two hundred fifty thousand dollars or so much thereof as may be necessary to conduct the study as originally authorized by section 4, chapter 210,

Laws of 1973 1st ex. sess.: *Provided*, That no expenditure authorized by this section shall exceed the unexpended balance of the original appropriation as of June 30, 1975. [1975 1st ex.s. c 268 § 8; 1975 c 2 § 1; 1973 1st ex.s. c 210 § 4.]

44.40.120 Periodic review of plans for bicycle, pedestrian and equestrian facilities. The house and senate transportation and utilities committees shall periodically review the six-year comprehensive plans submitted by cities and counties for expenditures for bicycle, pedestrian, and equestrian facilities prepared pursuant to chapter 215 (Senate Bill No. 2348), Laws of 1975 1st ex. sess. [1975 1st ex.s. c 268 § 2.]

Reviser's note: Chapter 215, Laws of 1975 1st ex.s. is codified as RCW 35.77.010 and 36.81.121.

44.40.125 Studies—Additions or deletions to system—Mileage and weight enforcement—Increase vehicle occupancy. The senate and house transportation and utilities committees and the department of highways are authorized to conduct the following studies and to employ the services of consultants as deemed necessary:

(1) Develop policies and guidelines for biennial state highway commission review of highways with respect to whether sections should be added to or deleted from the state highway system. Said study shall include reevaluation of all designated routes, whether or not constructed with recommendations on specific routes whose statutory designation as state routes should be reaffirmed;

(2) In conjunction with the department of motor vehicles, the Washington state patrol, and political subdivisions, develop procedures and systems to collect and more effectively utilize comprehensive mileage, weight, and weight control enforcement information as bases for design, cost allocation determination, enforcement, and other appropriate purposes;

(3) In cooperation with appropriate agencies, evaluate studies conducted by other states, the federal government, other countries, and industry, for the purpose of identifying potentially effective techniques to increase vehicle occupancy of the traveling public in general, and of state employees in particular. Design and implement a demonstration project, as appropriate.

There is hereby appropriated from the motor vehicle fund the sum of five hundred thousand dollars or so much thereof as may be necessary to carry out the provisions of this section. Recommendations and/or legislation, as appropriate, shall be submitted to the legislature and/or agencies. [1975 1st ex.s. c 268 § 5.]

44.40.130 Study—Third level air carrier regulations. The senate and house transportation and utilities committees are authorized to undertake a study of third level air carrier regulations including, but not limited to the following items: Route certification, guaranteed levels of service, air fare standardization, and total taxing structure.

There is hereby appropriated from the aeronautics account of the general fund for the biennium ending

June 30, 1977, the sum of five thousand dollars for the purposes of this section. Recommendations and legislation, as appropriate, shall be made to the legislature. [1975 1st ex.s. c 268 § 6.]

Title 46 MOTOR VEHICLES

Chapters

- 46.01 Department of motor vehicles.
- 46.04 Definitions.
- 46.08 General provisions.
- 46.09 All-terrain vehicles.
- 46.10 Snowmobiles.
- 46.12 Certificates of ownership and registration.
- 46.16 Vehicle licenses.
- 46.20 Drivers' licenses—Identical cards.
- 46.37 Vehicle lighting and other equipment.
- 46.44 Size, weight, load.
- 46.52 Accidents—Reports—Abandoned vehicles.
- 46.61 Rules of the road.
- 46.64 Enforcement.
- 46.68 Disposition of revenue.
- 46.86 Interstate commercial vehicles—Single cab cards.
- 46.90 Washington model traffic ordinance.

Chapter 46.01 DEPARTMENT OF MOTOR VEHICLES

Sections

- 46.01.140 County auditors, others, as agents of director—Disposition of application fees.
- 46.01.230 Payment of licenses, certificates, taxes, and fees by check or money order authorized—Regulations—Penalty for nonsurrender upon cancellation.

46.01.140 County auditors, others, as agents of director—Disposition of application fees. The county auditor, if appointed by the director of motor vehicles shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

At any time any application is made to the director, the county auditor or other agent pursuant to any law dealing with licenses, certificates of ownership, registration, the right to operate any vehicle upon the public highways of this state, the applicant shall pay to the director, county auditor or other agent a fee of one dollar for each application in addition to any other fees required by law, which fee of one dollar, if paid to the county auditor as agent of the director, or if paid to an agent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. In the event that such fee is paid to another agent of the director, such fee shall be used by

such agent to defray his expenses in handling the application: *Provided*, That in the event such 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 motor vehicle fund. All such filing fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund. [1975 1st ex.s. c 146 § 1; 1973 c 103 § 1; 1971 ex.s. c 231 § 9; 1971 ex.s. c 91 § 3; 1965 c 156 § 14; 1963 c 85 § 1; 1961 c 12 § 46.08.100. Prior: 1955 c 89 § 3; 1937 c 188 § 27; RRS § 6312-27. Formerly RCW 46.08.100.]

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.01.230 Payment of licenses, certificates, taxes, and fees by check or money order authorized—Regulations—Penalty for nonsurrender upon cancellation. (1) The department of motor vehicles is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: *Provided*, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: *And provided further*, That no transfer of ownership of a vehicle shall be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270.

(2) Any person shall be guilty of a misdemeanor who shall fail to surrender within ten days to the department or any authorized agent of the department any certificate, license or permit after being notified by certified mail that such certificate, license or permit has been canceled pursuant to this section. [1975 c 52 § 1; 1965 ex.s. c 170 § 44.]

Chapter 46.04 DEFINITIONS

Sections

46.04.080	Business district.
46.04.100	Center line.
46.04.220	Intersection area.
46.04.230	Repealed.
46.04.250	Repealed.
46.04.270	Legal owner.

46.04.350	Multiple lane highway.
46.04.370	Operator or driver.
46.04.380	Owner.
46.04.381	Park or parking.
46.04.460	Registered owner.
46.04.555	Stand or standing.
46.04.560	State highway.
46.04.565	Stop.
46.04.566	Stop or stopping.
46.04.650	Truck tractor.
46.04.672	Vehicle or pedestrian right of way.
46.04.690	Department.
46.04.695	Director.

46.04.080 Business district. "Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway. [1975 c 62 § 2; 1961 c 12 § 46.04.080. Prior: 1959 c 49 § 9; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.100 Center line. "Center line" means the line, marked or unmarked, parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers. [1975 c 62 § 3; 1961 c 12 § 46.04.100. Prior: 1959 c 49 § 11; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.220 Intersection area. (1) "Intersection area" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none then the lateral boundary lines of the roadways of two or more highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(3) The junction of an alley with a street or highway shall not constitute an intersection. [1975 c 62 § 4; 1961 c 12 § 46.04.220. Prior: 1959 c 49 § 23; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.230 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.04.250 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.04.270 Legal owner. "Legal owner" means a person having a security interest in a vehicle perfected in accordance with chapter 46.12 RCW or the registered owner of a vehicle unencumbered by a security interest or the lessor of a vehicle unencumbered by a security interest. [1975 c 25 § 1; 1961 c 12 § 46.04.270. Prior: 1959 c 49 § 28; prior: 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part.]

46.04.350 Multiple lane highway. "Multiple lane highway" means any highway the roadway of which is of sufficient width to reasonably accommodate two or more separate lanes of vehicular traffic in the same direction, each lane of which shall be not less than the maximum legal vehicle width and whether or not such lanes are marked. [1975 c 62 § 5; 1961 c 12 § 46.04.350. Prior: 1959 c 49 § 36; prior: 1937 c 189 § 1, part; RRS § 6360-1, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.370 Operator or driver. "Operator or driver" means every person who drives or is in actual physical control of a vehicle. [1975 c 62 § 6; 1967 c 32 § 1; 1961 c 12 § 46.04.370. Prior: 1959 c 49 § 38; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part; 1923 c 181 § 1, part; 1921 c 96 § 2, part; RRS § 6313, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.380 Owner. "Owner" means a person who has a lawful right of possession of a vehicle by reason of obtaining it by purchase, exchange, gift, lease, inheritance or legal action whether or not the vehicle is subject to a security interest and means registered owner where the reference to owner may be construed as either to registered or legal owner. [1975 c 25 § 2; 1961 c 12 § 46.04.380. Prior: 1959 c 49 § 39; prior: 1937 c 189 § 1, part; RRS § 6360-1, part; 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

46.04.381 Park or parking. "Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers. [1975 c 62 § 9.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.460 Registered owner. "Registered owner" means the person whose lawful right of possession of a vehicle has most recently been recorded with the department. [1975 c 25 § 3; 1961 c 12 § 46.04.460. Prior: 1959 c 49 § 50; prior: 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part.]

46.04.555 Stand or standing. "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. [1975 c 62 § 10.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.560 State highway. "State highway" includes every highway or part thereof, which has been designated as a state highway or branch thereof, by legislative enactment. [1975 c 62 § 7; 1961 c 12 § 46.04.560. Prior: 1959 c 49 § 60; prior: 1929 c 180 § 1, part; 1927 c 309 § 2, part; RRS § 6362-2, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.565 Stop. "Stop" when required means complete cessation from movement. [1975 c 62 § 11.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.566 Stop or stopping. "Stop or stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal. [1975 c 62 § 12.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.650 Truck tractor. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. [1975 c 62 § 8; 1961 c 12 § 46.04.650. Prior: 1959 c 49 § 70; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.672 Vehicle or pedestrian right of way. "Vehicle or pedestrian right of way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other. [1975 c 62 § 13.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.04.690 Department. The term "department" shall mean the department of motor vehicles unless a different department is specified. [1975 c 25 § 4.]

46.04.695 Director. The term "director" shall mean the director of motor vehicles unless the director of a different department of government is specified. [1975 c 25 § 5.]

Chapter 46.08 GENERAL PROVISIONS

Sections
46.08.065 Publicly owned vehicles to be marked—Exceptions.

- 46.08.066 Publicly owned vehicles—Confidential license plates—Issuance, rules governing—Review by legislative auditor.
- 46.08.067 Publicly owned vehicles—Violations concerning marking and confidential license plates.
- 46.08.068 Publicly owned vehicles—Remarking not required, when.

46.08.065 Publicly owned vehicles to be marked—

Exceptions. (1) It shall be unlawful for any public officer having charge of any vehicle other than a motorcycle owned or controlled by any county, city, town, or public body in this state other than the state of Washington and used in public business to operate the same upon the public highways of this state unless and until there shall be displayed upon such automobile or other motor vehicle in letters of contrasting color not less than one and one-quarter inches in height in a conspicuous place on the right and left sides thereof, the name of such county, city, town, or other public body, together with the name of the department or office upon the business of which the said vehicle is used. This section shall not apply to vehicles of a sheriff's office, local police department, or any vehicles used by local peace officers under public authority for special undercover or confidential investigative purposes. This subsection shall not apply to: (a) Any municipal transit vehicle operated for purposes of providing public mass transportation; nor to (b) any motor vehicle on loan to a school district for driver training purposes. It shall be lawful and constitute compliance with the provisions of this section, however, for the governing body of the appropriate county, city, town, or public body other than the state of Washington or its agencies to adopt and use a distinctive insignia which shall be not less than six inches in diameter across its smallest dimension and which shall be displayed conspicuously on the right and left sides of the vehicle. Such insignia shall be in a color or colors contrasting with the vehicle to which applied for maximum visibility. The name of the public body owning or operating the vehicle shall also be included as part of or displayed above such approved insignia in colors contrasting with the vehicle in letters not less than one and one-quarter inches in height. Immediately below the lettering identifying the public entity and agency operating the vehicle or below an approved insignia shall appear the words "for official use only" in letters at least one inch high in a color contrasting with the color of the vehicle. The appropriate governing body may provide by rule or ordinance for exceptions to the marking requirements for local governmental agencies for the same purposes and under the same circumstances as permitted for state agencies under subsections (4) and (5) of this section.

(2) Except as provided by subsections (3), (4), or (5) of this section, every state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature shall plainly and conspicuously mark the right and left front doors of each motor vehicle other than a motorcycle under its ownership or control which is used on any public road or street with the name of the operating department, agency, or institution (or the words "state motor pool"

as appropriate) in letters at least one and one-quarter inches high of a color contrasting with the color of the vehicle. Immediately below such lettering and also in a contrasting color shall appear the official seal of the state of Washington, the size of which shall be not less than six inches in diameter. Immediately below the official seal, or insignia if authorized under subsection (3) of this section, shall appear the words "for official use only" in letters at least one inch high in a color contrasting with the color of the vehicle.

(3) The department of general administration, with the consent of the automotive policy board, may approve the use of a distinctive departmental, office, agency, institutional, or commission insignia in lieu of the state seal required under subsection (2) of this section. Such insignia, if approved, shall be in a color or colors contrasting with the vehicle to which applied and shall be not less than six inches in diameter or across its smallest dimension. The words "State of Washington" shall be included as part of or displayed above such approved insignia in a color contrasting with the vehicle in letters not less than one and one-quarter inches in height.

(4) Any distinctive departmental, office, agency, institutional, or commission insignia approved for marking of state vehicles by the state commission on equipment on or before January 1, 1975, shall be approved for continued use if it conforms to the standards imposed by subsections (2) and (3) of this section.

(5) Subsections (2) and (3) of this section shall not apply to vehicles used by the Washington state patrol for general undercover or confidential investigative purposes. Traffic control vehicles of the Washington state patrol may be exempted from the requirements of subsections (2) and (3) of this section at the discretion of the chief of the Washington state patrol. The department of general administration, with the consent of the automotive policy board, shall promulgate general rules and regulations permitting other exceptions to the requirements of subsections (2) and (3) of this section for other vehicles used for law enforcement, confidential public health work, and public assistance fraud or support investigative purposes, for vehicles leased or rented by the state on a casual basis for a period of less than ninety days, and those provided for in RCW 46.08.066(3). The exceptions in this subsection and those provided for in RCW 46.08.066(3) shall be the only exceptions permitted to the requirements of subsections (2) and (3) of this section.

(6) Any motorcycle owned or controlled by the state of Washington or by any county, city, town, or other public body in this state and used for public purposes on the public highways of this state shall be conspicuously marked in letters of a contrasting color with the words "State of Washington" or the name of such county, city, town, or other public body, together with the name of the department or office upon the business of which the motorcycle is used.

(7) All motor vehicle markings required under the terms of this chapter shall be maintained in a legible condition at all times. [1975 1st ex.s. c 169 § 1; 1961 c

12 § 46.08.065. Prior: 1937 c 189 § 46; RRS § 6360-46. Formerly RCW 46.36.140.]

46.08.066 Publicly owned vehicles—Confidential license plates—Issuance, rules governing—Review by legislative auditor. (1) Except as provided in subsection (3) of this section, the department of motor vehicles is authorized to issue confidential motor vehicle license plates to units of local government and to agencies of the federal government for law enforcement purposes only.

(2) Except as provided in subsections (3) and (4) of this section the use of confidential plates on vehicles owned or operated by the state of Washington by any officer or employee thereof, shall be limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

(3) Any state official elected on a state-wide basis shall be provided on request with one set of confidential plates for use on official business. When necessary for the personal security of any other public officer, or public employee, the chief of the Washington state patrol may recommend that the director issue confidential plates for use on an unmarked publicly owned or controlled vehicle of the appropriate governmental unit for the conduct of official business for the period of time that the personal security of such state official, public officer, or other public employee may require. The office of the state treasurer may use an unmarked state owned or controlled vehicle with confidential plates where required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

(4) The director of the department of motor vehicles, with the approval of the automotive policy board established pursuant to RCW 43.19.580, may issue rules and regulations governing applications for, and the use of, such plates by law enforcement and other public agencies. The legislative auditor shall periodically examine or require filing of a current listing of the total number of such plates issued to any law enforcement or other public agency. Reports on the utilization of such plates shall be submitted to the legislative budget committee and to the legislature. [1975 1st ex.s. c 169 § 2.]

46.08.067 Publicly owned vehicles—Violations concerning marking and confidential license plates. A violation of any provision of RCW 46.08.065 as now or hereafter amended or of RCW 46.08.066 shall subject the public officer or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay or termination of employment in the case of repeated or continuing noncompliance. [1975 1st ex.s. c 169 § 3.]

46.08.068 Publicly owned vehicles—Remarking not required, when. Any vehicle properly marked pursuant to statutory requirements in effect prior to September 8,

1975, need not be remarked to conform to the requirements of RCW 46.08.065 through 46.08.067 until July 1, 1977. [1975 1st ex.s. c 169 § 4.]

Chapter 46.09 ALL-TERRAIN VEHICLES

Sections

46.09.160	Repealed.
46.09.170	Refunds from motor vehicle fund—Distribution—Use.
46.09.175	Transferred funds may be used for administration and coordination.

46.09.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.09.170 Refunds from motor vehicle fund—Distribution—Use. From time to time, but at least once each biennium, the director of the department of motor vehicles shall request the state treasurer to refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected pursuant to chapter 82.36 RCW, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall refund and place such amounts in the outdoor recreation account of the general fund to be administered by the interagency committee for outdoor recreation, and such amounts shall be distributed to departments of state government, to counties, and to municipalities on a basis determined by the amount of present or proposed ATV trails or areas on which they permit ATV use. Such distribution shall be reviewed and may be revised by the committee at least once each biennium. These moneys shall be expended by each agency only for all-terrain vehicle trail and area related expenses. [1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22.]

Effective date—1975 1st ex.s. c 34: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 34 § 4.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.175 Transferred funds may be used for administration and coordination. Amounts transferred to the outdoor recreation account pursuant to chapter 46.09 RCW may be used for the necessary administrative and coordinative expenditures of the interagency committee for outdoor recreation in carrying out the provisions of RCW 46.09.110 and 46.09.170. [1975 1st ex.s. c 34 § 2.]

Effective date—1975 1st ex.s. c 34: See note following RCW 46.09.170.

Chapter 46.10 SNOWMOBILES

Sections

46.10.030	Operation of snowmobile without registration prohibited—Exceptions.
46.10.043	Registration or transfer of registration pursuant to sale by dealer.
46.10.080	Distribution of snowmobile registration fees.
46.10.081	Appropriation for pilot program—Snow groomer.

- 46.10.090 Operating violations.
 46.10.150 Treasurer's duty to refund snowmobile fuel tax to general fund—Crediting—Use.
 46.10.190 General penalty—Civil liability.

46.10.030 Operation of snowmobile without registration prohibited—Exceptions. No registration shall be required under the provisions of this chapter for the following described snowmobiles:

(1) Snowmobiles owned and operated by the United States, another state, or a political subdivision thereof.

(2) Snowmobiles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) A snowmobile owned by a resident of another state if that snowmobile is registered in accordance with the laws of the state in which its owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for snowmobiles registered in this state: *Provided*, That any snowmobile which is validly registered in another state and which is physically located in this state for a period of more than fifteen consecutive days shall be subject to registration under the provisions of this chapter. [1975 1st ex.s. c 181 § 1; 1971 ex.s. c 29 § 3.]

46.10.043 Registration or transfer of registration pursuant to sale by dealer. Each snowmobile dealer registered pursuant to the provisions of RCW 46.10.050 shall register the snowmobile or, in the event the snowmobile is currently registered, transfer the registration to the new owner prior to delivering the snowmobile to that new owner subsequent to the sale thereof by the dealer. Applications for registration and transfer of registration of snowmobiles shall be made to agents of the department authorized as such in accordance with RCW 46.01.140 and 46.01.150 as now or hereafter amended. [1975 1st ex.s. c 181 § 4.]

46.10.080 Distribution of snowmobile registration fees. The moneys collected by the department as snowmobile registration fees shall be distributed in the following manner:

(1) Ten percent each year for the first two years after August 9, 1971, and five percent each year for each year thereafter shall be retained by the department to cover expenses incurred in the administration of this chapter.

(2) Twenty-five percent each year shall be distributed to the treasurers of those counties of this state having significant snowmobile use in such sums or upon such a formula as shall be determined by the director after consulting with and obtaining the advice of the Washington state association of counties, and shall be deposited in the county parks and recreation fund and expended for snowmobile purposes.

(3) For the first two years after August 9, 1971, fifteen percent each year shall be remitted to the state treasurer for deposit into the general fund and shall be credited to the commission and shall be expended for snow removal operations at other than developed recreational facilities. Thereafter twenty percent each year shall be so remitted for such purposes: *Provided*, That the unused portion of the moneys allotted to the commission for snow removal operations at other than developed

recreational facilities, as provided for in this section and in RCW 46.10.150, from the registration moneys and the gasoline fuel tax, as of March 1 of the second year of the biennium shall revert to the snowmobile development and operation fund of the commission, which fund is hereby created.

(4) Fifty percent each year shall be remitted to the state treasurer to be deposited in the general fund, and forty percent of such fifty percent shall remain in the general fund and shall be subject to legislative appropriation until the cumulative totals of such amounts subject to legislative appropriation deposited under this section and under RCW 46.10.150 as now or hereafter amended shall equal forty thousand dollars, or shall equal so much of the appropriation under RCW 46.10.081 as is actually used if the entire appropriation of forty thousand dollars is not used. The remainder of such fifty percent shall be credited in equal amounts to the commission, the department of natural resources, and the department of game and shall be expended on the development or operation of snowmobile facilities, but not on the acquisition thereof. The commission, the department of natural resources and the department of game shall, not later than July 15 of each year, prepare and submit to the Washington state parks and recreation commission an annual report which shall indicate the purposes for which such amounts were expended. [1975 1st ex.s. c 181 § 2; 1973 1st ex.s. c 128 § 3; 1972 ex.s. c 153 § 22; 1971 ex.s. c 29 § 8.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.10.081 Appropriation for pilot program—Snow groomer. In order to establish a pilot program of cooperation between snowmobile users, county governments, and the state parks and recreation commission, there is hereby appropriated to the Washington state parks and recreation commission, forty thousand dollars or so much thereof as may be needed from the general fund for the purchase, operation, and maintenance of a snow groomer for use in maintaining and improving snowmobile trails: *Provided*, That such forty thousand dollars or so much thereof as is actually used shall be repaid to the general fund by June 30, 1977, from moneys available pursuant to RCW 46.10.080(4) and 46.10.150 as now or hereafter amended. The state parks and recreation commission shall be responsible for the pilot program and shall report the results and expenses to the standing parks and recreation committees prior to the 1977 legislative session. [1975 1st ex.s. c 181 § 7.]

46.10.090 Operating violations. It shall be unlawful for any person to operate any snowmobile:

(1) At a rate of speed greater than reasonable and prudent under the existing conditions.

(2) While under the influence of intoxicating liquor or narcotics or habit forming drugs.

(3) In a manner so as to endanger the person or property of another.

(4) Without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others.

(5) Without an adequate braking device which may be operated either by hand or foot.

(6) Without an adequate and operating muffling device which shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise, and, on snowmobiles manufactured after January 4, 1973, which shall effectively maintain such noise at a level of eighty-two decibels or below on the "A" scale at one hundred feet under testing procedures as established by the Washington state patrol; except snowmobiles used in organized racing events in an area designated for that purpose may use a bypass or cutout device.

(7) Upon the paved portion or upon the shoulder or inside bank or slope of any public roadway or highway, or upon the median of any divided highway, except as provided in RCW 46.10.100 and 46.10.110.

(8) In any area or in such a manner so as to expose the underlying soil or vegetation, or to injure, damage, or destroy trees or growing crops.

(9) Without a current registration decal affixed thereon, if not exempted under RCW 46.10.030 as now or hereafter amended. [1975 1st ex.s. c 181 § 5; 1971 ex.s. c 29 § 9.]

46.10.150 Treasurer's duty to refund snowmobile fuel tax to general fund—Crediting—Use. From time to time, but at least once each biennium, the director shall request the state treasurer to refund from the motor vehicle fund amounts which have been determined to be a tax on snowmobile fuel, and the treasurer shall refund such amounts and place them in the general fund; twenty-five percent of such amounts shall be credited to the commission and shall be expended by it for snow removal operations at other than developed recreational facilities; seventy-five percent of such amounts shall be credited as follows: Forty percent of such seventy-five percent to the general fund to be subject to legislative appropriation until the cumulative totals of such amounts subject to legislative appropriation under this section and under RCW 46.10.080(4) as now or hereafter amended shall equal forty thousand dollars, or shall equal so much of the appropriation under RCW 46.10.081 as is actually used if the entire appropriation of forty thousand dollars is not used. The remainder of such seventy-five percent shall be credited in equal amounts, to the commission, department of natural resources, and the department of game, and shall be expended for the development and/or operation, but not acquisition, of snowmobile facilities. [1975 1st ex.s. c 181 § 3; 1973 1st ex.s. c 128 § 4; 1971 ex.s. c 29 § 15.]

Appropriation—1971 ex.s. c 29: See note following RCW 46.10.010.

46.10.190 General penalty—Civil liability. (1) Except as provided in RCW 46.10.130, any person violating the provisions of this chapter shall be guilty of a misdemeanor: *Provided*, That the penalty for failing to have a registration decal under RCW 46.10.090 as now or hereafter amended shall, upon conviction, be a fine of twenty-five dollars.

(2) In addition to the penalties provided in subsection (1) of this section, the operator and/or the owner of any snowmobile used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops, or other property injured as the result of travel by such snowmobile over the property involved. [1975 1st ex.s. c 181 § 6; 1971 ex.s. c 29 § 19.]

Chapter 46.12 CERTIFICATES OF OWNERSHIP AND REGISTRATION

Sections	
46.12.010	Certificates required to operate and sell vehicles—Manufacturers or dealers, security interest, how perfected.
46.12.020	Prerequisite to issuance of vehicle license and plates.
46.12.030	Certificate of ownership—Application—Contents—Inspection of vehicle.
46.12.040	Certificate of ownership—Application and inspection fees.
46.12.050	Issuance of certificates—Contents.
46.12.060	Procedure when identification number altered or obliterated.
46.12.120	Duty when purchaser or transferee is a dealer.
46.12.160	Director may refuse or cancel certificate—Penalty.
46.12.170	Procedure when security agreement is placed on vehicle.
46.12.230	Permit to licensed wrecker to junk vehicle—Fee.

46.12.010 Certificates required to operate and sell vehicles—Manufacturers or dealers, security interest, how perfected. It shall be unlawful for any person to operate any vehicle in this state under a certificate of license registration of this state without securing and having in full force and effect a certificate of ownership therefor that contains the name of the registered owner exactly as it appears on the certificate of license registration and it shall further be unlawful for any person to sell or transfer any vehicle without complying with all the provisions of this chapter relating to certificates of ownership and license registration of vehicles: *Provided*, No certificate of title need be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or a vehicle used by a manufacturer solely for testing: *Provided*, That a security interest in a vehicle held as inventory by a manufacturer or dealer shall be perfected in accordance with RCW 62A.9-302(1) and no endorsement on the certificate of title shall be necessary for perfection: *And provided further*, That nothing in this title shall be construed to prevent any person entitled thereto from securing a certificate of ownership upon a vehicle other than a travel trailer or camper without securing a certificate of license registration and vehicle license plates, when, in the judgment of the director of motor vehicles, it is proper to do so. [1975 c 25 § 6; 1967 c 140 § 1; 1967 c 32 § 6; 1961 c 12 § 46.12-.010. Prior: 1937 c 188 § 2; RRS § 6312-2.]

Effective date—1967 c 140: "This act shall become effective at midnight on June 30, 1967. It applies to transactions entered into and events occurring after that date." [1967 c 140 § 11.] This applies to RCW 46.12.005, 46.12.010, 46.12.095, 46.12.101, 46.12.120, 46.12.130, 46.12.151, 46.12.170 and 46.12.181.

Definitions: See RCW 46.12.005.

46.12.020 Prerequisite to issuance of vehicle license and plates. No vehicle license number plates or certificate of license registration, whether original issues or duplicates, shall be issued or furnished by the department unless the applicant therefor shall at the same time make satisfactory application for a certificate of ownership or shall present satisfactory evidence that such a certificate of ownership covering such vehicle has been previously issued. [1975 c 25 § 7; 1967 c 32 § 7; 1961 c 12 § 46.12.020. Prior: 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-2, part.]

46.12.030 Certificate of ownership—Application—Contents—Inspection of vehicle. The application for certificate of ownership shall be upon a blank form to be furnished by the department and shall contain:

(1) A full description of the vehicle, which said description shall contain the proper vehicle identification number, the number of miles indicated on the odometer at the time of delivery of the vehicle, and any distinguishing marks of identification;

(2) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;

(3) Such other information as the department may require: *Provided*, That the department may in any instance, in addition to the information required on said application, require additional information and a physical examination of the vehicle or of any class of vehicles, or either: *Provided further*, That a physical examination of the vehicle is mandatory if it previously was registered in any other state or country. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the foreign title and registration certificate. If the vehicle is from a jurisdiction that does not issue titles, the inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the registration certificate. The inspection must also confirm that the license plates on the vehicle are those assigned to the vehicle by the jurisdiction in which the vehicle was previously licensed. The inspection must be made by a member of the Washington state patrol or other person authorized by the department to make such inspections.

Such application shall be subscribed by the registered owner and be sworn to by that person before a notary public or other officer authorized by law to take acknowledgments of deeds, or other person authorized by the director to certify to the signature of the applicant upon such application. [1975 c 25 § 8; 1974 ex.s. c 128 § 1; 1972 ex.s. c 99 § 2; 1967 c 32 § 8; 1961 c 12 § 46.12.030. Prior: 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-2, part.]

Effective date—1974 ex.s. c 128: "This 1974 amendatory act shall take effect July 1, 1974." [1974 ex.s. c 128 § 3.]

46.12.040 Certificate of ownership—Application and inspection fees. The application accompanied by a draft, money order, or certified bank check for one dollar, together with the last preceding certificates or other satisfactory evidence of ownership, shall be forwarded to the director.

The fee shall be in addition to any other fee for the license registration of the vehicle. The certificate of ownership shall not be required to be renewed annually, or at any other time, except as by law provided.

In addition to the application fee and any other fee for the license registration of a vehicle, there shall be collected from the applicant an inspection fee of ten dollars whenever physical examination of the vehicle is required as a part of the vehicle licensing or titling process.

These fees shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. [1975 1st ex.s. c 138 § 1; 1974 ex.s. c 128 § 2; 1961 c 12 § 46.12.040. Prior: 1951 c 269 § 1; 1947 c 164 § 1, part; 1937 c 188 § 3, part; Rem. Supp. 1947 § 6312-3, part.]

Effective date—1974 ex.s. c 128: See note following RCW 46.12.030.

46.12.050 Issuance of certificates—Contents. The department, if satisfied from the statements upon the application that the applicant is the legal owner of the vehicle or otherwise entitled to have the certificate of ownership thereof in the applicant's name, shall thereupon issue an appropriate certificate of ownership, over the director's signature, authenticated by seal, and a new certificate of license registration if certificate of license registration is required.

Both the certificate of ownership and the certificate of license registration shall contain upon the face thereof, the date of application, the registration number assigned to the registered owner and to the vehicle, the name and address of the registered owner and legal owner, the vehicle identification number, and such other description of the vehicle and facts as the department shall require, and in addition thereto, if the vehicle described in such certificates shall have ever been licensed and operated as an exempt vehicle or a taxicab, or if it is less than four years old and has been rebuilt after having been totaled out by an insurance carrier, such fact shall be clearly shown thereon.

A blank space shall be provided on the face of the certificate of license registration for the signature of the registered owner.

Upon issuance of the certificate of license registration and certificate of ownership and upon any reissue thereof, the department shall deliver the certificate of license registration to the registered owner and the certificate of ownership to the legal owner, or both to the person who is both the registered owner and legal owner. [1975 c 25 § 9; 1967 c 32 § 9; 1961 c 12 § 46.12.050. Prior: 1959 c 166 § 1; 1947 c 164 § 2; 1937 c 188 § 4; Rem. Supp. 1947 § 6312-4.]

46.12.060 Procedure when identification number altered or obliterated. Before the department shall issue a certificate of ownership, or reissue such a certificate,

covering any vehicle, the identification number of which has been altered, removed, obliterated, defaced, omitted, or is otherwise absent, the registered owner of the vehicle shall file an application with the department, accompanied by a fee of five dollars, upon a form provided, and containing such facts and information as shall be required by the department for the assignment of a special number for such vehicle. Upon receipt of such application, the department, if satisfied the applicant is entitled to the assignment of an identification number, shall designate a special identification number for such vehicle, which shall be noted upon the application therefor, and likewise upon a suitable record of the authorization of the use thereof, to be kept by the department. This assigned identification number shall be placed or stamped in a conspicuous position upon the vehicle in such manner and form as may be prescribed by the department. Upon receipt by the department of a certificate by an officer of the Washington state patrol, or other person authorized by the department, that the vehicle has been inspected and that the identification number or the special number plate, has been stamped or securely attached in a conspicuous position upon the vehicle, accompanied by an application for a certificate of ownership or application for reissue of such certificate and the required fee therefor, the department shall use such number as the numerical or alpha-numerical identification marks for the vehicle in any certificate of license registration or certificate of ownership that may thereafter be issued therefor. [1975 c 25 § 10; 1974 ex.s. c 36 § 1; 1961 c 12 § 46.12.060. Prior: 1959 c 166 § 3; prior: 1951 c 269 § 2; 1947 c 164 § 3(a); 1939 c 182 § 1(a); 1937 c 188 § 5(a); Rem. Supp. 1947 § 6312-5(a).]

Effective date—1974 ex.s. c 36: "This 1974 amendatory act shall take effect on July 1, 1974." [1974 ex.s. c 36 § 2.]

Defacement of motor serial number: RCW 9.54.030.

46.12.120 Duty when purchaser or transferee is a dealer. If the purchaser or transferee is a dealer he shall, on selling or otherwise disposing of the vehicle, promptly execute the assignment and warranty of title, in such form as the director shall prescribe, including recording on the application the odometer reading as recorded by the previous owner on the title at the time the dealer obtained the vehicle or, if the previous owner failed to record the mileage on the title, the dealer shall attach a signed statement attesting to the odometer reading as it appeared on the vehicle at the time the vehicle was obtained by the dealer. Such assignment and warranty shall show any secured party holding a security interest created or reserved at the time of resale, to which shall be attached the assigned certificates of ownership and license registration received by the dealer, and mail or deliver them to the department with the transferee's application for the issuance of new certificates of ownership and license registration: *Provided*, That the title certificate issued for a vehicle possessed by a dealer and subject to a security interest shall be delivered to the secured party who upon request of the dealer's transferee shall, unless the transfer was a

breach of his security agreement, either deliver the certificate to the transferee for transmission to the department, or upon receipt from the transferee of the owner's bill of sale or sale document, the transferee's application for a new certificate and the required fee, mail or deliver to the department: *And provided further*, That failure of a dealer to deliver the title certificate to the secured party does not affect perfection of the security interest. [1975 c 25 § 11; 1972 ex.s. c 99 § 3; 1967 c 140 § 2; 1961 c 12 § 46.12.120. Prior: 1959 c 166 § 10; prior: 1947 c 164 § 4(c); 1937 c 188 § 6(c); Rem. Supp. 1947 § 6312-6(c).]

Effective date—1967 c 140: See note following RCW 46.12.010.

Definitions: See RCW 46.12.005.

46.12.160 Director may refuse or cancel certificate—Penalty. If the director determines at any time that an applicant for certificate of ownership or for a certificate of license registration for a vehicle is not entitled thereto, he may refuse to issue such certificate or to license the vehicle and he may, for like reason, after notice, and in the exercise of discretion, cancel license registration already acquired or any outstanding certificate of ownership. The notice shall be served personally or sent by certified mail return receipt requested. It shall then be unlawful for any person to remove, drive, or operate the vehicle until a proper certificate of ownership or license registration has been issued and any person removing, driving, or operating such vehicle after the refusal of the director to issue certificates or the revocation thereof shall be guilty of a gross misdemeanor. [1975 c 25 § 12; 1961 c 12 § 46.12.160. Prior: 1959 c 166 § 14; prior: 1947 c 164 § 4(g); 1937 c 188 § 6(g); Rem. Supp. 1947 § 6312-6(g).]

46.12.170 Procedure when security agreement is placed on vehicle. If, after a certificate of ownership is issued, a security agreement is placed on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, signed by the registered owner and the secured party, to which shall be attached the certificate of license registration and the certificate of ownership last issued covering the vehicle, which application shall be upon a form provided by the department and shall be accompanied by a fee of one dollar. The department, if satisfied that there should be a reissue of the certificates, shall note such change upon the vehicle records and issue to the registered owner a new certificate of license registration and to the secured party a new certificate of ownership.

Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must assign the certificate of ownership to the debtor or the debtor's assignee and transmit the certificate to the department with an accompanying fee of one dollar. The department shall then issue a new certificate of ownership and transmit it to the owner. If the affected secured party fails to either assign or transmit the certificate of ownership to the debtor within ten days after proper demand, that secured party shall be liable

to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure. [1975 c 25 § 13; 1967 c 140 § 4; 1961 c 12 § 46.12.170. Prior: 1951 c 269 § 4; 1947 c 164 § 5; 1939 c 182 § 2; 1937 c 188 § 7; Rem. Supp. 1947 § 6312-7.]

Effective date—1967 c 140: See note following RCW 46.12.010.
Definitions: See RCW 46.12.005.

46.12.230 Permit to licensed wrecker to junk vehicle—Fee. Any licensed wrecker in possession of a motor vehicle ten years old or older, and ownership of which or whose owner's residence is unknown, may apply to the department for a permit to junk or wreck such motor vehicle, or any part thereof. Upon such application, a permit may be issued by the department, upon receipt of a fee of one dollar, in a form to be prescribed by the department to authorize such wrecker to wreck or junk such vehicle, or any part thereof. [1975 c 25 § 14; 1967 c 32 § 13; 1961 c 12 § 46.12.230. Prior: 1957 c 273 § 12.]

Chapter 46.16 VEHICLE LICENSES

Sections

- 46.16.006 "Registration year", defined—Registration months and quarters—"Last day of the month". (Effective January 1, 1977.)
- 46.16.020 Exemptions—State and publicly owned vehicles—Registration.
- 46.16.040 Form of application—Contents.
- 46.16.060 License fee, general—House moving dollies. (Effective January 1, 1977.)
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- 46.16.210 Original applications—Renewals—Fees—Preissuance, when (as amended by 1975 1st ex.s. c 118). (Effective January 1, 1977.)
- 46.16.210 Original applications—Renewals—Fees—Preissuance, when (as amended by 1975 1st ex.s. c 169).
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- 46.16.505 Campers—License and plates—Application—Fee. (Effective January 1, 1977.)
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- 46.16.590 Personalized license plates—Transfer fees.
- 46.16.595 Personalized license plates—Transfer or surrender of plates upon sale or release of vehicle ownership—Penalty.

Publicly owned vehicles, confidential license plates: RCW 46.08.066-46.08.068.

46.16.006 "Registration year", defined—Registration months and quarters—"Last day of the month". (Effective January 1, 1977.) (1) The term "registration year" for the purposes of chapters 46.16, 82.44, and 82.50 RCW shall mean the effective period of a vehicle license issued by the department. Such year shall commence at 12:01 a.m. on the date of the calendar year designated by the department and shall end at 12:01 a.m. on the same date of the next succeeding calendar year.

(2) Each registration year may be divided into twelve registration months. Each registration month shall commence on the day numerically corresponding to the day of the calendar month on which the registration year begins, and shall terminate on the numerically corresponding day of the next succeeding calendar month.

(3) Each registration year may be divided into four registration quarters, each consisting of three registration months. The first quarter shall commence with registration month one.

(4) Where the term "last day of the month" is utilized in chapters 46.16, 82.44, and 82.50 RCW in lieu of a specified day of any calendar month it shall mean the last day of such calendar month or months irrespective of the numerical designation of that day.

(5) In the event the final day of a registration year, quarter, or month falls on a Saturday, Sunday, or legal holiday, such period shall extend through the end of the next business day. [1975 1st ex.s. c 118 § 1.]

Effective date—1975 1st ex.s. c 118: "This 1975 amendatory act shall take effect on January 1, 1977: *Provided*, That the director of the department of motor vehicles may, prior to such effective date, undertake and perform duties and conduct activities necessary for the timely implementation of this 1975 amendatory act on such date." [1975 1st ex.s. c 118 § 19.]

Severability—1975 1st ex.s. c 118: "If any provision of this 1975 amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this 1975 amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby." [1975 1st ex.s. c 118 § 18.]

The foregoing annotations apply to RCW 46.16.060, 46.16.065, 46.16.130-46.16.137, 46.16.210, 46.16.220, 46.16.320, 46.16.505, 82.44.040, 82.44.045, 82.44.060, 82.50.400, 82.50.410, and 82.50.460 and the enactment of RCW 46.16.006 and 46.16.225.

46.16.020 Exemptions—State and publicly owned vehicles—Registration. Any vehicle owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington and used exclusively by them, and all vehicles owned or leased with an option to purchase by the United States government, or by the government of foreign countries, or by international bodies to which the United States government is a signatory by treaty, and used exclusively in its or their service shall be exempt from the payment of license fees

for the licensing thereof as in this chapter provided: *Provided, however*, That such vehicles, except those owned and used exclusively by the United States government and which are identified by clearly exhibited registration numbers or license plates assigned by an instrumentality of that government, shall be registered as prescribed for the license registration of other vehicles and shall display the vehicle license number plates assigned to it. The department shall assign a plate or plates to each vehicle or may assign a block of plates to an agency or political subdivision for further assignment by the agency or political subdivision to individual vehicles registered to it pursuant to this section. The agency or political subdivision, except a foreign government or international body, shall pay a fee of two dollars for the plate or plates for each vehicle: *Provided, further*, That no vehicle license or license number plates shall be issued to any such vehicle under the provisions of this section for the transportation of school children unless and until such vehicle shall have been first personally inspected by the director or his duly authorized representative. [1975 1st ex.s. c 169 § 5; 1973 1st ex.s. c 132 § 22; 1967 c 32 § 14; 1965 ex.s. c 106 § 1; 1961 c 12 § 46.16.020. Prior: 1939 c 182 § 4; 1937 c 188 § 21; RRS § 6312-21; 1925 ex.s. c 47 § 1; 1921 c 96 § 17; 1919 c 46 § 2; 1917 c 155 § 12; 1915 c 142 § 17; RRS § 6329.]

Severability—1973 1st ex.s. c 132: See RCW 46.16.900, 46.70.920.

46.16.040 Form of application—Contents. Application for original vehicle license shall be made on form furnished for the purpose by the department. Such application shall be made by the owner of the vehicle or duly authorized agent over the signature of such owner or agent, and the applicant shall certify that the statements therein are true to the best of the applicant's knowledge. The application must show:

(1) Name and address of the owner of the vehicle and, if the vehicle is subject to a security agreement, the name and address of the secured party;

(2) Trade name of the vehicle, model, year, type of body, the identification number thereof;

(3) The power to be used—whether electric, steam, gas or other power;

(4) The purpose for which said vehicle is to be used and the nature of the license required;

(5) The maximum gross license for such vehicle which in case of for hire vehicles and auto stages shall be the maximum adult seating capacity thereof, exclusive of the operator, and in cases of motor trucks, truck tractors, trailers and semitrailers shall be the maximum gross weight declared by the applicant pursuant to the provisions of RCW 46.16.111;

(6) The weight of such vehicle, if it be a motor truck or trailer, which shall be the shipping weight thereof as given by the manufacturer thereof unless another weight is shown by weight slip verified by a certified weighmaster, which slip shall be attached to the original application;

(7) Such other information as shall be required upon such application by the director. [1975 c 25 § 15; 1969 ex.s. c 170 § 2. Prior: 1967 ex.s. c 83 § 59; 1967 c 32 §

16; 1961 c 12 § 46.16.040; prior: 1947 c 164 § 8; 1937 c 188 § 29; Rem. Supp. 1947 § 6312-29; 1921 c 96 § 5; 1919 c 178 § 1; 1919 c 59 § 4; 1915 c 142 § 5; RRS § 6316.]

Effective dates—1967 ex.s. c 83: See RCW 47.26.910.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

46.16.060 License fee, general—House moving dollies. (Effective January 1, 1977.) Except as otherwise specifically provided by law for the licensing of vehicles, there shall be paid and collected annually for each registration year or fractional part thereof and upon each vehicle a license fee or, if the vehicle was previously licensed in this state and has not been registered in another jurisdiction in the intervening period, a renewal license fee. Such license fee shall be in the sum of thirteen dollars and forty cents, and such renewal fee shall be in the sum of nine dollars and forty cents: *Provided, however*, That the fee for licensing each house moving dolly which is used exclusively for moving buildings or homes on the highway under special permit as provided for in chapter 46.44 RCW, shall be twenty-five dollars and no other fee shall be charged for the load carried thereon. [1975 1st ex.s. c 118 § 3; 1969 ex.s. c 170 § 3; 1969 c 99 § 5; 1965 c 25 § 1; 1961 ex.s. c 7 § 9; 1961 c 12 § 46.16.060. Prior: 1957 c 105 § 1; 1955 c 384 § 11; 1951 c 150 § 17; 1949 c 220 § 8; 1937 c 188 § 16; 1931 c 140 § 1; part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; Rem. Supp. 1949 § 6312-16; RRS § 6326, part.]

Effective date—**Severability**—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Effective date—1965 c 25: "This act shall take effect January 1, 1966." [1965 c 25 § 6.] This applies to the 1965 amendments to RCW 46.16.060, 46.68.030, and 46.68.060, the repeal of RCW 46.68.040, and to 46.68.041.

Free motor vehicle license for certain disabled veterans: RCW 73.04.110.

46.16.065 Small trailer license fee—Conditions. (Effective January 1, 1977.) In lieu of the fees provided in RCW 46.16.060, private passenger car one or two-wheel trailers of two thousand pounds gross weight or less, may be licensed upon the payment of a license fee in the sum of four dollars and fifty cents or, if the vehicle was previously licensed in this state and has not been registered in another jurisdiction in the intervening period, a renewal license fee in the sum of three dollars and twenty-five cents, but only if such trailers are to be operated upon the public highway by the owners thereof. It is the intention of the legislature that this reduced license shall be issued only as to trailers operated for personal use of the owners and not trailers held for rental to the public. [1975 1st ex.s. c 118 § 4; 1961 ex.s. c 7 § 10; 1961 c 12 § 46.16.065. Prior: 1951 c 269 § 7.]

Effective date—**Severability**—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.079 Fixed load vehicle equipped for lifting or towing—Fee in lieu. The licensee of any fixed load vehicle equipped for lifting or towing any disabled, impounded, or abandoned vehicle or part thereof, may pay a fee of twenty-five dollars in lieu of the additional

fees provided in RCW 46.16.070. [1975 c 25 § 16; 1963 c 18 § 1.]

46.16.080 Fixed load machines—Fee in lieu—
Exception. In lieu of the additional fee provided in RCW 46.16.070 there shall be collected a fee of five dollars on any motor truck, truck tractor, trailer or semitrailer used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, wrecker, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such motor truck, trailer, or semitrailer: *Provided*, That no additional fee shall be collected under this section or under RCW 46.16.070 on any travel trailer: *Provided further*, That for each vehicle used exclusively in the transportation of circus, carnival, and show equipment and in the transportation of supplies used in conjunction therewith, there shall be charged in addition to other fees provided for the licensing of vehicles, an annual capacity fee in the amount of ten dollars. [1975 c 25 § 17; 1961 c 12 § 46.16.080. Prior: 1957 c 269 § 17; 1955 c 363 § 5; prior: 1955 c 139 § 22; 1950 ex.s. c 15 § 1, part; 1949 c 220 § 10, part; 1947 c 200 § 15, part; 1941 c 224 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; Rem. Supp. 1949 § 6312-17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; RRS § 6326, part.]

46.16.100 Special permits for single movement—
Fee. When any vehicle subject to license is to be moved upon the public highways of this state from one point to another, the department may issue a special permit therefor upon an application presented in such form as shall be approved by the department and upon payment therefor of a fee of ten dollars. Such permit shall be for one transit only between the points of origin and destination as set forth in the application: *Provided*, That a special permit or one-transit permit shall be issued for movement of a mobile home as defined in RCW 46.04.085 pursuant to RCW 46.16.105. [1975 c 25 § 18; 1971 ex.s. c 231 § 10; 1969 ex.s. c 170 § 5; 1961 c 12 § 46.16.100. Prior: 1955 c 363 § 7; prior: 1955 c 139 § 23; 1950 ex.s. c 15 § 1, part; 1949 c 220 § 10, part; 1947 c 200 § 15, part; 1941 c 224 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; Rem. Supp. 1947 § 6312-17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 146 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; RRS § 6326, part.]

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.16.130 Reduction of fees for fractional year. (Effective January 1, 1977.) Whenever an application is made for a license on a motor truck, trailer, tractor, semitrailer, for hire vehicle, bus or auto stage subsequent to the end of the first registration quarter of any registration year, the license fees based on gross weight or seating capacity of such vehicles shall be computed as follows:

Upon vehicles above described licensed in this state during the second registration quarter, the license fees

imposed by this section for such year shall be reduced by one-fourth thereof; upon vehicles licensed in this state during the third registration quarter, the license fees shall be reduced by one-half thereof; and upon vehicles licensed in this state during the fourth registration quarter, the license fees shall be reduced by three-fourths thereof: *Provided*, That such reductions shall not apply to special permits nor to vehicles licensed during the immediately preceding registration year. [1975 1st ex.s. c 118 § 5; 1961 c 12 § 46.16.130. Prior: 1951 c 269 § 15; 1949 c 220 § 11; 1945 c 171 § 1; 1943 c 194 § 1; Rem. Supp. 1949 § 6312-18a.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.135 Quarterly license—Penalty. (Effective January 1, 1977.) Tonnage for motor trucks, trailers, tractors, pole trailers, or semitrailers having a declared gross weight in excess of twenty thousand pounds may be purchased for any registration quarter at one-fourth of the usual annual tonnage fee: *Provided*, That the fee for the registration quarter in which the vehicle is licensed shall be reduced by one-twelfth of the usual tonnage fee for each full registration month of the registration quarter that shall have elapsed at the time the vehicle is licensed. An additional fee of one dollar shall be charged by the director each time tonnage is purchased. The director is authorized to establish rules and regulations relative to the issuance and display of certificates or insignia.

No vehicle licensed under the provisions of this section shall be operated over the public highways unless the owner or operator renews the quarterly tonnage permit prior to the expiration of the existing tonnage permit. Any person who operates any such vehicle upon the public highways after the expiration of the existing tonnage permit, shall be guilty of a misdemeanor, and in addition shall be required to purchase a tonnage permit for the vehicle involved at the fee covering an entire registration year's operation thereof, less the fees for any registration quarter or registration quarters of the registration year already paid. If, within five days thereafter, no license for a full registration year has been purchased as required aforesaid, the Washington state patrol, county sheriff, or city police shall impound such vehicle in such manner as may be directed for such cases by the chief of the Washington state patrol, until such requirement is met. [1975 1st ex.s. c 118 § 6; 1969 ex.s. c 170 § 7; 1961 c 12 § 46.16.135. Prior: 1951 c 269 § 16.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.137 Monthly license for transportation of logs—Penalty. (Effective January 1, 1977.) During the months of October, November, December, January, February, and March the gross weight license for a three-axle truck, a three-axle truck tractor and a two-axle pole trailer used in combination, and a three-axle truck and two-axle trailer used in combination, when such vehicles or combinations of vehicles are licensed to the maximum gross weight provided by law and are

used exclusively in the transportation of logs may be purchased for a monthly period. The fee for such a monthly license shall be one-twelfth the annual maximum gross weight fee provided for in RCW 46.16.070 and 46.16.111 or in RCW 46.16.070 and 46.16.115. For each fee so paid, other than at the time of the payment of the basic license fee, an additional fee of one dollar and fifty cents shall be charged by the director. The monthly license shall be effective for one entire registration month. The director or his authorized agent shall issue a permit indicating that monthly tonnage fees have been paid, which permit shall be carried in the vehicle throughout the registration month for which it is issued. The director is authorized to establish rules and regulations relative to the issuance of such permits. No vehicle licensed under the provisions of this section shall be operated over the public highways unless the owner or operator thereof prior to the expiration of any such monthly period applies for, and pays the required fee for, a license for an additional monthly period, a three-month period, or for the remainder of the registration year. Any person who operates any such vehicle upon the public highways after the expiration of the existing tonnage permit, shall be guilty of a misdemeanor, and in addition shall be required to purchase a gross weight license for the vehicle involved at the fee covering an entire registration year's license for operation thereof, less the fees for any period or periods of the registration year already paid. If, within five days thereafter, no license for a full registration year has been purchased as required aforesaid, the Washington state patrol, county sheriff, or city police shall impound such vehicle in such manner as may be directed for such cases by the chief of the Washington state patrol, until such requirement is met. [1975 1st ex.s. c 118 § 7; 1974 ex.s. c 172 § 1; 1967 c 32 § 17; 1961 c 12 § 46.16-.137. Prior: 1959 c 319 § 23; 1957 c 273 § 4.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Effective date—1974 ex.s. c 172: "This 1974 amendatory act shall take effect August 1, 1974." [1974 ex.s. c 172 § 2.]

46.16.210 Original applications—Renewals—Fees—Preissuance, when (as amended by 1975 1st ex.s. c 118). (Effective January 1, 1977.) (1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application, and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal forty-five day renewal period of a vehicle license may secure renewal of such vehicle license for a period of thirty days prior thereto and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application

must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington and be accompanied by such license fees, including a special handling fee of two dollars; one dollar to be retained by the issuing agency, and one dollar to be deposited in the highway safety fund, and excise tax as may be required by law. [1975 1st ex.s. c 118 § 8; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210. Prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.210 Original applications—Renewals—Fees—Preissuance, when (as amended by 1975 1st ex.s. c 169). (1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the period from January 1st through February 1st may, not earlier than December 1st, but prior to January 1st, secure renewal of a vehicle license and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington and be accompanied by such license fees, including a special handling fee of one dollar; fifty cents to be retained by the issuing agency, and fifty cents to be deposited in the highway safety fund, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or his agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington. [1975 1st ex.s. c 169 § 6; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210. Prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34.]

Reviser's note: RCW 46.16.210 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

46.16.220 Time of renewal of licenses—Duration. (Effective January 1, 1977.) Vehicle licenses and vehicle license number plates may be renewed for the subsequent registration year on and after the forty-fifth day prior to the end of the current registration year and must be used and displayed from the date of issue or from the day of the expiration of the preceding registration year, whichever date is later: *Provided*, That in no case shall a citation be issued for nonregistration prior to the first day of the month following the calendar month in which vehicle licenses and vehicle license number plates are to be renewed. [1975 1st ex.s. c 118 § 9; 1969 ex.s. c 170 § 9; 1961 c 12 § 46.16.220. Prior: 1957 c 261 § 8; 1955 c 89 § 1; 1953 c 252 § 4; 1947 c 164 § 12; 1937 c 188 § 35; Rem. Supp. 1947 § 6312-35; 1921 c 96 § 7, part; RRS § 6318, part; 1921 c 6 § 1, part; 1916 c 142 § 7, part.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.225 Vehicle registration periods may be adjusted to stagger renewal periods. (Effective January 1, 1977.) Notwithstanding any provision of law to the contrary, the director of the department of motor vehicles may extend or diminish vehicle license registration periods for the purpose of staggering renewal periods. Such extension or diminishment of a vehicle license registration period shall be by rule and regulation of the department of motor vehicles adopted in accordance with the provisions of chapter 34.04 RCW. Such rules may provide for the omission of any classes or classifications of vehicle from the staggered renewal system and may provide for the gradual introduction of classes or classifications of vehicles into such a system. Such rules and regulations shall provide for the collection of proportionately increased or decreased vehicle license registration fees, including tonnage fees, if applicable, and of excise or property taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing a staggered vehicle registration system when compared with the revenue generated by the current registration system. [1975 1st ex.s. c 118 § 2.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.230 License plates to be furnished. The director shall furnish to all persons making satisfactory application for vehicle license as provided by law, two identical vehicle license number plates each containing the vehicle license number to be displayed on such vehicle as by law required: *Provided*, That if the vehicle to be licensed is a trailer, semitrailer or motorcycle only one vehicle license number plate shall be issued for each thereof. The number and plate shall be of such size and color and shall contain such symbols indicative of the registration period for which the same is issued and of the state of Washington, as shall be determined and prescribed by the director. Any vehicle license number plate or plates issued to a dealer shall contain thereon a sufficient and satisfactory indication that such plates have been issued to a dealer in vehicles. All vehicle license number plates may be obtained by the director from the metal working plant of the state penitentiary at Walla Walla or from any source in accordance with existing state of Washington purchasing procedures.

Notwithstanding the foregoing provisions of this section, the director may, in his discretion and under such rules and regulations as he may prescribe, adopt a type of vehicle license number plates whereby the same shall be used as long as legible on the vehicle for which issued, with provision for tabs or emblems to be attached thereto or elsewhere on the vehicle to signify renewals, in which event the term "vehicle license number plate" as used in any enactment shall be deemed to include in

addition to such plate the tab or emblem signifying renewal except when such plate contains the designation of the current year without reference to any tab or emblem. Renewals shall be effected by the issuance and display of such tab or emblem. [1975 c 25 § 19; 1961 c 12 § 46.16.230. Prior: 1957 c 261 § 9; 1949 c 90 § 1; 1939 c 182 § 5; 1937 c 188 § 28; Rem. Supp. 1949 § 6312-28; 1921 c 96 § 12; 1921 c 6 § 2; 1919 c 59 § 7; 1917 c 155 § 8; 1915 c 142 § 12; RRS § 6323.]

46.16.270 Loss, defacement, or destruction of plates—Replacement fee. Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director, upon which form it shall be required that the owner, in addition to other requirements, make a complete statement as to the cause of the loss, defacement, or destruction of the original plate or plates, which statement shall be subscribed and sworn to before a notary public or other person authorized to certify to statements upon vehicle license applications. Such application shall be filed with the director or his authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of four dollars, whereupon the director, or his authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars for a new vehicle license number plate where only one was originally issued and one dollar for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement or destruction of said tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs or a windshield emblem to replace those lost, defaced or destroyed: *Provided*, That for those vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.061, 46.16.237, and 46.01.140: *Provided further*, That for those vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required. [1975 1st ex.s. c 169 § 7; 1965 ex.s. c 78 § 1; 1961 c 12 § 46.16.270. Prior: 1951 c 269 § 6; 1947 c 164 § 13; 1937 c 188 § 37; Rem. Supp. 1947 § 6312-37; 1929 c 99 § 6; 1921 c 96 § 14; 1919 c 59 § 8; 1915 c 142 § 14; RRS § 6325.]

46.16.320 License plates for amateur radio operators—Fees—Deposit. (Effective January 1, 1977.) Every person having a valid official amateur radio operator's license issued for a term of five years by the federal communications commission, is entitled to apply to the director for, and upon satisfactory showing, to receive, in lieu of the regular motor vehicle license plates similar plates bearing the official amateur radio call letters of the applicant assigned by the federal communications commission instead of numbers.

In addition to the annual license fee collected under chapter 46.16 RCW and chapter 82.44 RCW, there shall be collected from each applicant for such special license plates an additional license fee of five dollars upon the issue of a state plate but shall not apply on those years that a yearly tab is issued. Such special fee shall be deposited in the motor vehicle fund. Application for renewal of the amateur radio operator's call license plate must be made no later than twenty days prior to the end of each registration year, and all such applications shall be accompanied by a notarized statement of facts included on the amateur's valid FCC license. [1975 1st ex.s. c 118 § 10; 1969 ex.s. c 206 § 1; 1967 ex.s. c 145 § 80; 1967 c 32 § 21; 1961 c 12 § 46.16.320. Prior: 1957 c 145 § 1.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.16.380 Cards and decals for certain disabled persons—Qualifications—Transfer of vehicle—Rules—Penalty. Any person who shall submit satisfactory proof to the director that he or she has lost both of his or her lower extremities, or who has lost the normal or full use thereof, or who is so severely disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive a special card to be left in a vehicle in a conspicuous place, bearing distinguishing marks, letters or numerals indicating that the vehicle is being used to transport such a privileged person. Such a privileged person shall also be entitled to receive for one motor vehicle only, a special decal to be affixed to the vehicle in a conspicuous place designated by the director, bearing distinguishing marks, letters or numerals indicating that the vehicle is owned by or primarily used for such a privileged person. Whenever such owner transfers or assigns his interest in such vehicle, the special decal shall be removed. Such person shall immediately surrender the decal to the director together with a notice of the transfer of interest in such vehicle. If another vehicle is acquired by, or for the primary use of, such person, a new decal shall be issued by the director. Application for renewal, except for the permanently disabled who shall be issued a permanent card, must be made by January 10th of each renewal year together with satisfactory proof of the right to continued use of such special card and decal. No additional fees shall be charged for the issuance of such special card and decal. The director shall promulgate such rules and regulations as he deems necessary to carry into effect this section.

Any unauthorized use of such distinguishing card and decal shall constitute a gross misdemeanor. [1975 1st ex.s. c 297 § 1; 1967 c 32 § 26; 1961 c 128 § 1.]

46.16.505 Campers—License and plates—Application—Fee. (Effective until January 1, 1977.) It shall be unlawful for a person to operate any vehicle equipped with a camper over and along a public highway of this state without first having obtained and having in full force and effect a current and proper camper license and displaying a camper license number plate therefor as required by law: *Provided, however,* That if a camper is part of the inventory of a manufacturer or dealer and is unoccupied at all times, and a dated demonstration permit, valid for no more than seventy-two hours is carried in the motor vehicle at all times it is operated by any such individual, such camper may be demonstrated if carried upon an appropriately licensed vehicle.

Application for an original camper license shall be made on a form furnished for the purpose by the director. Such application shall be made by the owner of the camper or his duly authorized agent over the signature of such owner or agent, and he shall certify that the statements therein are true and to the best of his knowledge. The application must show:

- (1) Name and address of the owner of the camper;
- (2) Trade name of the camper, model, year, and the serial number thereof;
- (3) Such other information as the director requires.

There shall be paid and collected annually for each calendar year or fractional part thereof and upon each camper a license fee in the sum of three dollars and fifty cents.

Except as otherwise provided for in this section, the provisions of chapter 46.16 RCW shall apply to campers in the same manner as they apply to vehicles. [1975 c 41 § 1; 1971 ex.s. c 231 § 7.]

46.16.505 Campers—License and plates—Application—Fee. (Effective January 1, 1977.) It shall be unlawful for a person to operate any vehicle equipped with a camper over and along a public highway of this state without first having obtained and having in full force and effect a current and proper camper license and displaying a camper license number plate therefor as required by law: *Provided, however,* That if a camper is part of the inventory of a manufacturer or dealer and is unoccupied at all times, and a dated demonstration permit, valid for no more than seventy-two hours is carried in the motor vehicle at all times it is operated by any such individual, such camper may be demonstrated if carried upon an appropriately licensed vehicle.

Application for an original camper license shall be made on a form furnished for the purpose by the director. Such application shall be made by the owner of the camper or his duly authorized agent over the signature of such owner or agent, and he shall certify that the statements therein are true and to the best of his knowledge. The application must show:

- (1) Name and address of the owner of the camper;

(2) Trade name of the camper, model, year, and the serial number thereof;

(3) Such other information as the director requires.

There shall be paid and collected annually for each registration year or fractional part thereof and upon each camper a license fee or, if the camper was previously licensed in this state and has not been registered in another jurisdiction in the intervening period, a renewal license fee. Such license fee shall be in the sum of four dollars and ninety cents, and such renewal license fee shall be in the sum of three dollars and fifty cents.

Except as otherwise provided for in this section, the provisions of chapter 46.16 RCW shall apply to campers in the same manner as they apply to vehicles. [1975 1st ex.s. c 118 § 11; 1975 c 41 § 1; 1971 ex.s. c 231 § 7.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.16.560 Personalized license plates—Defined. Personalized license plates, as used in this chapter, means license plates that have displayed upon them the registration number assigned to the vehicle or camper for which such registration number was issued in a combination of letters or numbers, or both, requested by the owner of the vehicle or camper in accordance with this chapter. [1975 c 59 § 1; 1973 1st ex.s. c 200 § 2.]

46.16.565 Personalized license plates—Application. Any person who is the registered owner of a passenger motor vehicle not for hire, a truck not powered by diesel fuel, a trailer, a camper, a private bus, or a motorcycle registered with the department or who makes application for an original registration or renewal registration of such vehicle or camper may, upon payment of the fee prescribed in RCW 46.16.585, apply to the department for personalized license plates, in the manner described in RCW 46.16.580, which plates shall be affixed to the vehicle or camper for which registration is sought in lieu of the regular license plates. [1975 c 59 § 2; 1973 1st ex.s. c 200 § 3.]

46.16.570 Personalized license plates—Design. The personalized license plates shall be the same design as regular license plates, and shall consist of numbers or letters, or any combination thereof not exceeding six positions and not less than two positions: *Provided*, That there are no conflicts with existing passenger, commercial, trailer, motorcycle, or special license plates series or with the provisions of RCW 46.16.230 or 46.16.235: *Provided further*, That the maximum number of positions on personalized license plates for motorcycles shall be designated by the department. [1975 c 59 § 3; 1973 1st ex.s. c 200 § 4.]

46.16.585 Personalized license plates—Fees—Renewal—Penalty. In addition to the regular registration fee, and any other fees and taxes required to be paid upon registration, the applicant shall be charged a fee of thirty dollars. In addition to the regular renewal

fee, and in addition to any other fees and taxes required to be paid, the applicant for a renewal of such plates shall be charged an additional fee of twenty dollars: *Provided*, That any person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, shall not be required to pay the additional annual renewal fee of twenty dollars commencing with the year 1976. All personalized license plates must be renewed on an annual basis, regardless of whether a vehicle on which they are displayed will not be driven on public highways or may also be eligible to display permanent license plates valid for the life of such vehicle without annual renewal. Personalized license plates that are not renewed must be surrendered to the department, and failure to do so shall be a misdemeanor. [1975 c 59 § 4; 1973 1st ex.s. c 200 § 7.]

46.16.590 Personalized license plates—Transfer fees. Whenever any person who has been issued personalized license plates applies to the department for transfer of such plates to a subsequently acquired vehicle or camper eligible for personalized license plates, a transfer fee of five dollars shall be charged in addition to all other appropriate fees. Such transfer fees shall be deposited in the motor vehicle fund. [1975 c 59 § 5; 1973 1st ex.s. c 200 § 8.]

46.16.595 Personalized license plates—Transfer or surrender of plates upon sale or release of vehicle ownership—Penalty. When any person who has been issued personalized license plates sells, trades, or otherwise releases ownership of the vehicle upon which the personalized license plates have been displayed, he shall immediately report the transfer of such plates to an acquired vehicle or camper eligible for personalized license plates, pursuant to RCW 46.16.590, or he shall surrender such plates to the department forthwith and release his priority to the letters or numbers, or combination thereof, displayed on the personalized license plates. Failure to surrender such plates shall constitute a misdemeanor. [1975 c 59 § 6; 1973 1st ex.s. c 200 § 9.]

Chapter 46.20

DRIVERS' LICENSES—IDENTICARDS

Sections

46.20.113	Anatomical gift statement.
46.20.115	Photograph on driver's license.
46.20.120	Applicants for new license or renewal to be examined—Waiver or renewal or issuance of minor or adult license to previous holder—Fee—Examinations.
46.20.161	Issuance of license—License contents—Fee.
46.20.181	Expiration date—Renewal—Fee.
46.20.200	Lost or destroyed licenses or permits—Duplicates—Fee.
46.20.308	Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood.

46.20.113 Anatomical gift statement. The department of motor vehicles shall provide a statement whereby the licensee may certify in the presence of two witnesses his

willingness to make an anatomical gift under RCW 68.08.530, as now or hereafter amended. The department shall provide the statement in at least one of the following ways:

- (1) On each driver's license; or
- (2) With each driver's license; or
- (3) With each in-person driver's license application. [1975 c 54 § 1.]

46.20.115 Photograph on driver's license. The department of motor vehicles shall issue a driver's license containing a photograph of the applicant for an additional fee of one dollar. Such fee shall be deposited in the highway safety fund. The department shall not adopt any photographic processes incompatible with its pre-bill system of issuing driver's licenses. [1975 1st ex.s. c 191 § 1; 1969 ex.s. c 155 § 2; 1967 ex.s. c 145 § 51.]

Purpose—1969 ex.s. c 155: "The identification of the injured or the seriously ill is often difficult. The need for an identification file to facilitate use by proper law enforcement officers has hampered law enforcement. Personal identification for criminal, personal and commercial reasons is becoming most important at a time when it is increasingly difficult to accomplish. The legislature finds that the public health and welfare requires a standard and readily recognizable means of identification of each person living within the state. The legislature further finds that the need for an identification file by law enforcement agencies must be met. The use of photographic drivers' licenses will greatly aid the problem, but some means of identification must be provided for persons who do not possess a driver's license. The purpose of this 1969 amendatory act is to provide for the positive identification of persons, both through an expanded use of drivers' licenses and also through issue of personal identification cards for nondrivers." [1969 ex.s. c 155 § 1.]

Effective date—1969 ex.s. c 155: "This 1969 amendatory act shall take effect September 1, 1969." [1969 ex.s. c 155 § 7.]

The foregoing annotations apply to RCW 46.20.115–46.20.119.

46.20.120 Applicants for new license or renewal to be examined—Waiver or renewal or issuance of minor or adult license to previous holder—Fee—Examinations. No new driver's license shall be issued and no previously issued license shall be renewed until the applicant therefor has successfully passed a driver licensing examination: *Provided*, That the department may waive all or any part of the examination of any person applying for the renewal of a driver's license or the issuance of a minor driver's license when the applicant previously held a juvenile driver's license or the issuance of an adult driver's license when the applicant previously held a minor driver's license issued under the laws of this state, except when the department determines that an applicant for a driver's license is not qualified to hold a driver's license under this title. For a new license examination a fee of three dollars shall be paid by each applicant, in addition to the fee charged for issuance of his license. A new license shall be one issued to a driver who has not been previously licensed in this state or to a driver whose last previous Washington license has expired.

Any person who is without the state at the time his driver's license expires or who is unable to renew his license due to any incapacity may renew the license within sixty days after his return to this state or within sixty days after the termination of any such incapacity

without the payment of a new license examination fee. In such case the department may waive all or any part of the examination as in the case of renewal of driver licenses.

The department shall provide for giving examinations at places and times reasonably available to the people of this state. [1975 1st ex.s. c 191 § 2; 1967 c 167 § 4; 1965 ex.s. c 121 § 9; 1961 c 12 § 46.20.120. Prior: 1959 c 284 § 1; 1953 c 221 § 2; 1937 c 188 § 55, part; RRS § 6312–55, part.]

46.20.161 Issuance of license—License contents—Fee. The department shall upon receipt of a fee of six dollars issue to every applicant qualifying therefor a driver's license, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. [1975 1st ex.s. c 191 § 3; 1969 c 99 § 6; 1965 ex.s. c 121 § 11.]

Effective date—1969 c 99: See note following RCW 43.51.060.

46.20.181 Expiration date—Renewal—Fee. Every driver's license shall expire on the second anniversary of the licensee's birthdate following the issuance of such license. Every such license shall be renewable on or before its expiration upon application prescribed by the department and the payment of a fee of six dollars. [1975 1st ex.s. c 191 § 4; 1969 c 99 § 7; 1965 ex.s. c 170 § 46; 1965 ex.s. c 121 § 17.]

Effective date—1969 c 99: See note following RCW 43.51.060.

46.20.200 Lost or destroyed licenses or permits—Duplicates—Fee. In the event that an instruction permit or a driver's license shall be lost or destroyed, the person to whom the same was issued may obtain a duplicate thereof upon furnishing proof of such fact satisfactory to the department without reexamination upon payment of a fee of two dollars and fifty cents to the department. [1975 1st ex.s. c 191 § 5; 1965 ex.s. c 121 § 16; 1961 c 12 § 46.20.200. Prior: 1947 c 164 § 18; 1937 c 188 § 60; Rem. Supp. 1947 § 6312–60; 1921 c 108 § 11; RRS § 6373.]

46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood. (1) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds

to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor. Such officer shall inform the person of his right to refuse the test, and of his right to have additional tests administered by any qualified person of his choosing as provided in RCW 46.61.506. The officer shall warn the driver that his privilege to drive will be revoked or denied if he refuses to submit to the test. Unless the person to be tested is unconscious, the chemical test administered shall be of his breath only: *Provided*, That if an individual is under arrest for the crime of negligent homicide by motor vehicle as provided in RCW 46.61.520, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.506, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested. In such circumstances, the provisions of subsections 2 through 6 of *this section shall not apply.

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506.

(3) If, following his arrest, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his breath, after being informed that his refusal will result in the revocation or denial of his privilege to drive, no test shall be given. The department of motor vehicles, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that such refusal would result in the revocation or denial of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

(4) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, as hereinbefore in this section directed, the department shall immediately notify the person involved in writing by personal service or by registered or certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying the steps he must take to obtain a hearing. The person upon receiving such notice may, in writing and within ten days therefrom request a formal hearing.

Upon receipt of such request, the department shall afford him an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The scope of such hearing for the purposes of this section shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation or denial of his privilege to drive. The department shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: *Provided*, That this stay shall be effective only so long as there is no conviction for a moving violation during pendency of the hearing and appeal.

(5) If the revocation or determination that there should be a denial of issuance is sustained after such a hearing, the person whose license, privilege or permit is so affected shall have the right to file a petition in the superior court of the county wherein he resides, or, if a nonresident of this state, where the charge arose, to review the final order of revocation or denial by the department in the manner provided in RCW 46.20.334.

(6) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. [1975 1st ex.s. c 287 § 4; 1969 c 1 § 1 (Initiative Measure No. 242 § 1).]

***Reviser's note:** In the last sentence of subsection (1), "this section" is herein substituted for "section 5 of this 1975 amendatory act", thereby correcting this internal reference consistent with the action of the legislature which deleted section 1 of the bill and renumbered the remaining sections accordingly.

Severability—1969 c 1: See RCW 46.20.911.

Chapter 46.37

VEHICLE LIGHTING AND OTHER EQUIPMENT

Sections

46.37.210	Additional lighting equipment.
46.37.580	Repealed.
46.37.590	Odometers—Purchaser plaintiff to recover costs and attorney's fee, when.

46.37.210 Additional lighting equipment. (1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this chapter. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than fifteen hundred feet under normal atmospheric conditions at night.

(5) Any vehicle eighty inches or more in over-all width, if not otherwise required by RCW 46.37.090, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in RCW 46.37.090(6).

(6) (a) Every motor vehicle, trailer, semitrailer, truck tractor, and pole trailer used in the state of Washington may be equipped with an auxiliary lighting system consisting of:

(i) One green light to be activated when the accelerator of the motor vehicle is depressed;

(ii) Not more than two amber lights to be activated when the motor vehicle is moving forward, or standing and idling, but is not under the power of the engine;

(b) Such auxiliary system shall not interfere with the operation of vehicle stop lamps or turn signals, as required by RCW 46.37.070. Such system, however, may operate in conjunction with such stop lamps or turn signals;

(c) Only one color of the system may be illuminated at any one time, and at all times either the green light, or amber light or lights shall be illuminated when the stop lamps of the vehicle are not illuminated;

(d) The green light, and the amber light or lights, when illuminated shall be plainly visible at a distance of one thousand feet to the rear;

(e) Only one such system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer; and such system shall be rear mounted in a horizontal fashion, at a height of not more than seventy-two inches, nor less than twenty inches, as provided by RCW 46.37.050;

(f) On a combination of vehicles, only the lights of the rearmost vehicle need actually be seen and distinguished as provided in subparagraph (d) of this subsection; and

(g) Each manufacturer's model of such a system as described in this subsection shall be approved by the commission on equipment as provided for in RCW 46.37.005 and 46.37.320, before it may be sold or offered for sale in the state of Washington. [1975 1st ex.s. c 242 § 1; 1963 c 154 § 16; 1961 c 12 § 46.37.210. Prior: 1955 c 269 § 21; prior: 1937 c 189 § 24; RRS § 6360-24; RCW 46.40.100.]

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.580 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.37.590 Odometers—Purchaser plaintiff to recover costs and attorney's fee, when. In any suit brought by the purchaser of a motor vehicle against the seller of such vehicle, the purchaser shall be entitled to recover his court costs and a reasonable attorney's fee fixed by the court, if: (1) The suit or claim is based substantially upon the purchaser's allegation that the odometer on such vehicle has been tampered with contrary to RCW 46.37.540 and 46.37.550 or replaced contrary to RCW 46.37.560; and (2) it is found in such suit that the seller of such vehicle or any of his employees or agents knew or had reason to know that the odometer on such vehicle had been so tampered with or replaced and failed to disclose such knowledge to the purchaser prior to the time of sale. [1975 c 24 § 1; 1969 c 112 § 7.]

Chapter 46.44 SIZE, WEIGHT, LOAD

Sections	
46.44.091	Special permits for oversize or overweight movements—Gross weight limit.
46.44.0941	Special permits for oversize or overweight movements—Fees.
46.44.130	Farm implements—Gross weight and size limitation exception—Penalty.
46.44.150	Highway improvement vehicles—Gross weight limit excesses authorized—Limitations.
46.44.160	Seasonal vehicles—Quarterly permits for additional tonnage.

46.44.091 Special permits for oversize or overweight movements—Gross weight limit. (1) Except as otherwise provided in subsections (3) and (4) of this section, no special permit shall be issued for movement on any state highway or route of a state highway within the limits of any city or town where the gross weight, including load, exceeds the following limits: (a) Twenty-two thousand pounds on a single axle or on dual axles with a wheelbase between the first and second axles of less than three feet six inches.

(b) Forty-three thousand pounds on dual axles having a wheelbase between the first and second axles of not less than three feet six inches but less than seven feet.

(c) On any group of axles or in the case of a vehicle employing two single axles with a wheel base between

the first and last axle of not less than seven feet but less than ten feet, a weight in pounds determined by multiplying six thousand five hundred times the distance in feet between the center of the first axle and the center of the last axle of the group.

(d) On any group of axles with a wheel base between the first and last axle of not less than ten feet but less than thirty feet, a weight in pounds determined by multiplying two thousand two hundred times the sum of twenty and the distance in feet between the center of the first axle and the center of the last axle of the group.

(e) On any group of axles with a wheel base between the first and last axle of thirty feet or greater, a weight in pounds determined by multiplying one thousand six hundred times the sum of forty and the distance in feet between the center of the first axle and the center of the last axle of the group.

(2) The total weight of a vehicle or combination of vehicles allowable by special permit under subsection (1) of this section shall be governed by the lesser of the weights obtained by using the total number of axles as a group or any combination of axles as a group.

(3) The weight limitations pertaining to single axles may be exceeded to permit the movement of equipment operating upon single pneumatic tires having a rim width of twenty inches or more and a rim diameter of twenty-four inches or more or dual pneumatic tires having a rim width of sixteen inches or more and a rim diameter of twenty-four inches or more.

(4) Permits may be issued for weights in excess of the limitations contained in subsection (1) of this section on highways or sections of highways which have been designed and constructed for weights in excess of such limitations, or for any shipment duly certified as necessary by military officials or by officials of public or private power facilities, when in the opinion of the highway commission such movement or action is a necessary movement or action and the commission further determines that the structures and highway surfaces on the routes involved are capable of sustaining weights in excess of such limitations and it is not reasonable for economic or operational considerations to transport such excess weights by rail or water for any substantial distance of the total mileage applied for.

(5) Application shall be made in writing on special forms provided by the highway commission and shall be submitted at least thirty-six hours in advance of the proposed movement. An application for a special permit for a gross weight of any combination of vehicles exceeding two hundred thousand pounds shall be submitted in writing to the highway commission at least thirty days in advance of the proposed movement. [1975 1st ex.s. c 168 § 1; 1969 ex.s. c 281 § 30; 1961 c 12 § 46.44.091. Prior: 1959 c 319 § 28; 1953 c 254 § 12; 1951 c 269 § 35; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Effective date—1975 1st ex.s. c 168: "This 1973 [1975] amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 168 § 4.]

46.44.0941 Special permits for oversize or overweight movements—Fees. The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip	\$ 5.00
Continuous operation of overlegal loads having either overwidth or overheight features only for a period not to exceed thirty days	\$ 20.00
Continuous operations of overlegal loads having overlength only for a period not to exceed thirty days	\$ 10.00
Continuous operation of a vehicle having a maximum height not to exceed fourteen feet for a period of one year	\$150.00
Continuous operation of a combination of vehicles not to exceed seventy-five feet overall length which may contain a permanent structure vehicle not in excess of forty-seven feet for a period of one year ...	\$ 60.00
Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight for a period not to exceed thirty days	\$ 50.00
Continuous operation of overlegal loads having nonreducible features not to exceed eighty-five feet in length, fourteen feet in width, and fourteen feet in height for a period of one year	\$150.00
Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:	
(1) Farmers in the course of farming activities for any three-month period	\$ 10.00
(2) Farmers in the course of farming activities for a period not to exceed one year ...	\$ 25.00
(3) Persons engaged in the business of the sale, repair or maintenance of such farm implements for any three-month period ...	\$ 25.00
(4) Persons engaged in the business of the sale, repair or maintenance of such farm implements for a period not to exceed one year	\$100.00

Overweight Fee Schedule

Weight over total registered gross weight plus additional gross weight purchased under provisions of RCW 46.44.095, 46.44.047, 46.44.037 as now or hereafter amended, or any other statute authorizing state highway commission to issue annual overweight permits.	Fee per mile on state highways
1- 5,999 pounds	\$.05
6,000-11,999 pounds	\$.10
12,000-17,999 pounds	\$.15

18,000–23,999 pounds.....	\$.25
24,000–29,999 pounds.....	\$.35
30,000–35,999 pounds.....	\$.45
36,000–41,999 pounds.....	\$.60
42,000–47,999 pounds.....	\$.75
48,000–53,999 pounds.....	\$.90
54,000–59,999 pounds.....	\$ 1.05
60,000–65,999 pounds.....	\$ 1.20
66,000–71,999 pounds.....	\$ 1.45
72,000–77,999 pounds.....	\$ 1.70
80,000 pounds or more.....	\$ 2.00

Provided: (1) the minimum fee for any overweight permit shall be \$5.00, (2) when computing overweight fees which result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under. [1975 1st ex.s. c 168 § 2; 1973 1st ex.s. c 1 § 3; 1971 ex.s. c 248 § 3; 1967 c 174 § 8; 1965 c 137 § 2.]

Effective date—1975 1st ex.s. c 168: See note following RCW 46.44.091.

46.44.130 Farm implements—Gross weight and size limitation exception—Penalty. The limitations of RCW 46.44.010, 46.44.020, 46.44.030, and 46.44.040 shall not apply to the movement of farm implements of less than forty-five thousand pounds gross weight, a total length of seventy feet or less, and a total outside width of fourteen feet or less when being moved while patrolled, flagged, lighted, signed and at a time of day in accordance with rules hereby authorized to be adopted by the highway commission and the statutes. Violation of a rule adopted by the highway commission as authorized by this section or a term of this section is a misdemeanor. [1975 1st ex.s. c 168 § 3; 1973 1st ex.s. c 1 § 1.]

Effective date—1975 1st ex.s. c 168: See note following RCW 46.44.091.

46.44.150 Highway improvement vehicles—Gross weight limit excesses authorized—Limitations. The state, county or city authority having responsibility for the reconstruction or improvement of any public highway may, subject to prescribed conditions and limitations, authorize vehicles employed in such highway reconstruction or improvement to exceed the gross weight limitations contained in RCW 46.44.040, 46.44.042 and 46.44.044 without a special permit or additional fees as prescribed by chapter 46.44 RCW, but only while operating within the boundaries of project limits as defined in the public works contract or plans. [1975 1st ex.s. c 63 § 1.]

46.44.160 Seasonal vehicles—Quarterly permits for additional tonnage. In the case of seasonal vehicles for which licensed tonnage has been purchased on a quarterly basis pursuant to RCW 46.16.135, then the additional tonnage provided for in RCW 46.44.037 and 46.44.095 may be purchased on a quarterly basis: *Provided,* That the total additional tonnage purchased under each section or both sections combined is not less

than six thousand pounds. The fee for such a quarterly permit shall be one-fourth the amount charged for a corresponding twelve month permit, and shall further be reduced by one-twelfth for each full calendar month of the quarter that shall have elapsed at the time the quarterly permit is purchased. In addition, a fee of five dollars shall be charged for each quarterly permit issued hereunder.

The quarterly periods covered by this section shall be calendar quarters expiring on March 31, June 30, September 30, and December 31.

"Seasonal vehicles" as used in this section shall mean vehicles or a combination of vehicles engaged exclusively in end or belly dump truck service, transportation of logs, transportation of specialized underwater exploration equipment for hydroelectric projects, transportation of unprocessed agricultural commodities from farm to place of first processing, and transportation of farm and orchard supplies. [1975 1st ex.s. c 196 § 1.]

Chapter 46.52
ACCIDENTS—REPORTS—ABANDONED
VEHICLES

Sections	
46.52.020	Duty in case of injury to or death of person or damage to attended vehicle or other property (as amended by 1975 c 62).
46.52.020	Duty in case of injury to or death of person or damage to attended vehicle (as amended by 1975 1st ex.s. c 210).
46.52.080	Confidentiality of reports—Information required to be disclosed—Evidence.
46.52.088	Reports—False information.
46.52.118	Removal of abandoned vehicle or hulk from real property—Disposal.
46.52.119	Unauthorized vehicles—Removal from family residential property.
46.52.1192	Unauthorized vehicles—Removal from other private property—Posting requirements.
46.52.1194	Unauthorized vehicles—Removal from private property—Duties required of towing firm—Lien—Penalty for noncompliance.
46.52.1196	Unauthorized vehicles—Removal from private property—Must be released, when—Penalty for defrauding towing firm.
46.52.1198	Disturbing vehicle left on private property—Liability.

46.52.020 Duty in case of injury to or death of person or damage to attended vehicle or other property (as amended by 1975 c 62). (1) A driver of any vehicle involved in an accident resulting in the injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to, and in every event remain at, the scene of such accident until he has fulfilled the requirements of subdivision (3) of this section; every such stop shall be made without obstructing traffic more than is necessary;

(2) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person or damage to other property shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to, and in any event shall remain at, the scene of such accident until he has fulfilled the requirements of subdivision (3) of this section; every such stop shall be made without obstructing traffic more than is necessary;

(3) Unless otherwise provided in subsection (6) of this section the driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person or damage to other property shall give his name, address and vehicle license number and shall exhibit his vehicle driver's license to any person struck or injured or the driver or any

occupant of, or any person attending, any such vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician or hospital for medical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person or on his behalf. Under no circumstances shall the rendering of assistance or other compliance with the provisions of this subsection be evidence of the liability of any driver for such accident;

(4) Any person failing to stop or to comply with any of the requirements of subdivision (3) of this section under said circumstances shall, upon conviction, be punished by imprisonment for not less than thirty days nor more than one year or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment: *Provided*, That this provision shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying herewith;

(5) Upon notice of conviction of any person under the provisions of this section, the vehicle driver's license of the person so convicted shall be revoked by the director;

(6) In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (3) of this section, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (1) and (3) of this section insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of the duly authorized police authority and submit thereto the information specified in subsection (3) of this section. [1975 c 62 § 14; 1967 c 32 § 53; 1961 c 12 § 46.52.020. Prior: 1937 c 189 § 134; RRS § 6360-134; 1927 c 309 § 50, part; RRS § 6362-50, part.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.52.020 Duty in case of injury to or death of person or damage to attended vehicle (as amended by 1975 1st ex.s. c 210). (1) A driver of any vehicle involved in an accident resulting in the injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to, and in every event remain at, the scene of such accident until he has fulfilled the requirements of subdivision (3) of this section;

(2) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to, and in any event shall remain at, the scene of such accident until he has fulfilled the requirements of subdivision (3) of this section;

(3) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and vehicle license number and shall exhibit his vehicle driver's license to any person struck or injured or the driver or any occupant of, or any person attending, any such vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician or hospital for medical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person or on his behalf. Under no circumstances shall the rendering of assistance or other compliance with the provisions of this subsection be evidence of the liability of any driver for such accident;

(4) Any person failing to stop or to comply with any of the requirements of subdivision (3) of this section under said circumstances shall, upon conviction, be punished by imprisonment for not less than thirty days nor more than one year or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment: *Provided*, That this provision shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying herewith;

(5) The license or permit to drive or any nonresident privilege to drive of any person convicted under this section or any local ordinance consisting of substantially the same language as this section of failure to stop and give information or render aid following an accident with any vehicle driven or attended by any person shall be revoked by the department. [1975 1st ex.s. c 210 § 1; 1967 c 32 § 53; 1961 c 12 § 46.52.020. Prior: 1937 c 189 § 134; RRS § 6360-134; 1927 c 309 § 50, part; RRS § 6362-50, part.]

Reviser's note: RCW 46.52.020 was amended twice in the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

46.52.080 Confidentiality of reports—Information required to be disclosed—Evidence. All required accident reports and supplemental reports and copies thereof shall be without prejudice to the individual so reporting and shall be for the confidential use of the county prosecuting attorney and chief of police or county sheriff, as the case may be, and the director of motor vehicles and the chief of the Washington state patrol, and other officer or commission as authorized by law, except that any such officer shall disclose the names and addresses of persons reported as involved in an accident or as witnesses thereto, the vehicle license plate numbers and descriptions of vehicles involved, and the date, time and location of an accident, to any person who may have a proper interest therein, including the driver or drivers involved, or the legal guardian thereof, the parent of a minor driver, any person injured therein, the owner of vehicles or property damaged thereby, or any authorized representative of such an interested party, or the attorney or insurer thereof. No such accident report or copy thereof shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that any officer above named for receiving accident reports shall furnish, upon demand of any person who has, or who claims to have, made such a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the chief of the Washington state patrol solely to prove a compliance or a failure to comply with the requirement that such a report be made in the manner required by law: *Provided*, That the reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of RCW 46.52.088. [1975 c 62 § 15; 1967 c 32 § 58; 1965 ex.s. c 119 § 3; 1961 c 12 § 46.52.080. Prior: 1937 c 189 § 140; RRS § 6360-140.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.52.088 Reports—False information. A person shall not give information in oral or written reports as required in chapter 46.52 RCW knowing that such information is false. [1975 c 62 § 16.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.52.118 Removal of abandoned vehicle or hulk from real property—Disposal. Any person having possession or control of real property who finds an abandoned vehicle or abandoned vehicle hulk as defined in RCW 46.52.102 standing upon that property is authorized to have such vehicle or hulk removed by a person properly registered pursuant to RCW 46.52.108. Such vehicle shall be disposed of in accordance with the procedure prescribed in RCW 46.52.111 and 46.52.112. [1975 1st ex.s. c 281 § 1.]

Severability—1975 1st ex.s. c 281: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is

held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 281 § 8.] This applies to RCW 46.52.118, to the amendment of RCW 46.52.119, and to RCW 46.52.1192 through 46.52.1198.

46.52.119 Unauthorized vehicles—Removal from family residential property. Whenever any owner or person having possession or control of family residential property finds a vehicle other than an abandoned vehicle as defined in RCW 46.52.102 standing upon such property without his consent, he is authorized to have such vehicle removed from such property and stored or held for its owner. [1975 1st ex.s. c 281 § 2; 1969 ex.s. c 208 § 1.]

Severability—1975 1st ex.s. c 281: See note following RCW 46.52.118.

46.52.1192 Unauthorized vehicles—Removal from other private property—Posting requirements. No person shall have the right to tow, remove, impound or otherwise disturb any motor vehicle other than an abandoned vehicle as defined in RCW 46.52.102, which may be parked, stalled or otherwise left on private property, other than family residential property, owned or controlled by such person, unless there is posted on or near the property in a clearly conspicuous location a sign or notice in compliance with rules and regulations of the director of the department of motor vehicles providing for, without limitation, specifications for signs and posting thereof by persons intending to have unauthorized vehicles removed from property other than family residential property. Such regulations shall provide for notification to any person of the intent of the property holder to remove any unauthorized vehicles and sufficient information to assist in the prompt recovery of any vehicle removed. Such regulations shall require as a minimum that the language on any such sign provide:

(1) Notice that unauthorized vehicles will be removed;

(2) The name, telephone number and location of the towing firm authorized to remove vehicles. [1975 1st ex.s. c 281 § 3.]

Severability—1975 1st ex.s. c 281: See note following RCW 46.52.118.

46.52.1194 Unauthorized vehicles—Removal from private property—Duties required of towing firm—Lien—Penalty for noncompliance. (1) Any towing firm removing vehicles from private property pursuant to RCW 46.52.119 or 46.52.1192 shall:

(a) File with the department a detailed schedule of all fees charged incident to the removal and storage of vehicles pursuant to RCW 46.52.119 or 46.52.1192;

(b) Post a copy of the schedule of fees on file with the department in a prominent place at the business location where vehicles are released from storage;

(c) Maintain personnel able and authorized to release any vehicle to its owner on a twenty-four hour basis;

(d) After removing a vehicle from private property pursuant to RCW 46.52.119 or 46.52.1192, report the

fact of removal together with the license number, vehicle identification number, make, year and place of impoundment to the law enforcement agency with jurisdiction over the place of impoundment, which agency shall maintain a log of such reports: *Provided*, That the reporting required in this subsection shall include an immediate radio or telephone call to, and a written notification, within twenty-four hours, to such local law enforcement agency;

(e) If any vehicle removed pursuant to RCW 46.52.119 or 46.52.1192 remains unclaimed after twenty-four hours, send to the registered owner of the vehicle by the end of the next business day a notice by certified mail, return receipt requested, advising that person of the name, location and twenty-four hour telephone number of the person, tow truck operator, or operator of any storage facility who is empowered or authorized to return custody of any such towed, removed, or impounded motor vehicle. The notification shall also contain an estimate of the costs of towing, storage, or other services rendered during the course of removing, impounding, or storing any such motor vehicle. For the purpose of sending such notice, the law enforcement agency to which the report was made shall provide the name and address of the registered owner, as it appears on the records of the department, to the towing firm removing a vehicle under the provisions of RCW 46.52.118 through 46.52.1198: *Provided*, That in the event such certified letter has been refused or returned to sender unclaimed the notification to the law enforcement agency as provided in subsection (1)(d) of this section shall constitute actual notice to the registered and legal owner: *Provided further*, That the effect of other laws notwithstanding, the costs of towing, storage or other services rendered during the course of removing, impounding or storing any such motor vehicle shall not constitute a lien upon the legal ownership of such motor vehicle until forty-eight hours after the notice as provided in this subsection has been received by the local law enforcement agency or owner of the vehicle, at which time the lien may be enforced as otherwise provided by law for the enforcement of towing or storage liens or liens generally: *And provided further*, That if the towing firm assesses a fee according to the miles a vehicle is towed, the lien shall be, and the towing firm shall attempt to recover, no more than the fees that would accrue for towing to the nearest storage location of any towing firm.

(2) A failure to comply with the provisions of this section in regard to any vehicle waives the lien on that vehicle, constitutes a bar to recovery of the charges accrued on that vehicle, and is grounds for the suspension or revocation of the registration of any towing firm registered under RCW 46.52.108 to dispose of the abandoned vehicle: *Provided*, That no storage charges shall accrue in any event until written notice as provided in this section shall have been received by the local law enforcement agency or owner of the vehicle. [1975 1st ex.s. c 281 § 4.]

Severability—1975 1st ex.s. c 281: See note following RCW 46.52.118.

46.52.1196 Unauthorized vehicles—Removal from private property—Must be released, when—Penalty for defrauding towing firm. Any towing firm removing vehicles from private property pursuant to RCW 46.52.119 or 46.52.1192 shall release such vehicle to the owner, operator, driver, or authorized designee thereof upon the presentation to any person having custody of such vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage or other services rendered during the course of towing, removing, impounding or storing any such motor vehicle, such commercially reasonable tender to include, without limitation, cash, personal checks drawn on local banks with proper identification, and valid and appropriate credit cards: *Provided however*, That any person who stops payment on a personal check with intent to defraud a towing firm which has provided a service pursuant to this section, or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees: *Provided further*, That every towing firm providing service pursuant to this section shall post a true copy of this section in a conspicuous place upon its business premises: *Provided further*, That if the owner, operator, driver or authorized designee thereof, shall provide adequate proof of his financial responsibility, employment and residence in the community to any person having custody of any towed, removed, impounded or stored motor vehicle, then the motor vehicle shall be released without payment, with the understanding that such costs shall be paid within thirty days, or shall be recoverable through an action by law. [1975 1st ex.s. c 281 § 5.]

Severability—1975 1st ex.s. c 281: See note following RCW 46.52.118.

46.52.1198 Disturbing vehicle left on private property—Liability. Any person acting to tow, remove or otherwise disturb any motor vehicle parked, stalled or otherwise left on privately owned or controlled property, and any person owning or controlling such private property, or either of them, shall be liable to the owner, operator or driver of a motor vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of such motor vehicle which does not comply with the requirements of RCW 46.52.1192, 46.52.1194, and 46.52.1196. [1975 1st ex.s. c 281 § 6.]

Severability—1975 1st ex.s. c 281: See note following RCW 46.52.118.

**Chapter 46.61
RULES OF THE ROAD**

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46.61.015 Obedience to police officers, flagmen, or fire fighters. No person shall wilfully fail or refuse to comply with any lawful order or direction of any duly authorized flagman or any police officer or fire fighter invested by law with authority to direct, control, or regulate traffic. [1975 c 62 § 17; 1965 ex.s. c 155 § 3.]

Severability—1975 c 62: See note following RCW 36.75.010.

TRAFFIC SIGNS, SIGNALS AND MARKINGS

46.61.050 Obedience to and required traffic control devices. (1) The driver of any vehicle, every bicyclist, and every pedestrian shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exception granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(3) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence. [1975 c 62 § 18; 1965 ex.s. c 155 § 7.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.055 Traffic control signal legend. Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian control signal, as provided in RCW 46.61.060 as now or hereafter amended, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication

(a) Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown: *Provided*, That such traffic may, after stopping cautiously proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement; but vehicular traffic making such turns shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, pedestrians facing a steady circular red signal alone shall not enter the roadway.

(c) Vehicular traffic facing a steady red arrow indication may not enter the intersection to make the movement indicated by such arrow, and unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, before entering a crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to make the movement indicated by such arrow is shown: *Provided*, That such traffic may, after stopping cautiously proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way

street carrying traffic in the direction of the right turn; or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement; but vehicular traffic making such turns shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(d) Unless otherwise directed by a pedestrian signal, pedestrians facing a steady red arrow signal indication shall not enter the roadway.

(4) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. [1975 c 62 § 19; 1965 ex.s. c 155 § 8.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.060 Pedestrian control signals. Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows:

(1) **WALK**—Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) **STEADY DON'T WALK** or **FLASHING DON'T WALK**—No pedestrian shall start to cross the roadway in the direction of either such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the don't walk signal is showing.

(3) Pedestrian control signals having the "Wait" legend in use on August 6, 1965, shall be deemed authorized signals and shall indicate the same as the "Don't Walk" legend. Whenever such pedestrian control signals are replaced the legend "Wait" shall be replaced by the legend "Don't Walk". [1975 c 62 § 20; 1965 ex.s. c 155 § 9.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.065 Flashing signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a) **FLASHING RED (STOP SIGNAL).** When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) **FLASHING YELLOW (CAUTION SIGNAL).** When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in RCW 46.61.340. [1975 c 62 § 21; 1965 ex.s. c 155 § 10.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.072 Lane direction control signals—Legend. Whenever special traffic control signals exhibit a downward green arrow, a yellow X, or a red X indication, such signal indication shall have the following meaning:

(1) A steady downward green arrow means that a driver is permitted to drive in the lane over which the arrow signal is located.

(2) A steady yellow X or flashing red X means that a driver should prepare to vacate, in a safe manner, the lane over which the signal is located because a lane control change is being made, and to avoid occupying that lane when a steady red X is displayed.

(3) A flashing yellow X means that a driver is permitted to use a lane over which the signal is located for a left turn, using proper caution.

(4) A steady red X means that a driver shall not drive in the lane over which the signal is located, and that this indication shall modify accordingly the meaning of all other traffic controls present. The driver shall obey all other traffic controls and follow normal safe driving practices. [1975 c 62 § 49.]

Severability—1975 c 62: See note following RCW 36.75.010.

DRIVING ON RIGHT SIDE OF ROADWAY— OVERTAKING AND PASSING—USE OF ROADWAY

46.61.105 Passing vehicles proceeding in opposite directions. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible. [1975 c 62 § 22; 1965 ex.s. c 155 § 16.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.115 When overtaking on the right is permitted. (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement

shall not be made by driving off the roadway. [1975 c 62 § 23; 1965 ex.s. c 155 § 18.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.135 One-way roadways and rotary traffic islands. (1) The state highway commission and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic control devices.

(2) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

(3) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. [1975 c 62 § 24; 1965 ex.s. c 155 § 22.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.160 Restrictions on use of controlled-access roadway. The state highway commission may by resolution or order, and local authorities may by ordinance or resolution, with respect to any limited access roadway under their respective jurisdictions prohibit the use of any such roadway by funeral processions, or by parades, pedestrians, bicycles or other nonmotorized traffic, or by any person operating a motor-driven cycle.

The state highway commission or the local authority adopting any such prohibitory regulation shall erect and maintain official traffic control devices on the limited access roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such devices. [1975 c 62 § 25; 1965 ex.s. c 155 § 27.]

Severability—1975 c 62: See note following RCW 36.75.010.

RIGHT OF WAY

46.61.180 Vehicle approaching intersection. (1) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(2) The right of way rule declared in subsection (1) of this section is modified at arterial highways and otherwise as stated in this chapter. [1975 c 62 § 26; 1965 ex.s. c 155 § 28.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.190 Vehicle entering stop or yield intersection. (1) Preferential right of way may be indicated by stop signs or yield signs as authorized in RCW 47.36.110.

(2) Except when directed to proceed by a duly authorized flagman, or a police officer, or a fire fighter vested by law with authority to direct, control, or regulate traffic, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or, if none, then at the point nearest the

intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and after having stopped shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(3) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and then after slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways: *Provided*, That if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right of way. [1975 c 62 § 27; 1965 ex.s. c 155 § 30.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.202 Stopping when traffic obstructed. No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic control signal indications to proceed. [1975 c 62 § 48.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.215 Highway construction and maintenance. (1) The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic control devices.

(2) The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of RCW 46.37.300. [1975 c 62 § 40.]

Severability—1975 c 62: See note following RCW 36.75.010.

PEDESTRIANS' RIGHTS AND DUTIES

46.61.261 Pedestrians' right of way on sidewalk. The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk. [1975 c 62 § 41.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.264 Pedestrians yield to emergency vehicles.

(1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of RCW 46.37.380 subsection (4) and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle meeting the requirements of RCW 46.61.035 subsection (3), every pedestrian shall yield the right of way to the authorized emergency vehicle.

(2) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian. [1975 c 62 § 42.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.266 Pedestrians under the influence of alcohol or drugs. A pedestrian who is under the influence of alcohol or any drug to a degree which renders himself a hazard shall not walk or be upon a highway except on a sidewalk or, where there is no sidewalk, then off the main traveled portion of the highway. [1975 c 62 § 43.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.269 Passing beyond bridge or grade crossing barrier prohibited. (1) No pedestrian shall enter or remain upon any bridge or approach thereto beyond a bridge signal gate, or barrier indicating a bridge is closed to through traffic, after a bridge operation signal indication has been given.

(2) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. [1975 c 62 § 44.]

Severability—1975 c 62: See note following RCW 36.75.010.

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

46.61.290 Required position and method of turning at intersections. The driver of a vehicle intending to turn shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(3) Two-way left turn lanes.

(a) The department of highways and local authorities in their respective jurisdictions may designate a two-way left turn lane on a roadway. A two-way left turn lane is near the center of the roadway set aside for use by vehicles making left turns in both directions from or into the roadway.

(b) Two-way left turn lanes shall be designated by distinctive uniform roadway markings. The department of highways shall determine and prescribe standards and specifications governing type, length, width, and positioning of the distinctive permanent markings. The standards and specifications developed shall be filed with the code reviser in accordance with the procedures set forth in the administrative procedure act, chapter 34.04 RCW. On and after July 1, 1971, permanent markings designating a two-way left turn lane shall conform to such standards and specifications.

(c) Upon a roadway where a center lane has been provided by distinctive pavement markings for the use of vehicles turning left from both directions, no vehicles shall turn left from any other lane. A vehicle shall not be driven in this center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. A signal, either electric or manual, for indicating a left turn movement, shall be made at least one hundred feet before the actual left turn movement is made. Any maneuver other than a left turn from or into this center lane will be deemed a violation of this section.

(4) The state highway commission and local authorities in their respective jurisdictions may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed no driver of a vehicle shall turn a vehicle other than as directed and required by such devices. [1975 c 62 § 28; 1969 ex.s. c 281 § 61; 1965 ex.s. c 155 § 40.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.295 "U" turns. (1) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(2) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet. [1975 c 62 § 29; 1965 ex.s. c 155 § 41.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.305 Turning, stopping, moving right or left—Signals required—Improper use prohibited. (1) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

(2) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(4) The signals provided for in RCW 46.61.310 subsection (2), shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section. [1975 c 62 § 30; 1965 ex.s. c 155 § 43.]

Severability—1975 c 62: See note following RCW 36.75.010.

SPECIAL STOPS REQUIRED

46.61.350 Certain vehicles must stop at all railroad grade crossings—Exceptions. (1) The driver of any motor vehicle carrying passengers for hire, other than a passenger car, or of any school bus or private carrier bus carrying any school child, or other passenger, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(2) This section shall not apply at:

(a) Any railroad grade crossing at which traffic is controlled by a police officer or a duly authorized flagman;

(b) Any railroad grade crossing at which traffic is regulated by a traffic control signal;

(c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;

(d) Any railroad grade crossing at which an official traffic control device gives notice that the stopping requirement imposed by this section does not apply. [1975 c 62 § 31; 1970 ex.s. c 100 § 7; 1965 ex.s. c 155 § 48.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.355 Moving heavy equipment at railroad grade crossings—Notice of intended crossing. (1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of any such intended crossing shall be given to the station agent of such railroad located nearest the intended crossing sufficiently in advance to allow

such railroad a reasonable time to prescribe proper protection for such crossing.

(3) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction. [1975 c 62 § 32; 1965 ex.s. c 155 § 49.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.360 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.61.420 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

SPEED RESTRICTIONS

46.61.435 Local authorities to provide "stop" or "yield" signs at intersections with increased speed highways—Designated as arterials. The governing body or authority of any such city or town or political subdivision shall place and maintain upon each and every highway intersecting a highway where an increased speed is permitted, as provided in this chapter, appropriate stop or yield signs, sufficient to be read at any time by any person upon approaching and entering the highway upon which such increased speed is permitted and such city street or such portion thereof as is subject to the increased speed shall be an arterial highway. [1975 c 62 § 33; 1961 c 12 § 46.48.046. Prior: 1951 c 28 § 4; prior: 1937 c 189 § 66, part; RRS § 6360-66, part; 1927 c 309 § 5, part; 1921 c 96 § 41, part; 1919 c 59 § 13, part; 1917 c 155 § 20, part; 1915 c 142 § 34, part; RRS § 6362-5, part. Formerly RCW 46.48.046.]

Severability—1975 c 62: See note following RCW 36.75.010.

Designation of city streets as arterials, stopping on entering: RCW 46.61.195.

Traffic control signals or devices upon city streets forming part of state highways: RCW 46.61.085.

46.61.440 Maximum speed limit when passing school or playground crosswalks. Subject to RCW 46.61.400(1), and except in those instances where a lower maximum lawful speed is provided by this chapter or otherwise, it shall be unlawful for the operator of any vehicle to operate the same at a speed in excess of twenty miles per hour when operating any vehicle upon a highway either inside or outside an incorporated city or town when passing any marked school or playground crosswalk when such marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs. The speed zone at the crosswalk shall extend three hundred feet in either direction from the

marked crosswalk. [1975 c 62 § 34; 1963 c 16 § 5; 1961 c 12 § 46.48.023. Prior: 1951 c 28 § 9; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3, part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. § 2531, part. Formerly RCW 46.48.023.]

Severability—1975 c 62: See note following RCW 36.75.010.

RECKLESS DRIVING, DRIVING WHILE INTOXICATED AND NEGLIGENT HOMICIDE BY VEHICLE

46.61.506 Persons under influence of intoxicating liquor or drug—Presumptions—Evidence—Chemical tests—Information concerning tests. (1) It is unlawful for any person who is under the influence of or affected by the use of intoxicating liquor or of any drug to drive or be in actual physical control of a vehicle within this state.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of his blood, breath or other bodily substance, shall give rise to the following presumptions:

(a) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that he was not under the influence of intoxicating liquor.

(b) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that he was under the influence of intoxicating liquor.

(d) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred cubic centimeters of blood.

(e) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor.

(3) Chemical analysis of the person's blood or breath to be considered valid under the provisions of this section shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their

qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic content may be performed only by a physician, a registered nurse, or a qualified technician. This limitation shall not apply to the taking of breath specimens.

(5) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(6) Upon the request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or his attorney. [1975 1st ex.s. c 287 § 1; 1969 c 1 § 3 (Initiative Measure No. 242 § 3).]

Severability—1969 c 1: See RCW 46.20.911.

46.61.510 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.61.515 Driving while under the influence of intoxicating liquor or drugs—Penalties—Penalty assessments in addition to fines, etc.—Suspension or revocation of license—Appeal. (1) Every person who is convicted of a violation of (a) driving a motor vehicle while under the influence of intoxicating liquor or (b) driving a motor vehicle while under the influence of a drug to a degree which renders the driver incapable of safely driving a motor vehicle shall be punished by imprisonment for not less than five days nor more than one year, and by a fine of not less than fifty dollars nor more than five hundred dollars.

On a second or subsequent conviction of either offense within a five year period he shall be punished by imprisonment for not less than thirty days nor more than one year and by a fine not less than one hundred dollars nor more than one thousand dollars, and neither the jail sentence nor the fine shall be suspended: *Provided*, That the court may, for a defendant who has not previously had a jail sentence suspended on such second or subsequent conviction, suspend such sentence and/or fine only on the condition that the defendant participate in and successfully complete a court approved alcohol treatment program: *Provided, further*, That the suspension shall be set aside upon the failure of the defendant to provide proof of successful completion of said treatment program within a time certain to be established by the court. If such person at the time of a second or subsequent conviction is without a license or permit because of a previous suspension or revocation, the minimum mandatory sentence shall be

ninety days in jail and a two hundred dollar fine. The penalty so imposed shall not be suspended.

(2) There shall be levied and paid into the highway safety fund of the state treasury a penalty assessment in the minimum amount of twenty-five percent of, and which shall be in addition to, any fine, bail forfeiture, or costs on all offenses involving a violation of any state statute or city or county ordinance relating to driving a motor vehicle while under the influence of intoxicating liquor or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor: *Provided*, That all funds derived from such penalty assessment shall be in addition to and exclusive of assessments made under RCW 46.81.030 and shall be for the exclusive use of the department for driver services programs and for a state-wide alcohol safety action program, or other similar programs designed primarily for the rehabilitation or control of traffic offenders. Such penalty assessment shall be included in any bail schedule and shall be included by the court in any pronouncement of sentence.

(3) Notwithstanding the provisions contained in chapters 3.16, 3.46, 3.50, 3.62 or 35.20 RCW, or any other section, the penalty assessment provided for in subsection (2) of this section shall not be suspended, waived, modified, or deferred in any respect and all moneys derived from such penalty assessments shall be forwarded to the highway safety fund to be used exclusively for the purposes set forth in subsection (2) of this section.

(4) The license or permit to drive or any nonresident privilege of any person convicted of either of the offenses named in subsection (1) above shall:

(a) Be suspended by the department for not less than thirty days;

(b) On a second conviction under either such offense within a five year period, be suspended by the department for not less than sixty days after the termination of such person's jail sentence;

(c) On a third or subsequent conviction under either such offense within a five year period, be revoked by the department.

(5) In any case provided for in this section, where a driver's license is to be revoked or suspended, such revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case such conviction is sustained on appeal such revocation or suspension shall take effect as of the date that the conviction becomes effective for other purposes. [1975 1st ex.s. c 287 § 2; 1974 ex.s. c 130 § 1; 1971 ex.s. c 284 § 1; 1967 c 32 § 68; 1965 ex.s. c 155 § 62.]

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

Highway safety fund: RCW 46.68.060.

Revocation of license for driving under the influence of intoxicating liquor or drugs: RCW 46.20.285.

46.61.520 Negligent homicide by motor vehicle—
Penalty. (1) When the death of any person shall ensue within three years as a proximate result of injury received by the driving of any vehicle by any person while under the influence of or affected by intoxicating liquor or drugs, or by the operation of any vehicle in a reckless manner or with disregard for the safety of others, the person so operating such vehicle shall be guilty of negligent homicide by means of a motor vehicle.

(2) Any person convicted of negligent homicide by means of a motor vehicle shall be punished by imprisonment in the state penitentiary for not more than ten years, or by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars, or by both fine and imprisonment. [1975 1st ex.s. c 287 § 3; 1973 2nd ex.s. c 38 § 2; 1970 ex.s. c 49 § 5; 1965 ex.s. c 155 § 63; 1961 c 12 § 46.56-.040. Prior: 1937 c 189 § 120; RRS § 6360-120. Formerly RCW 46.56.040.]

Severability—1970 ex.s. c 49: See note following RCW 9.48.010.
Suspension or revocation of license upon conviction of manslaughter or negligent homicide resulting from operation of motor vehicle: RCW 46.20.285, 46.20.291.

46.61.540 "Drugs", what included. The word "drugs", as used in RCW 46.61.500 through 46.61.535, shall include but not be limited to those drugs and substances regulated by chapters 69.41 and 69.50 RCW. [1975 1st ex.s. c 287 § 5.]

STOPPING, STANDING, AND PARKING

46.61.570 Stopping, standing, or parking prohibited in specified places—Reserving portion of highway prohibited. (1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

(a) Stop, stand, or park a vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk or street planting strip;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(viii) On any railroad tracks;

(ix) In the area between roadways of a divided highway including crossovers; or

(x) At any place where official signs prohibit stopping.

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway or within five feet of the end of the curb radius leading thereto;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk;

(iv) Within thirty feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when properly signposted; or

(vi) At any place where official signs prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) Parking or standing shall be permitted in the manner provided by law at all other places except a time limit may be imposed or parking restricted at other places but such limitation and restriction shall be by city ordinance or county resolution or order of the state highway commission upon highways under their respective jurisdictions.

(3) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(4) It shall be unlawful for any person to reserve or attempt to reserve any portion of a highway for the purpose of stopping, standing, or parking to the exclusion of any other like person, nor shall any person be granted such right. [1975 c 62 § 35; 1965 ex.s. c 155 § 66.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.575 Additional parking regulations. (1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(3) Local authorities may by ordinance or resolution permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the state highway commission has determined by resolution or order that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(4) The state highway commission with respect to highways under its jurisdiction may place official traffic control devices prohibiting, limiting, or restricting the stopping, standing, or parking of vehicles on any highway where in its opinion, as evidenced by resolution or order, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions indicated by such devices. [1975 c 62 § 36; 1965 ex.s. c 155 § 67.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.580 Special parking privileges for certain disabled persons—Display of card or decal—Prohibited areas. Any person who has lost both of his or her lower extremities, or who has lost the normal or full use thereof, or who is so severely disabled as to be unable to move without the aid of crutches or a wheelchair, shall be allowed to park a vehicle being used to transport such person for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted. This section shall have no application to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. Such person shall not be permitted the foregoing privilege unless he obtains and displays a distinguishing card or decal as provided in RCW 46.16.380. [1975 1st ex.s. c 297 § 2; 1961 c 128 § 2. Formerly RCW 46.48.340.]

46.61.585 Winter recreational parking areas—Special permit required. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall park a vehicle in an area designated by an official sign that it is a winter recreational parking area unless such vehicle displays, in accordance with regulations adopted by the parks and recreation commission, a special winter recreational area parking permit. [1975 1st ex.s. c 209 § 5.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

Winter recreational parking areas: RCW 43.51.290–43.51.340.

46.61.587 Winter recreational parking areas—Penalty. Any violation of RCW 43.51.320 or 46.61.585 or any rule promulgated by the parks and recreation commission to enforce the provisions thereof shall be a misdemeanor. [1975 1st ex.s. c 209 § 6.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

MISCELLANEOUS RULES

46.61.606 Driving on sidewalk prohibited—Exception. No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. [1975 c 62 § 45.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.608 Operating motorcycles on roadways laned for traffic. (1) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) of this section shall not apply to police officers in the performance of their official duties. [1975 c 62 § 46.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.610 Riding on motorcycles. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator: *Provided, however,* That the motorcycle must contain foot pegs, of a type approved by the equipment commission, for each person such motorcycle is designed to carry. [1975 c 62 § 37; 1967 c 232 § 5; 1965 ex.s. c 155 § 70.]

Severability—1975 c 62: See note following RCW 36.75.010.

Equipment regulations for motorcycles: RCW 46.37.530, 46.37.535.

46.61.614 Riding on motorcycles—Clinging to other vehicles. No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on a roadway. [1975 c 62 § 47.]

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.635 Following fire apparatus prohibited. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet or stop such vehicle within five hundred feet of any fire apparatus stopped in answer to a fire alarm. [1975 c 62 § 38; 1965 ex.s. c 155 § 75.]

Severability—1975 c 62: See note following RCW 36.75.010.

OPERATION OF BICYCLES AND PLAY VEHICLES

46.61.780 Lamps and other equipment on bicycles. (1) Every bicycle when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to

the front and with a red reflector on the rear of a type approved by the state commission on equipment which shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

(2) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. [1975 c 62 § 39; 1965 ex.s. c 155 § 85.]

Severability—1975 c 62: See note following RCW 36.75.010.

Chapter 46.64 ENFORCEMENT

Sections

46.64.015	Citation and notice to appear in court—Issuance— Contents—Written promise—Arrest.
46.64.017	Arrest pursuant to investigation at scene of accident.
46.64.030	Procedure governing arrest and prosecution.

46.64.015 Citation and notice to appear in court—Issuance—Contents—Written promise—Arrest. Whenever any person is arrested for any violation of the traffic laws or regulations which is punishable as a misdemeanor, the arresting officer may serve upon him a traffic citation and notice to appear in court. Such citation and notice shall conform to the requirements of RCW 46.64.010, and in addition, shall include spaces for the name and address of the person arrested, the license number of the vehicle involved, the driver's license number of such person, if any, the offense charged, the time and place where such person shall appear in court, and a place where the person arrested may sign. Such spaces shall be filled with the appropriate information by the arresting officer. The arrested person, in order to secure release, and when permitted by the arresting officer, must give his written promise to appear in court as required by the citation and notice by signing in the appropriate place the written citation and notice served by the arresting officer. Upon the arrested person's failing or refusing to sign such written promise, he may be taken into custody of such arresting officer and so remain or be placed in confinement: *Provided,* That an officer shall not serve or issue any traffic citation or notice for any offense or violation except either when said offense or violation is committed in his presence or when the citation and notice may be issued or served pursuant to RCW 46.64.017. [1975 c 56 § 1; 1967 c 32 § 70; 1961 c 12 § 46.64.015. Prior: 1951 c 175 § 1.]

46.64.017 Arrest pursuant to investigation at scene of accident. 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 the traffic laws or regulations. The detention arising from any arrest under this section shall not be for a period of time longer than is reasonably necessary to issue

and serve a citation and notice, except that such time limitation shall not apply under any of the following circumstances:

(1) Where the law enforcement officer has probable cause to believe that the arrested person had been driving the motor vehicle while under the influence of intoxicating liquor, controlled substance, or drugs in violation of state law or any county, city, or town ordinance; or

(2) Where the arrested person refuses to sign a written promise to appear in court as required by the citation and notice provisions of RCW 46.64.015. [1975 c 56 § 3.]

46.64.030 Procedure governing arrest and prosecution. The provisions of this title with regard to the apprehension and arrest of persons violating this title shall govern all police officers in making arrests without a warrant for violations of this title for offenses either committed in their presence or believed to have been committed based on probable cause stemming from investigation at the scenes of motor vehicle accidents pursuant to RCW 46.64.017, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for other like offenses. [1975 c 56 § 2; 1967 c 32 § 72; 1961 c 12 § 46.64.030. Prior: 1937 c 189 § 147; RRS § 6360-147.]

Chapter 46.68 DISPOSITION OF REVENUE

Sections

46.68.041	Disposition of drivers' license and instruction permit fees—Support of driver education.
46.68.110	Distribution of amount allocated to cities and towns.
46.68.120	Distribution of amount allocated to counties.

46.68.041 Disposition of drivers' license and instruction permit fees—Support of driver education. (1) The department shall forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who shall deposit such moneys to the credit of the highway safety fund except as otherwise provided in this section.

(2) One dollar of each fee collected for a temporary instruction permit shall be deposited in the driver education account in the general fund.

(3) Out of each fee of *five dollars collected for a driver's license, the sum of three dollars and ten cents shall be deposited in the highway safety fund, and one dollar and ninety cents shall be deposited in the general fund. [1975 1st ex.s. c 293 § 20; 1971 ex.s. c 91 § 2; 1969 c 99 § 9; 1967 c 174 § 3; 1965 c 25 § 4.]

***Reviser's note:** The driver's license fee was increased to six dollars by § 3, c 191, Laws of 1975 1st ex. sess. (RCW 46.20.161).

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

46.68.110 Distribution of amount allocated to cities and towns. Funds credited to the incorporated cities and towns of the state as set forth in subdivision (1) of

RCW 46.68.100 shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums shall be deducted monthly as such sums are credited and set aside for the use of the state highway commission for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the highway commission has responsibility: *Provided*, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

(2) The balance remaining to the credit of incorporated cities and towns after such deduction shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the state census board. [1975 1st ex.s. c 100 § 1; 1961 ex.s. c 7 § 7; 1961 c 12 § 46.68.110. Prior: 1957 c 175 § 11; 1949 c 143 § 1; 1943 c 83 § 2; 1941 c 232 § 1; 1939 c 181 § 4; Rem. Supp. 1949 § 6600-3a; 1937 c 208 §§ 2, part, 3, part.]

Reviser's note: The state census board was abolished by 1967 ex.s. c 42 and its powers and duties transferred to the planning and community affairs agency. See chapter 43.63A RCW.

Expense of cost-audit examination of city and town street records payable from funds withheld under RCW 46.68.110(1): RCW 35.76.050.

46.68.120 Distribution of amount allocated to counties. Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums shall be deducted monthly as such sums accrue and set aside for the use of the state highway commission and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof including the supervision and administration of federal-aid programs for which the highway commission has responsibility: *Provided*, That any moneys so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

(2) All sums required to be repaid to counties composed entirely of islands shall be deducted;

(3) The balance remaining to the credit of counties after such deductions shall be paid to the several counties monthly, as such funds accrue, upon the basis of the following formula:

(a) Ten percent of such sum shall be divided equally among the several counties.

(b) Thirty percent shall be paid to each county in direct proportion that the sum of the total number of private automobiles and trucks licensed by registered owners residing in unincorporated areas and seven percent of the number of private automobiles and trucks licensed by registered owners residing in incorporated areas within each county bears to the total of such sums for all counties. The number of registered vehicles so used shall be as certified by the director of the department of motor vehicles for the year next preceding the

date of calculation of the allocation amounts. The director of the department shall first supply such information not later than the fifteenth day of February, 1956, and on the fifteenth of February each two years thereafter.

(c) Thirty percent shall be paid to each county in direct proportion that the product of the county's trunk highway mileage and its prorated estimated annual cost per trunk mile as provided in subsection (e) is to the sum of such products for all counties. County trunk highways are defined as county roads regularly used by school buses and/or rural free delivery mail carriers of the United States post office department, but not foot carriers. Determination of the number of miles of county roads used in each county by school buses shall be based solely upon information supplied by the superintendent of public instruction who shall on October 1, 1955 and on October 1st of each odd-numbered year thereafter furnish the state highway commission with a map of each county upon which is indicated the county roads used by school buses at the close of the preceding school year, together with a detailed statement showing the total number of miles of county highway over which school buses operated in each county during such year. Determination of the number of miles of county roads used in each county by rural mail carriers on routes serviced by vehicles during the year shall be based solely upon information supplied by the United States postal department as of January 1st of the even-numbered years.

(d) Thirty percent of such sum shall be paid to each of the several counties in the direct proportion that the product of the trunk highway mileage of the county and its "money need factor" as defined in subsection (f) is to the total of such products for all counties.

(e) Every four years, beginning with the 1958 allocation, the highway commission and the legislative transportation committee shall reexamine or cause to be reexamined all the factors on which the estimated annual costs per trunk mile for the several counties have been based and shall make such adjustments as may be necessary. The following formula shall be used: One twenty-fifth of the estimated total county road replacement cost, plus the total annual maintenance cost, divided by the total miles of county road in such county, and multiplied by the result obtained from dividing the total miles of county road in said county by the total trunk road mileage in said county. For the purpose of allocating funds from the motor vehicle fund, a county road shall be defined as one established as such by resolution or order of establishment of the board of county commissioners. The first allocation of funds shall be based on the following prorated estimated annual costs per trunk mile for the several counties as follows:

Adams	\$1,227.00
Asotin	1,629.00
Benton	1,644.00
Chelan	2,224.00
Clallam	2,059.00
Clark	1,710.00
Columbia	1,391.00

Cowlitz	1,696.00
Douglas	1,603.00
Ferry	1,333.00
Franklin	1,612.00
Garfield	1,223.00
Grant	1,714.00
Grays Harbor	2,430.00
Island	1,153.00
Jefferson	2,453.00
King	2,843.00
Kitsap	1,938.00
Kittitas	1,565.00
Klickitat	1,376.00
Lewis	1,758.00
Lincoln	1,038.00
Mason	1,748.00
Okanogan	1,260.00
Pacific	2,607.00
Pend Oreille	1,753.00
Pierce	2,276.00
San Juan	1,295.00
Skagit	1,966.00
Skamania	2,023.00
Snohomish	2,269.00
Spokane	1,482.00
Stevens	1,068.00
Thurston	1,870.00
Wahkiakum	2,123.00
Walla Walla	1,729.00
Whatcom	1,738.00
Whitman	1,454.00
Yakima	1,584.00

Provided, however, That the prorated estimated annual costs per trunk mile in this subsection shall be adjusted every four years, beginning with the 1958 allocation by the highway commission on the basis of changes in the trunk and total county road mileage based on information supplied by the superintendent of public instruction, the United States postal department and the annual reports of the county road departments.

(f) The "money need factor" for each of the several counties shall be the difference between the prorated estimated annual costs as listed above and the sum of the following three amounts divided by the county trunk highway mileage:

(1) The equivalent of a two dollar and twenty-five cents per thousand dollars of assessed value tax levy on the valuation, as equalized by the state department of revenue for state purposes, of all taxable property in the county road districts;

(2) One-fourth the sum of all funds received by the county from the federal forest reserve fund during the two calendar years next preceding the date of the adjustment of the allocation amounts as certified by the state treasurer; and

(3) One-half the sum of motor vehicle license fees and motor vehicle fuel tax refunded to the county during the two calendar years next preceding the date of the adjustment of the allocation amounts as provided in RCW 46.68.080. These shall be as supplied to the highway commission by the state treasurer for that purpose.

The department of revenue and the state treasurer shall supply the information herein requested on or before January 1, 1956 and on said date each two years thereafter.

The following formula shall be used for the purpose of obtaining the "money need factor" of the several counties: The prorated estimated annual cost per trunk mile multiplied by the trunk miles will equal the total need of the individual county. The total need minus the sum of the three resources set forth in subsection (f) shall equal the net need. The net need of the individual county divided by the total net needs for all counties shall equal the "money need factor" for that county.

(g) The state highway commission shall adjust the allocations of the several counties on March 1st of every even-numbered year based solely upon the sources of information hereinbefore required: *Provided*, That the total allocation factor composed of the sum of the four factors defined in subsections (a), (b), (c) and (d) shall be held to a level not more than five percent above or five percent below the total allocation factor in use during the previous two year period.

(h) The highway commission and the legislative transportation committee shall relog or cause to be relogged the total road mileages upon which the prorated estimated annual costs per trunk mile are based and shall recalculate such costs on the basis of such relogging and shall report their findings and recommendations to the legislature at its next regular session.

(i) The highway commission and the legislative transportation committee shall study and report their findings and recommendations to the legislature concerning the following problems as they affect the allocation of "motor vehicle fund" funds to counties:

(1) Comparative costs per trunk mile based on federal aid contracts versus those herein advocated.

(2) Average costs per trunk mile.

(3) The advisability of using either "trunk mileage" or "county road" mileage exclusively as the criterion instead of both as in this plan adopted.

(4) Reassessment of bridge costs based on current information and relogging of bridges.

(5) The items in the list of resources used in determining the "need factor".

(6) The development of a uniform accounting system for counties with regard to road and bridge construction and maintenance costs.

(7) A redefinition of rural and urban vehicles which better reflects the use of said vehicles on county roads. [1975 1st ex.s. c 100 § 2; 1973 1st ex.s. c 195 § 47; 1972 ex.s. c 103 § 1; 1967 c 32 § 75; 1965 ex.s. c 120 § 12; 1961 c 12 § 46.68.120. Prior: 1957 c 109 § 1; 1955 c 243 § 1; 1949 c 143 § 2; 1945 c 260 § 1; 1943 c 83 § 3; 1939 c 181 § 5; Rem. Supp. 149 § 6600-2a.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—1972 ex.s. c 103: See note following RCW 47.30.030.

County road administration board—Expenses to be paid from motor vehicle fund—Disbursement procedure: RCW 36.78.110.

Chapter 46.86

**INTERSTATE COMMERCIAL VEHICLES—
SINGLE CAB CARDS**

Sections	
46.86.040	Single cab card in lieu of evidence of compliance with proportional registration, utilities and transportation commission identification card, and special weight permit.
46.86.120	Requirements of other laws not altered except where stated.

46.86.040 Single cab card in lieu of evidence of compliance with proportional registration, utilities and transportation commission identification card, and special weight permit. The single cab card issued pursuant to this chapter shall be in lieu of any separate evidence of compliance with proportional registration issued pursuant to chapter 46.85 RCW, a utilities and transportation commission identification card issued pursuant to chapter 81.80 RCW and a special weight permit issued pursuant to RCW 46.44.095. [1975 1st ex.s. c 42 § 1; 1967 ex.s. c 94 § 5.]

46.86.120 Requirements of other laws not altered except where stated. Nothing in this chapter shall be construed to alter the requirements of chapter 81.80 RCW, or the requirements of RCW 46.44.095, or the requirements of chapter 46.85 RCW except as stated in this chapter. [1975 1st ex.s. c 42 § 2; 1967 ex.s. c 94 § 13.]

Chapter 46.90

WASHINGTON MODEL TRAFFIC ORDINANCE

Sections	
46.90.005	Purpose of this chapter.
46.90.010	Amendments to this chapter automatically included.
46.90.100	Chapter 46.04 RCW (Definitions) adopted by reference.
46.90.103	Abandoned vehicle.
46.90.106	Automobile hulk.
46.90.109	Bus.
46.90.112	Bus stop.
46.90.115	City.
46.90.118	Demolish.
46.90.121	Department.
46.90.124	Garage keeper.
46.90.127	Holidays.
46.90.130	Hulk hauler.
46.90.133	Loading zone.
46.90.136	Official time standard.
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46.90.142	Parking meter.
46.90.145	Parking meter space.
46.90.148	Parking meter zone.
46.90.151	Passenger loading zone.
46.90.154	Planting strip.
46.90.157	Police or police officer.
46.90.160	Police chief or chief of police.
46.90.163	Police department.
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46.90.169	School bus zone.
46.90.172	Service parking.
46.90.175	Street.
46.90.178	Taxicab.
46.90.181	Taxicab stand.
46.90.184	Tow truck operator.
46.90.187	Traffic division.
46.90.190	"U turn".
46.90.200	Certain RCW sections adopted by reference.
46.90.205	Public employees to obey traffic regulations.
46.90.210	Police administration.

- 46.90.215 Duty of traffic division.
 46.90.220 Authority of police and fire department officials.
 46.90.225 Records of traffic violations.
 46.90.230 Traffic division to investigate accidents.
 46.90.235 Traffic accident studies.
 46.90.240 Traffic accident reports.
 46.90.245 Traffic division to submit annual traffic safety report.
 46.90.250 Police department to administer bicycle licenses.
 46.90.255 Police department to regulate parking meters.
 46.90.260 Traffic engineer.
 46.90.265 Traffic engineer—Authority.
 46.90.270 Local authority—Authority.
 46.90.275 Traffic safety commission—Powers and duties.
 46.90.300 Certain RCW sections adopted by reference.
 46.90.330 Authority to remove and impound vehicles on public property—Procedure.
 46.90.335 Owner of record presumed liable for costs when vehicle abandoned—Exception.
 46.90.340 Contract with registered disposer to dispose of vehicles and hulks—Compliance required.
 46.90.345 Stolen and abandoned vehicles—Reports of notice—Disposition.
 46.90.350 Removal and storage of vehicle or hulk—Lien—Notices—Contents.
 46.90.355 Sale of unclaimed vehicle or hulk—Procedure—Proceeds—Deficiency.
 46.90.360 Vehicle left in garage for storage—When deemed abandoned—Notices—Disposal.
 46.90.365 Disposition of impounded vehicles—When vehicles deemed abandoned—Procedure.
 46.90.370 Abatement and removal of automobile hulks on private property—Contents.
 46.90.375 Disposition of abandoned junk motor vehicles.
 46.90.380 Unlawful to abandon junked motor vehicle.
 46.90.400 Provisions of chapter refer to vehicles upon highway—Exceptions.
 46.90.403 Required obedience to traffic ordinance.
 46.90.406 Certain RCW sections adopted by reference.
 46.90.409 Traffic control devices required—Stopping, standing, and parking.
 46.90.412 Crossing new pavement and markings.
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 46.90.430 Obedience to angle-parking signs or markings.
 46.90.433 Parking not to obstruct traffic.
 46.90.436 Parking for certain purposes unlawful.
 46.90.439 Standing in passenger loading zone.
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 46.90.448 Violating permits for loading or unloading at an angle to the curb.
 46.90.451 Standing or parking on one-way roadways.
 46.90.454 Stopping, standing, and parking of buses and taxicabs regulated.
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 46.90.460 Right of way for parking.
 46.90.463 Certain RCW sections adopted by reference.
 46.90.466 Funeral processions.
 46.90.469 When permits required for parades and processions.
 46.90.472 Interfering with processions.
 46.90.475 Boarding or alighting from vehicles.
 46.90.478 Unlawful riding.
 46.90.481 Certain RCW sections adopted by reference.
 46.90.500 Bicycle license required.
 46.90.505 Bicycle license application.
 46.90.510 Issuance of bicycle license.
 46.90.515 Attachment of bicycle license plate or decal.
 46.90.520 Inspection of bicycles.
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 46.90.530 Transfer of ownership.
 46.90.535 Rental agencies.
 46.90.540 Bicycle dealers.
 46.90.545 Bicycles—Obedience to traffic control devices.
 46.90.550 Bicycles—Parking.
 46.90.555 Bicycles—Riding on sidewalks.
 46.90.560 Bicycles—Penalties.
 46.90.565 Unclaimed bicycles.
 46.90.600 Parking meter spaces.
 46.90.610 Parking meters—Deposit of coins and time limits.
 46.90.620 Parking meters—Use of slugs prohibited.
 46.90.630 Tampering with parking meter.
 46.90.640 Parking meters—Rule of evidence.
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 46.90.660 Service parking.
 46.90.700 Certain RCW sections adopted by reference.
 46.90.710 Penalties.
 46.90.720 Citation on illegally parked vehicle.
 46.90.730 Failure to comply with traffic citation attached to parked vehicle.
 46.90.740 Presumption in reference to illegal parking.
 46.90.900 Certain RCW sections adopted by reference.
 46.90.910 Uniformity of interpretation.
 46.90.920 Short title.
 46.90.930 Chapter not retroactive.
 46.90.940 Severability—1975 1st ex.s. c 54.
 46.90.950 Effect of headings.

46.90.005 Purpose of this chapter. The purpose of this chapter is to encourage highway safety and uniform traffic laws by providing a comprehensive compilation of sound, uniform traffic laws to serve as a guide which local authorities may adopt by reference or any part thereof, including all future amendments or additions thereto. Any local authority which adopts this chapter by reference may at any time exclude any section or sections from this chapter which it does not desire to include in its local traffic ordinance. This chapter is not intended to deny any local authority its legislative power, but rather to enhance safe and efficient movement of traffic throughout the state by having current, uniform traffic laws available. [1975 1st ex.s. c 54 § 1.]

46.90.010 Amendments to this chapter automatically included. The addition of any new section to, or amendment or repeal of any section in, this chapter by the legislature shall be deemed to amend any city, town, or county, ordinance which has adopted by reference this chapter or any part thereof, and it shall not be necessary for the legislative authority of any city, town, or county to take any action with respect to such addition, amendment, or repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140, 35A.13.180, and 36.32.120(7). [1975 1st ex.s. c 54 § 2.]

46.90.100 Chapter 46.04 RCW (Definitions) adopted by reference. All sections of chapter 46.04 RCW as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full. [1975 1st ex.s. c 54 § 3.]

46.90.103 Abandoned vehicle. "Abandoned vehicle" means any vehicle or automobile hulk left within the right of way of any highway or on the property of another without the consent of the owner of such property for a period of twenty-four hours, or longer: *Provided*, That a vehicle or hulk shall not be considered abandoned if it is lawfully parked for a period not exceeding seventy-two hours: *Provided further*, That a vehicle or hulk shall not be considered abandoned if its owner or operator is unable to remove it from the place where it

is located and so notifies law enforcement officials and requests assistance. [1975 1st ex.s. c 54 § 4.]

46.90.106 Automobile hulk. "Automobile hulk" means any portion or portions of a motor vehicle which is inoperative and cannot be made mechanically operative without additional vital parts and a substantial amount of labor. [1975 1st ex.s. c 54 § 5.]

46.90.109 Bus. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. [1975 1st ex.s. c 54 § 6.]

46.90.112 Bus stop. "Bus stop" means a fixed portion of the highway parallel and adjacent to the curb to be reserved exclusively for buses for layover in operating schedules or while waiting for, loading, or unloading passengers: *Provided*, That such bus provides regularly scheduled service within the jurisdiction of the local authority. [1975 1st ex.s. c 54 § 7.]

46.90.115 City. "City" means every incorporated city and town. [1975 1st ex.s. c 54 § 8.]

46.90.118 Demolish. "Demolish" means to destroy completely by use of a hydraulic baler and shears, or a shredder. [1975 1st ex.s. c 54 § 9.]

46.90.121 Department. "Department" means the department of motor vehicles unless otherwise specified in this chapter. [1975 1st ex.s. c 54 § 10.]

46.90.124 Garage keeper. "Garage keeper" means a person, firm, partnership, association, or corporation whose business it is to store vehicles for compensation. [1975 1st ex.s. c 54 § 11.]

46.90.127 Holidays. "Holidays" include the first day of January, commonly called New Year's Day; the third Monday of February, being celebrated as the anniversary of the birth of George Washington; the thirtieth day of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the fourth Thursday in November, to be known as Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day; and any other day specified by ordinance by the local authority to be a holiday.

Whenever any holiday falls upon a Sunday, the following Monday shall be a holiday. [1975 1st ex.s. c 54 § 12.]

46.90.130 Hulk hauler. "Hulk hauler" means any person who deals in vehicles for the sole purpose of transporting and/or selling them to a licensed motor vehicle wrecker or scrap processor in substantially the same form in which they are obtained and who may not sell second-hand motor vehicle parts to anyone other

than a licensed scrap processor or licensed wrecker. [1975 1st ex.s. c 54 § 13.]

46.90.133 Loading zone. "Loading zone" means a space reserved for the exclusive use of vehicles during the loading or unloading of property or passengers. [1975 1st ex.s. c 54 § 14.]

46.90.136 Official time standard. "Official time standard" means, whenever certain hours are named, standard time or daylight saving time as may be in current use within the jurisdiction of the local authority. [1975 1st ex.s. c 54 § 15.]

46.90.139 Ordinance. "Ordinance" means a city or town ordinance or a county ordinance or resolution. [1975 1st ex.s. c 54 § 16.]

46.90.142 Parking meter. "Parking meter" means any mechanical device or meter placed or erected adjacent to a parking meter space, for the purpose of regulating or controlling the period of time of occupancy of such parking meter space by any vehicle. Each parking meter installed shall indicate by proper legend the legal parking time and when operated shall at all times indicate the balance of legal parking time, and at the expiration of such period shall indicate illegal or overtime parking. Each meter shall bear a legend indicating the days and hours when the requirement to deposit coins therein shall apply, the value of the coins to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter space in which such meter is located. [1975 1st ex.s. c 54 § 17.]

46.90.145 Parking meter space. "Parking meter space" means any space within a parking meter zone, adjacent to a parking meter and which is duly designated for the parking of a single vehicle by appropriate markings on the pavement and/or the curb. [1975 1st ex.s. c 54 § 18.]

46.90.148 Parking meter zone. "Parking meter zone" means any highway or part thereof or any off-street parking lot on which parking meters are installed and in operation. [1975 1st ex.s. c 54 § 19.]

46.90.151 Passenger loading zone. "Passenger loading zone" means a place reserved for the exclusive use of vehicles while receiving or discharging passengers. [1975 1st ex.s. c 54 § 20.]

46.90.154 Planting strip. "Planting strip" means that portion of a highway lying between the constructed curb, or edge of the roadway, and the property line exclusive of the sidewalk area. [1975 1st ex.s. c 54 § 21.]

46.90.157 Police or police officer. "Police or police officer" includes the police officers of a city, a town marshal, or the sheriff and his deputies of a county whichever is applicable, but when the term sheriff is used in this chapter, it shall only mean the sheriff. [1975 1st ex.s. c 54 § 22.]

46.90.160 Police chief or chief of police. "Police chief or chief of police" includes the police chief or chief police officer of a city, a town marshal, or the sheriff of a county, whichever is applicable, but when the term sheriff is used in this chapter, it shall only mean the sheriff. [1975 1st ex.s. c 54 § 23.]

46.90.163 Police department. "Police department" includes the police department of a city or town or the sheriff's office of a county whichever is applicable, but when the term sheriff is used in this chapter, it shall only mean the sheriff. [1975 1st ex.s. c 54 § 24.]

46.90.166 Registered disposer. "Registered disposer" means any tow truck operator or garage keeper properly registered pursuant to RCW 46.52.108, who has and who displays at all times in a place conspicuous to the public a valid certificate of registration evidencing his authorization from the department to dispose of abandoned vehicles. [1975 1st ex.s. c 54 § 25.]

46.90.169 School bus zone. "School bus zone" means a designated portion of the highway along the curb reserved for loading and unloading school buses during designated hours. [1975 1st ex.s. c 54 § 26.]

46.90.172 Service parking. "Service parking" means the use of a parking meter space while rendering service in cleaning, painting, adjusting, or making minor repairs or replacements in or to buildings or building equipment or to public utilities. [1975 1st ex.s. c 54 § 27.]

46.90.175 Street. "Street" means a "city street". [1975 1st ex.s. c 54 § 28.]

46.90.178 Taxicab. "Taxicab" means a motor vehicle for hire used for the transportation of persons for compensation, and not operated exclusively over a fixed route or between fixed termini. [1975 1st ex.s. c 54 § 29.]

46.90.181 Taxicab stand. "Taxicab stand" means a fixed portion of a highway set aside for taxicabs to stand or wait for passengers. [1975 1st ex.s. c 54 § 30.]

46.90.184 Tow truck operator. "Tow truck operator" means a person, firm, partnership, association, or corporation which, in its course of business, provides towing services for vehicles and automobile hulks. [1975 1st ex.s. c 54 § 31.]

46.90.187 Traffic division. "Traffic division" means the traffic division of the police department of the local authority, or in the event a traffic division is not established, then said term whenever used in this chapter shall be deemed to refer to the police department of the local authority. [1975 1st ex.s. c 54 § 32.]

46.90.190 "U turn". "U turn" means turning a vehicle so as to proceed in the opposite direction on the same roadway. [1975 1st ex.s. c 54 § 33.]

46.90.200 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 16.24.065, 16.24.070, 46.08.030, and 46.08-.060. [1975 1st ex.s. c 54 § 34.]

46.90.205 Public employees to obey traffic regulations. The provisions of this chapter shall apply to the drivers of all vehicles owned or operated by the United States, the state, or any county, city, town, district, or any other political subdivision of the state, subject to such specific exceptions as are set forth in this chapter. [1975 1st ex.s. c 54 § 35.]

46.90.210 Police administration. There is established in the police department of the local authority a traffic division to be under the control of a police officer appointed by, and directly responsible to, the chief of police. [1975 1st ex.s. c 54 § 36.]

46.90.215 Duty of traffic division. It shall be the duty of the traffic division with such aid as may be rendered by other members of the police department to enforce the traffic regulations of the local authority, to make arrests for traffic violations, to investigate accidents and to cooperate with the traffic engineer and other officers of the local authority in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the said division by this chapter and the traffic ordinances of the local authority. [1975 1st ex.s. c 54 § 37.]

46.90.220 Authority of police and fire department officials. (1) Officers of the police department or such officers as are assigned by the chief of police are authorized to direct all traffic by voice, hand, or signal in conformance with law: *Provided*, That in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of law.

(2) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. [1975 1st ex.s. c 54 § 38.]

46.90.225 Records of traffic violations. (1) The police department or the traffic division thereof shall keep a record of all violations of the traffic ordinances of the local authority or of the state motor vehicle laws of which any person has been charged, with the exception of illegal parking or standing violations, together with a record of the final disposition of all such alleged offenses. Such records shall be so maintained as to show all types of violations and the total of each. Such records shall accumulate during at least a five year period, and from that time on the records shall be maintained complete for at least the most recent five year period.

(2) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record of all such forms shall be kept.

(3) Records and reports concerning a person shall be available upon request only to that particular person requesting such record or report concerning himself, or the legal guardian thereof, the parent of a minor, or any authorized representative of such interested party, or the attorney or insurer thereof. [1975 1st ex.s. c 54 § 39.]

46.90.230 Traffic division to investigate accidents. It shall be the duty of the traffic division, assisted by other members of the police department, to investigate traffic accidents, to arrest, and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents. [1975 1st ex.s. c 54 § 40.]

46.90.235 Traffic accident studies. Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the traffic engineer in conducting studies of such accidents and in determining remedial measures. [1975 1st ex.s. c 54 § 41.]

46.90.240 Traffic accident reports. The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and the information of the traffic engineer. [1975 1st ex.s. c 54 § 42.]

46.90.245 Traffic division to submit annual traffic safety report. The traffic division shall annually prepare a traffic report which shall be filed with the appointing authority of the local authority. Such report shall contain information on traffic matters in the local authority as follows:

- (1) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;
- (2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police;
- (3) The plans and recommendations of the division for future traffic safety activities. [1975 1st ex.s. c 54 § 43.]

46.90.250 Police department to administer bicycle licenses. The police department or some other office or department designated by the local authority shall administer the bicycle license regulations required by this chapter. [1975 1st ex.s. c 54 § 44.]

46.90.255 Police department to regulate parking meters. The police department shall be responsible for the regulation, control, operation, and use of parking meters installed in all parking meter zones. [1975 1st ex.s. c 54 § 45.]

46.90.260 Traffic engineer. (1) The office of traffic engineer is established: *Provided*, That if there is no traffic engineer, then the engineer of the local authority shall serve as traffic engineer in addition to his other

functions, and shall exercise the powers and duties with respect to traffic as provided in this chapter: *Provided further*, That if there is no engineer in the local authority, then the appointing authority shall designate a person to exercise such powers and duties.

(2) It shall be the general duty of the traffic engineer to determine the installation and maintenance of traffic control devices, to conduct engineering analysis of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the highways of the local authority, to cooperate with other officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by any ordinances of the local authority. [1975 1st ex.s. c 54 § 46.]

46.90.265 Traffic engineer—Authority. The traffic engineer is authorized:

(1) To place and maintain official traffic control devices when and as required under the traffic ordinances or resolutions of the local authority to make effective the provisions of said ordinances or resolutions, and may place and maintain such additional official traffic control devices as he may deem necessary to regulate, warn, or guide traffic under the traffic ordinances or resolutions of the local authority;

(2) To place and maintain official traffic control devices as he may deem necessary to regulate, warn, or guide traffic for construction, detours, emergencies, and special conditions;

(3) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and in such other places as he may deem necessary;

(4) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians;

(5) To mark traffic lanes upon the roadway of any highway where a regular alignment of traffic is necessary;

(6) To regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner;

(7) To place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, in accordance with the provisions of this chapter, and such course to be traveled as so indicated may conform to or be other than as prescribed by law;

(8) To determine those intersections at which drivers of vehicles shall not make a right, left, or U turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted;

(9) To erect and maintain stop signs, yield signs, or other official traffic control devices to designate arterial highways or to designate intersections or other roadway junctions at which vehicular traffic on one or more of

the roadways shall yield or stop and yield before entering the intersection or junction, except as provided in RCW 46.61.195;

(10) To issue special permits to authorize the backing of a vehicle to the curb for the purpose of loading or unloading property subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property alongside the curb or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized by this section;

(11) To erect signs indicating no parking upon both sides of a highway when the width of the improved roadway does not exceed twenty feet, or upon one side of a highway as indicated by such signs when the width of the improved roadway is between twenty and twenty-eight feet;

(12) To determine when standing or parking may be permitted upon the left-hand side of any roadway when the highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway and to erect signs giving notice thereof;

(13) To determine and designate by proper signs places not exceeding one hundred feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic;

(14) To determine the location of loading zones, passenger loading zones, and tow-away zones and shall place and maintain appropriate signs or curb markings supplemented with the appropriate words stenciled on the curb indicating the same and stating the hours during which the provisions of this chapter are applicable;

(15) To establish bus stops, bus stands, taxicab stands, and stands for other for hire vehicles on such highways in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs or by curb markings supplemented with the appropriate words stenciled on the curb;

(16) To erect and maintain official traffic control devices on any highway or part thereof to impose gross weight limits on the basis of an engineering and traffic investigation;

(17) To erect and maintain official traffic control devices on any highway or part thereof to prohibit the operation of trucks exceeding ten thousand pounds gross weight on the basis of an engineering and traffic investigation: *Provided*, That such devices shall not prohibit necessary local operation on such highways for the purpose of making a pickup or delivery;

(18) To erect and maintain official traffic control devices on any highway or part thereof to impose vehicle size restrictions on the basis of an engineering and traffic investigation;

(19) To determine and designate those heavily traveled highways upon which shall be prohibited any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic on the basis of an engineering and traffic investigation and

shall erect appropriate official traffic control devices giving notice thereof;

(20) To install parking meters in the established parking meter zones upon the curb adjacent to each designated parking space;

(21) To designate the parking space adjacent to each parking meter for which such meter is to be used by appropriate markings upon the curb and/or the pavement of the highway;

(22) To post appropriate signs making it unlawful for pedestrians to cross highways in certain crosswalks when such crossing would endanger either pedestrian or vehicular traffic using the highway;

(23) To test new or proposed traffic control devices under actual conditions of traffic. [1975 1st ex.s. c 54 § 47.]

46.90.270 Local authority—Authority. After an engineering and traffic investigation by the traffic engineer, the local authority may by resolution:

(1) Decrease maximum speed limits pursuant to RCW 46.61.415;

(2) Increase maximum speed limits pursuant to RCW 46.61.415;

(3) Determine and declare the maximum speed limits on arterial highways pursuant to RCW 46.61.415;

(4) Determine and declare upon what highways angle parking shall be permitted pursuant to RCW 46.61.575(3);

(5) Prohibit, regulate, or limit, stopping, standing, or parking of vehicles on any highway at all times or during such times as shall be indicated by official traffic control devices;

(6) Determine and declare parking meter zones upon those highways or parts thereof where the installation of parking meters will be necessary to regulate parking;

(7) Close any highway or part thereof temporarily to any or all traffic;

(8) Determine and declare one-way highways pursuant to RCW 46.61.135;

(9) Determine and declare arterial highways pursuant to RCW 46.61.195 and 46.61.435. [1975 1st ex.s. c 54 § 48.]

46.90.275 Traffic safety commission—Powers and duties. (1) There is established a traffic safety commission to serve without compensation, consisting of the traffic engineer, the chief of police, or, in his discretion as his representative, the chief of the traffic division or other cognizant member of the police department, one representative each from the engineer's office and the attorney's office, and such number of other officers of the local authority and representatives of unofficial bodies as may be determined and appointed by the appointing authority of the local authority. The chairman of the commission shall be appointed by such appointing authority and may be removed by such authority.

(2) It shall be the duty of the traffic safety commission, and to this end it shall have authority within the limits of the funds at its disposal, to coordinate traffic activities, to supervise the preparation and publication of traffic reports, to receive complaints having to do

with traffic matters, and to recommend to the legislative body of the local authority and to the traffic engineer, the chief of the traffic division, and other officials, ways and means for improving traffic conditions and the administration and enforcement of traffic regulations. [1975 1st ex.s. c 54 § 49.]

46.90.300 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.090, 46.12.101, 46.12.260, 46.16.010, 46.16.025, 46.16.030, 46.16.106, 46.16.135, 46.16.137, 46.16.138, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.380, 46.16.500, 46.16.505, 46.20.011, 46.20.021, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.410, 46.20.420, 46.20.430, 46.20.440, 46.20.500, 46.32.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.200, 46.37.210, 46.37.220, 46.37.230, 46.37.240, 46.37.250, 46.37.260, 46.37.270, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, 46.37.370, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.520, 46.37.530, 46.37.535, 46.37.540, 46.37.550, 46.37.560, 46.37.570, *46.37.580, 46.37.590, 46.37.600, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.040, 46.44.042, 46.44.044, 46.44.045, 46.44.046, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.097, 46.44.100, 46.44.120, 46.44.130, 46.44.140, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.090, 46.52.100, 46.52.119, 46.52.145, and 46.80.010. [1975 1st ex.s. c 54 § 50.]

*Reviser's note: RCW "46.37.580" was repealed by 1975 1st ex.s. c 24 § 2.

46.90.330 Authority to remove and impound vehicles on public property—Procedure. (1) Members of the police department are authorized to remove and impound vehicles by means of towing or otherwise to the nearest garage or other place of safety or to a garage designated or maintained by the police department or otherwise maintained by the local authority, under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;

(b) When any vehicle upon a highway, including tunnels, bridges, or approaches, is so disabled as to constitute an obstruction to traffic or when the person or persons in charge of the vehicle are incapacitated to such an extent as to be unable to provide for its custody

or removal and there is no other person present who may properly act as agent for such operator in the care of his vehicle;

(c) When any vehicle is left unattended upon a highway and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic;

(d) When any vehicle is found in a tow-away zone;

(e) When any vehicle operating on a highway is found to be defective in equipment in such manner that it may be considered unsafe;

(f) When the operator of any vehicle is arrested and placed in custody and is not in condition to drive and the vehicle is not in a place of safety and there is no other person present who may properly act as agent for such operator to drive the vehicle to a place of safety.

(2) Members of the police department are authorized to remove and impound any abandoned vehicle, or abandoned junk motor vehicle found on a highway by means of towing or otherwise to the nearest garage or other place of safety or to a garage designated or maintained by the police department or otherwise maintained by the local authority.

(3) Whenever an officer removes and impounds a vehicle from a highway as authorized in subsection (1) of this section, he shall as soon as practicable give or cause personal notice to be given in writing to the owner of such vehicle, if any record exists of the registered or legal owner in the records of the authority last licensing such vehicle, of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

(4) Whenever an officer removes and impounds a vehicle from a highway under subsection (1) of this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three days, then and in that event, the officer shall immediately send or cause to be sent written report of such removal by mail to the department and shall file a copy of such notice with the proprietor of any garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and name of the garage or place where the vehicle is stored.

(5) Any costs incurred in the removal and storage of an impounded vehicle shall be a lien upon the vehicle. All towing and storage charges on each vehicle impounded shall be paid by the owner or his agent if the vehicle is redeemed. In the case of abandoned vehicles, all costs of removal and storage shall be paid by the owner or his agent if the vehicle is redeemed, but if not redeemed, such costs shall be received from the proceeds of sale.

(6) The impounding of a vehicle shall not preclude charging the violator with any violation of the law on account of which such vehicle was impounded.

(7) Either a registered or legal owner may claim an impounded vehicle by payment of all charges that have accrued to the time of reclamation. If the vehicle was impounded at the direction of a law enforcement agency, the person in possession of the vehicle prior to the time of reclamation shall notify such agency of the fact that the vehicle has been claimed, and by whom. [1975 1st ex.s. c 54 § 51.]

46.90.335 Owner of record presumed liable for costs when vehicle abandoned—Exception. (1) The abandonment of any vehicle or automobile hulk shall constitute a prima facie presumption that the last owner of record is responsible for such abandonment and thus liable for any costs incurred in removing, storing, and disposing of any abandoned vehicle.

(2) A registered owner transferring a vehicle shall be relieved from personal liability under this section and under RCW 46.90.350, 46.90.355, and 46.90.370 if within five days of the transfer he transmits to the department a seller's report of sale on a form prescribed by the director. [1975 1st ex.s. c 54 § 52.]

46.90.340 Contract with registered disposer to dispose of vehicles and hulks—Compliance required. (1) The local authority may contract with any tow truck operator who is engaged in removing and storing of vehicles and who is registered as a registered disposer by the department for the purpose of disposing of certain automobile hulks, abandoned junk motor vehicles, and abandoned vehicles.

(2) Any registered disposer under contract to the local authority for the removing and storing of vehicles or hulks shall comply with the administrative regulations relative to the handling and disposing of vehicles or hulks as may be promulgated by the local authority or the director. [1975 1st ex.s. c 54 § 53.]

46.90.345 Stolen and abandoned vehicles—Reports of notice—Disposition. It shall be the duty of the chief of police to report immediately to the chief of the Washington state patrol all motor vehicles reported to them as stolen or recovered, upon forms to be provided by the chief of the Washington state patrol.

In the event that any motor vehicle reported as stolen has been recovered, the person so reporting the same as stolen shall be guilty of a misdemeanor unless he shall report the recovery thereof to the chief of police to whom such motor vehicle was reported as stolen.

It shall be the duty of the chief of police to report to the chief of the Washington state patrol all vehicles or automobile hulks found abandoned on a highway or at any other place and the same shall, at the direction of a law enforcement officer, be placed in the custody of a registered disposer. [1975 1st ex.s. c 54 § 54.]

46.90.350 Removal and storage of vehicle or hulk—Lien—Notices—Contents. (1) A registered disposer taking custody of any abandoned vehicle shall remove it to his established place of business where it shall be stored, and such registered disposer shall have a lien upon the abandoned vehicle but not upon any

items of personal property therein or upon for services provided in towing and storage of it, and shall also have a claim against the last registered owner of the abandoned vehicle for services provided in towing and storage of it, not to exceed the sum of one hundred dollars.

(2) Within five days after receiving custody of such abandoned vehicle the registered disposer shall submit an abandoned vehicle report giving notice of his custody to the department and the chief of the Washington state patrol. Any registered disposer failing to report such fact within five days shall forfeit any claim for the storage of the vehicle. Within five days after having received the name and address of the owner, he shall notify the registered and legal owner of his custody, and shall send copies of such notice to the chief of the Washington state patrol and to the department. The notice of custody and sale to the registered and legal owner shall be sent by the registered disposer to the last known address of said owner appearing on the records of the department, and such notice shall be sent to the registered and legal owner by certified or registered mail with a five-day return receipt requested. Such notice shall contain a description of the abandoned vehicle including its license number and/or serial number if obtainable, and shall state the amount due the registered disposer for services in the towing and storage of it and the time and place of public sale if the amount remains unpaid.

(3) The department shall supply the last known names and addresses of registered and legal owners of abandoned vehicles appearing on the records of the department to registered disposers on request without charge. [1975 1st ex.s. c 54 § 55.]

46.90.355 Sale of unclaimed vehicle or hulk—Procedure—Proceeds—Deficiency. (1) If, after the expiration of fifteen days from the date of mailing of the notice of custody and sale to the registered and legal owner, the abandoned vehicle remains unclaimed and has not been listed as a stolen or recovered vehicle, then the registered disposer having custody of the abandoned vehicle shall conduct a sale of it at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days before the date of the auction.

(2) The abandoned vehicle shall be sold at the auction to the highest bidder. The proceeds of such sale, after deducting the towing and storage charges due the registered disposer including the cost of sale, which shall be computed as in a public auction sale of personal property by the sheriff, shall be certified one-half to the county treasurer of the county in which the vehicle is located to be credited to the county current expense fund, and one-half to the state treasurer to be credited to the highway safety fund. If the amount bid at the auction is insufficient to compensate the registered disposer for his towing and storage charges and the cost of sale, such registered disposer shall be entitled to assert a claim for any deficiency, not to exceed one hundred dollars less the amount bid at the auction,

against the last registered owner of such abandoned vehicle.

(3) After the public auction of any abandoned vehicle the registered disposer shall give the successful bidder an affidavit of sale stating that the sale was conducted under the proper procedures and indicating the disposition of moneys derived from the sale and after such successful bidder has submitted an application for a certificate of title along with applicable fees, taxes, and the affidavit of sale, the director of the department shall issue a certificate of title showing ownership of the vehicle or automobile hulk in the name of the successful bidder at such auction: *Provided*, That a licensed auto wrecker or scrap processor may use such affidavit in lieu of a certificate of title to report the acquisition for wrecking or demolition. [1975 1st ex.s. c 54 § 56.]

46.90.360 Vehicle left in garage for storage—When deemed abandoned—Notices—Disposal. In addition to abandoned vehicles, abandoned junk motor vehicles, and impounded vehicles meeting the requirements of RCW 46.90.365, vehicles left in garage storage may be deemed abandoned in the following manner:

(1) A vehicle stored under a fixed contract of storage may be deemed abandoned on the fifth day following expiration of the contract;

(2) A vehicle stored under an open-ended contract of storage may be deemed abandoned at any time by the garage keeper.

All such abandoned vehicles shall be disposed of by a registered disposer in accordance with the procedures prescribed in RCW 46.90.350 and 46.90.355. Any registered disposer failing to report the fact of abandonment to the department and the chief of the Washington state patrol pursuant to RCW 46.90.350, shall forfeit any claim for the storage of any such vehicle. [1975 1st ex.s. c 54 § 57.]

46.90.365 Disposition of impounded vehicles—When vehicles deemed abandoned—Procedure. Any vehicle impounded pursuant to RCW 46.90.330(1) or 46.52.119 and left unclaimed for a period of fifteen days shall be deemed to be an abandoned vehicle. At the expiration of such fifteen day period such vehicle shall be deemed to be in the custody of the sheriff of the county where such vehicle is located and the sheriff of the county shall deliver the vehicle to a registered disposer who shall dispose of such vehicle in the manner provided in RCW 46.90.350 and 46.90.355: *Provided*, That if such vehicle fulfills all of the requirements of RCW 46.52.145(1), it shall be disposed of as provided in RCW 46.90.375. [1975 1st ex.s. c 54 § 58.]

46.90.370 Abatement and removal of automobile hulks on private property—Contents. (1) The storage or retention of an automobile hulk on private property is declared to constitute a public nuisance subject to removal and impoundment. The chief of police shall inspect and investigate complaints relative to automobile hulks, or parts thereof on private property. Upon discovery of such nuisance, the police department shall give notice in writing to the last registered owner of

record of the automobile hulk and also to the property owner of record that a public hearing may be requested before the governing body of the local authority, and that if no hearing is requested within ten days, the automobile hulk will be removed. Costs of removal may be assessed against the last registered owner of the automobile hulk if the identity of such owner can be determined, or the costs may be assessed against the owner of the property on which the automobile hulk is stored.

(2) If a request for a hearing is received, a notice giving the time, location and date of such hearing on the question of removal and impoundment of the automobile hulk or part thereof as a public nuisance shall be mailed, by certified or registered mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record of the automobile hulk unless the automobile hulk is in such condition that identification numbers are not available to determine ownership.

(3) This section shall not apply to:

(a) An automobile hulk, or part thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the highway or other public or private property; or

(b) An automobile hulk, or part thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer, fenced according to the provisions of RCW 46.80.130.

(4) The owner of the land on which the automobile hulk is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the hulk on the land, with his reasons for such denial. If it is determined at the hearing that the hulk was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the governing body shall not assess costs of administration or removal of the hulk against the property upon which the hulk is located or otherwise attempt to collect such cost from the property owner.

(5) After notice has been given of the intent of the local authority to dispose of the automobile hulk and after a hearing, if requested, has been held, the automobile hulk or part thereof, shall be removed, at the request of a police officer, and disposed of to a licensed motor vehicle wrecker or hulk hauler with notice to the Washington state patrol and the department that the automobile hulk has been wrecked.

(6) The local authority shall within thirty days after removal of an automobile hulk from private property, file for record with the county auditor to claim a lien for the cost of removal, which shall be in substance in accordance with the provision covering mechanics' liens in chapter 60.04 RCW, and said lien shall be foreclosed in the same manner as such liens. [1975 1st ex.s. c 54 § 59.]

47.90.375 Disposition of abandoned junk motor vehicles. (1) Notwithstanding any other provision of law, the chief of police on his own volition, or upon request from a private person having the right to possession of property upon which an abandoned junk motor vehicle has been left, shall inspect and may authorize the disposal of an abandoned junk motor vehicle. The chief of police shall record the make of such vehicle, the serial number if available, and shall also detail the damaged or missing equipment to substantiate a fair market value as scrap only. He shall prepare in duplicate for each such abandoned junk motor vehicle an authorization to dispose on a form provided by the director. He shall issue the original copy of such authorization to dispose to any licensed hulk hauler, motor vehicle wrecker, or scrap processor for the purpose of acquiring an abandoned junk motor vehicle: *Provided*, That such acquisition is for the purpose of ultimate transfer to and demolition by a licensed scrap processor.

(2) Any moneys arising from the disposal of abandoned junk motor vehicles shall be deposited in the county general fund. [1975 1st ex.s. c 54 § 60.]

46.90.380 Unlawful to abandon junked motor vehicle. No person shall wilfully leave an abandoned junk motor vehicle on private property for more than seventy-two hours without the permission of the person having the right to possession of the property, or upon or within the right of way of any highway or other property open to the public for purposes of vehicular travel or parking for forty-eight hours or longer without notification to the chief of police of the reasons for leaving the motor vehicle in such a place. For the purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima facie evidence of abandonment. Any person convicted of abandoning a junk motor vehicle shall be assessed any costs incurred by the county in disposing of such abandoned junk motor vehicle, less any moneys accruing to the county from such disposal. [1975 1st ex.s. c 54 § 61.]

46.90.400 Provisions of chapter refer to vehicles upon highway—Exceptions. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section;

(2) The provisions of RCW 46.52.010, 46.52.020, 46.52.030, 46.52.070, 46.52.080, 46.52.090, and 46.61.500 through 46.61.515 shall apply upon highways and elsewhere throughout the jurisdiction of the local authority. [1975 1st ex.s. c 54 § 62.]

46.90.403 Required obedience to traffic ordinance. It is unlawful for any person to do any act forbidden or fail to perform any act required by this chapter. [1975 1st ex.s. c 54 § 63.]

46.90.406 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby

adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.015, 46.61.020, 46.61.025, 46.61.030, 46.61.035, 46.61.050, 46.61.055, 46.61.060, 46.61.065, 46.61.070, 46.61.075, and 46.61.080. [1975 1st ex.s. c 54 § 64.]

46.90.409 Traffic control devices required—Stopping, standing, and parking. No prohibition, regulation, or limitation relating to stopping, standing, or parking imposed under this chapter or any ordinance of the local authority for which traffic control devices are required shall be effective unless official traffic control devices are erected and in place at the time of any alleged offense. [1975 1st ex.s. c 54 § 65.]

46.90.412 Crossing new pavement and markings. No person shall ride or drive any animal, bicycle, or vehicle, across any newly made pavement or freshly applied markings on any highway when a sign, cone marker, or other warning device is in place warning persons not to drive across such pavement or marking. [1975 1st ex.s. c 54 § 66.]

46.90.415 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.085, 46.61.100, 46.61.105, 46.61.110, 46.61.115, 46.61.120, 46.61.125, 46.61.130, 46.61.135, 46.61.140, 46.61.145, 46.61.150, 46.61.155, 46.61.160, 46.61.180, 46.61.185, 46.61.190, 46.61.195, 46.61.200, 46.61.205, 46.61.210, 46.61.230, 46.61.235, and 46.61.240. [1975 1st ex.s. c 54 § 67.]

46.90.418 Prohibited crossing. No pedestrian shall cross a roadway except an alley other than in a crosswalk in any business district. [1975 1st ex.s. c 54 § 68.]

46.90.421 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.245, 46.61.250, 46.61.255, 46.61.260, 46.61.290, and 46.61.295. [1975 1st ex.s. c 54 § 69.]

46.90.424 "U" turn restrictions. It shall be unlawful for a person operating a vehicle to make a U turn at any point other than an intersection or highway end, or to make such U turn on any highway in a business district or where prohibited from doing so by the posting of official signs. [1975 1st ex.s. c 54 § 70.]

46.90.427 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.300, 46.61.305, 46.61.310, 46.61.315,

46.61.340, 46.61.345, 46.61.350, 46.61.355, 46.61.365, 46.61.370, 46.61.375, 46.61.385, 46.61.400, 46.61.415, 46.61.425, 46.61.427, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.475, 46.61.500, 46.61.506, *46.61.510, 46.61.515, 46.61.525, 46.61.530, 46.61.535, 46.61.560, 46.61.570, and 46.61.575. [1975 1st ex.s. c 54 § 71.]

*Reviser's note: RCW "46.61.510" was repealed by 1975 1st ex.s. c 287 § 6.

46.90.430 Obedience to angle-parking signs or markings. Upon those highways which have been signed or marked for angle-parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. [1975 1st ex.s. c 54 § 72.]

46.90.433 Parking not to obstruct traffic. (1) No person shall park a vehicle upon a highway in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic.

(2) No person shall stop, stand, or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property. [1975 1st ex.s. c 54 § 73.]

46.90.436 Parking for certain purposes unlawful. (1) No person shall park any vehicle upon any highway for the principal purpose of:

- (a) Displaying advertising;
- (b) Displaying such vehicle for sale;
- (c) Selling merchandise from such vehicle, except when authorized.

(2) No person shall park any vehicle upon any roadway for the principal purpose of washing, greasing, or repairing such vehicle except repairs necessitated by an emergency. [1975 1st ex.s. c 54 § 74.]

46.90.439 Standing in passenger loading zone. No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger loading zone during hours when the regulations applicable to the loading zone are effective, and then only for a period not to exceed three minutes. [1975 1st ex.s. c 54 § 75.]

46.90.442 Standing in loading zone. (1) No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious unloading and delivery or pickup and loading of property in any place marked as a loading zone during hours when the provisions applicable to such zone are in effect. In no case shall the stop for loading and unloading of property exceed thirty minutes.

(2) The driver of a vehicle may stop temporarily at a loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any vehicle which is waiting to enter or about to enter such zone to load or unload property. [1975 1st ex.s. c 54 § 76.]

46.90.445 Standing in a tow-away zone. No person shall stop, stand, or park a vehicle in a place marked as a tow-away zone during hours when the provisions applicable to such zone are in effect. [1975 1st ex.s. c 54 § 77.]

46.90.448 Violating permits for loading or unloading at an angle to the curb. It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any permit issued by the traffic engineer for the backing of a vehicle to the curb for the purpose of loading or unloading property. [1975 1st ex.s. c 54 § 78.]

46.90.451 Standing or parking on one-way roadways. In the event a highway includes two or more separate roadways, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. [1975 1st ex.s. c 54 § 79.]

46.90.454 Stopping, standing, and parking of buses and taxicabs regulated. (1) The operator of a bus shall not stand or park such vehicle upon any highway at any place other than a designated bus stop. This provision shall not prevent the operator of a bus from temporarily stopping in accordance with other stopping, standing, or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers or their baggage.

(2) The operator of a bus shall enter a bus stop or passenger loading zone on a highway in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not farther than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(3) The operator of a taxicab shall not stand or park such vehicle upon any highway at any place other than in a designated taxicab stand. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping, standing, or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. [1975 1st ex.s. c 54 § 80.]

46.90.457 Restricted use of bus stops and taxicab stands. No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except the driver of a passenger vehicle may temporarily stop there for the purpose of or while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, or taxicab waiting to enter or about to enter such stop or stand. [1975 1st ex.s. c 54 § 81.]

46.90.460 Right of way for parking. The driver of any vehicle who first begins driving or maneuvering his vehicle into a vacant parking space shall have a prior right of way to park in such place, and it shall be unlawful for another driver to attempt to deprive him thereof by blocking his access or otherwise. For the purpose of establishing right of way in this section it shall be considered proper to back into any but a front-in angle parking space. [1975 1st ex.s. c 54 § 82.]

46.90.463 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.580, 46.61.600, 46.61.605, 46.61.610, 46.61.611, 46.61.612, 46.61.615, 46.61.620, 46.61.625, 46.61.630, 46.61.635, 46.61.640, 46.61.645, 46.61.655, 46.61.660, 46.61.665, 46.61.670, 46.61.675, 46.61.680, and 46.61.685. [1975 1st ex.s. c 54 § 83.]

46.90.466 Funeral processions. (1) A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

(2) A funeral procession shall be accompanied by adequate escort vehicles for traffic control purposes as determined by the chief of police.

(3) All motor vehicles in a funeral procession shall be identified by having their headlights turned on or by such other method as may be determined and designated by the chief of police.

(4) All motor vehicles in a funeral procession shall be operated as near to the right-hand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe. [1975 1st ex.s. c 54 § 84.]

46.90.469 When permits required for parades and processions. With the exception of funeral processions and parades of the armed forces of the United States, the military forces of this state, and the forces of the police and fire departments, no processions or parades shall be conducted on the highways within the jurisdiction of the local authority except in accordance with a permit issued by the chief of police and such other regulations as are set forth in this chapter which may be applicable. [1975 1st ex.s. c 54 § 85.]

46.90.472 Interfering with processions. (1) No person shall unreasonably interfere with a procession.

(2) No person shall operate a vehicle that is not part of a procession between the vehicles of the procession. This provision shall not apply at intersections where traffic is controlled by traffic control devices unless a police officer is present at such intersections to direct traffic so as to preserve the continuity of the procession. [1975 1st ex.s. c 54 § 86.]

46.90.475 Boarding or alighting from vehicles. No person shall board or alight from any vehicle while such vehicle is in motion. [1975 1st ex.s. c 54 § 87.]

46.90.478 Unlawful riding. No person shall ride upon any portion of a vehicle not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. [1975 1st ex.s. c 54 § 88.]

46.90.481 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.700, 46.61.750, 46.61.755, 46.61.760, 46.61.765, 46.61.770, 46.61.775, and 46.61.780. [1975 1st ex.s. c 54 § 89.]

46.90.500 Bicycle license required. No person who resides within the jurisdiction of the local authority shall ride or propel a bicycle on any highway or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license plate or decal is attached thereto as provided in RCW 46.90.500 through 46.90.540. [1975 1st ex.s. c 54 § 90.]

46.90.505 Bicycle license application. Application for a bicycle license and license plate or decal shall be made upon a form provided by and to the chief of police. An annual license fee as prescribed by the local authority shall be paid to the local authority before each license or renewal thereof is granted. Duplicate license plates or decals may be supplied for the same cost as the original plate or decal in the event of loss of the plate or decal. [1975 1st ex.s. c 54 § 91.]

46.90.510 Issuance of bicycle license. (1) The chief of police upon receiving proper application therefor is authorized to issue a bicycle license which shall be effective for one calendar year.

(2) The chief of police shall not issue a license for any bicycle when he knows or has reasonable grounds to believe that the applicant is not the owner of, or entitled to the possession of, such bicycle.

(3) The chief of police shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and a record of all bicycle license fees collected by him. [1975 1st ex.s. c 54 § 92.]

46.90.515 Attachment of bicycle license plate or decal. (1) The chief of police, upon issuing a bicycle license, shall also issue a license plate or decal bearing the license number assigned to the bicycle, and the name of the local authority.

(2) Such license plate or decal shall be firmly attached to the rear mudguard or frame of the bicycle for which issued in such position as to be plainly visible from the rear.

(3) No person shall remove a license plate or decal from a bicycle during the period for which issued except upon a transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any

highway within the jurisdiction of the local authority. [1975 1st ex.s. c 54 § 93.]

46.90.520 Inspection of bicycles. The chief of police, or an officer assigned such responsibility, may inspect each bicycle before licensing the same and may refuse a license for any bicycle which he determines is in unsafe mechanical condition. [1975 1st ex.s. c 54 § 94.]

46.90.525 Renewal of bicycle license. Upon the expiration of any bicycle license, the same may be renewed upon application and payment of the same fee as upon an original application. [1975 1st ex.s. c 54 § 95.]

46.90.530 Transfer of ownership. Upon the sale or other transfer of a licensed bicycle, the licensee shall remove the license plate or decal and shall either surrender the same to the chief of police or may upon proper application, but without payment of additional fee, have such plate or decal assigned to another bicycle owned by the applicant. [1975 1st ex.s. c 54 § 96.]

46.90.535 Rental agencies. A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed and a license plate or decal is attached thereto as provided herein and such bicycle is equipped with the equipment required by RCW 46.61.780. [1975 1st ex.s. c 54 § 97.]

46.90.540 Bicycle dealers. Every person engaged in the business of buying or selling new or second-hand bicycles shall make a report to the chief of police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof, and number of license plate or decal, if any, found thereon. [1975 1st ex.s. c 54 § 98.]

46.90.545 Bicycles—Obedience to traffic control devices. (1) Any person operating a bicycle shall obey the instructions of official traffic control devices applicable to vehicles, unless otherwise directed by a police officer.

(2) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the directions of any such sign, except where such person dismounts from the bicycle at the right-hand curb or as close as is practicable to the right edge of the right-hand shoulder to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. [1975 1st ex.s. c 54 § 99.]

46.90.550 Bicycles—Parking. No person shall park a bicycle upon a highway other than:

- (1) Off the roadway except in designated areas;
- (2) Upon the sidewalk in a rack to support the bicycle;
- (3) Against a building; or
- (4) In such manner as to afford the least obstruction to pedestrian traffic. [1975 1st ex.s. c 54 § 100.]

46.90.555 Bicycles—Riding on sidewalks. (1) No person shall ride a bicycle upon a sidewalk in a business district.

(2) A person may ride a bicycle on any other sidewalk or any roadway unless restricted or prohibited by traffic control devices.

(3) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian. [1975 1st ex.s. c 54 § 101.]

46.90.560 Bicycles—Penalties. Every person convicted of a violation of any provision of RCW 46.90.500 through 46.90.540 shall be guilty of a misdemeanor. [1975 1st ex.s. c 54 § 102.]

46.90.565 Unclaimed bicycles. All unclaimed bicycles in the custody of the police department shall be disposed of as provided in chapter 63.32 RCW. [1975 1st ex.s. c 54 § 103.]

46.90.600 Parking meter spaces. No person shall park a vehicle in any designated parking meter space during the restricted or regulated time applicable to the parking meter zone in which such meter is located so that any part of such vehicle occupies more than one such space or protrudes beyond the markings designating such space, except that a vehicle which is of a size too large to be parked within a single designated parking meter space shall be permitted to occupy two adjoining parking meter spaces when coins shall have been deposited in the parking meter for each space so occupied as is required for the parking of other vehicles in such spaces. [1975 1st ex.s. c 54 § 104.]

46.90.610 Parking meters—Deposit of coins and time limits. (1) No person shall park a vehicle in any parking meter space alongside of and next to which a parking meter has been installed during the restricted and regulated time applicable to the parking meter zone in which such meter is located unless a United States coin or coins of the appropriate denomination as indicated on the parking meter shall have been deposited therein, or shall have been previously deposited therein for an unexpired interval of time, and said meter has been placed in operation.

(2) No person shall permit a vehicle within his control to be parked in any parking meter space during the restricted and regulated time applicable to the parking meter zone in which such meter is located while the parking meter for such space indicates by signal that the lawful parking time in such space has expired. This provision shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin or coins in such meter.

(3) No person shall park a vehicle in any parking meter space for a consecutive period of time longer than that limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located, irrespective of the number or amounts of the coins deposited in such meter.

(4) The provisions of this section shall not relieve any person from the duty to observe other and more restrictive provisions of this chapter prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times. [1975 1st ex.s. c 54 § 105.]

46.90.620 Parking meters—Use of slugs prohibited. No person shall deposit or attempt to deposit in any parking meter any bent coin, slug, button, or any other device or substance as substitutes for United States coins. [1975 1st ex.s. c 54 § 106.]

46.90.630 Tampering with parking meter. No person shall deface, injure, tamper with, open, or wilfully break, destroy, or impair the usefulness of any parking meter. [1975 1st ex.s. c 54 § 107.]

46.90.640 Parking meters—Rule of evidence. The parking or standing of any motor vehicle in a parking space, at which space the parking meter displays the sign or signal indicating illegal parking, shall constitute a prima facie presumption that the vehicle has been parked or allowed to stand in such space for a period longer than permitted by this chapter. [1975 1st ex.s. c 54 § 108.]

46.90.650 Parking meters—Application of proceeds. (1) The coins required to be deposited in parking meters are levied and assessed as fees to cover the regulation and control of parking upon highways, the costs of parking meters, their installation, inspection, supervision, operation, repair, and maintenance, control and use of parking spaces, and regulating the parking of vehicles in parking meter zones; and the costs of acquiring, establishing, improving, maintaining, and operating public off-street parking facilities.

(2) The coins deposited in parking meters shall be collected by the duly authorized agents of the local authority and shall be deposited by them as directed by the local authority.

(3) The local authority shall pay from the moneys collected from parking meters the costs of any parking meters purchased and installed as provided herein, and expenses incurred for their installation, inspection, service, supervision, repair, and maintenance, for making collections from such parking meters, and for the enforcement of provisions herein applicable to parking meter zones. The net proceeds derived from the operation of parking meters after the payment of such costs and expenses, may be used for parking studies and for the acquisition, establishment, improvement, maintenance, and operation of public off-street parking facilities. [1975 1st ex.s. c 54 § 109.]

46.90.660 Service parking. The chief of police is authorized to issue a permit for service parking upon payment of the fee prescribed by the local authority and upon the following conditions:

(1) Application shall be made to the chief of police on such forms as the chief of police shall prescribe. The applicant shall set forth the applicant's business and the

necessity for such permit. The chief of police shall investigate the facts as necessary.

(2) If it appears that a necessity exists, the chief of police may authorize the issuance of such permit under the conditions prescribed in this section.

(3) Upon issuance of the permit, the permittee shall be issued a hood to use in covering any parking meter. As many hoods may be issued upon payment of the prescribed fee as the chief of police deems necessary or convenient for the applicant. The hood shall be provided with a padlock, two keys, and an identification card attached with a blank space thereon.

(4) Upon entering any parking meter space available, the permittee shall place the hood over the parking meter and lock the same and shall indicate in such blank space the exact place where the service work is being rendered.

(5) The permittee shall not place the hood over any meter when the space is occupied by another vehicle, and shall before vacating the space at the conclusion of the work remove the hood. The hood shall not be allowed to remain in place for over one hour when the space is not occupied by an authorized vehicle, nor shall it be allowed to remain in place after 6 p.m. on any weekday or on any Sunday or holiday. It shall not be used during hours when parking or stopping in the parking meter space is prohibited. No vehicle licensed as a passenger car shall be parked in the space covered by the hooded parking meter.

(6) The chief of police may revoke any permit if the service parking hood is used for any purpose other than that authorized in this section or for any violation of this chapter. Upon revocation, the hood shall immediately be returned to the police department and all fees paid shall be forfeited. Police officers finding such hood in use shall investigate the use being made thereof, and if it is found in violation of this section shall report the facts to the chief of police.

(7) Any permit issued under this section shall unless revoked be valid for a period of one year.

(8) The permittee shall also pay a deposit in an amount prescribed by the local authority at the time of issuance of the hood, padlock, and keys, which shall remain the property of the local authority. In case a hood, a padlock, or key becomes lost or destroyed or so defaced that it is no longer usable, the permittee shall forfeit such deposit. [1975 1st ex.s. c 54 § 110.]

46.90.700 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.64.010, 46.64.015, 46.64.020, 46.64.025, 46.64.030, and 46.64.048. [1975 1st ex.s. c 54 § 111.]

46.90.710 Penalties. Unless another penalty is expressly provided by law, any person who is convicted of violating or failing to comply with any of the provisions of this chapter shall be punished by a fine of not more than two hundred fifty dollars or by imprisonment for

not more than ninety days or by both such fine and imprisonment. [1975 1st ex.s. c 54 § 112.]

46.90.720 Citation on illegally parked vehicle. Whenever any motor vehicle without driver is found parked, standing, or stopped in violation of this chapter, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation. [1975 1st ex.s. c 54 § 113.]

46.90.730 Failure to comply with traffic citation attached to parked vehicle. If a violator of any provision of this chapter on stopping, standing, or parking does not appear in response to a traffic citation affixed to such motor vehicle within a period of five days, the clerk of the traffic court shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five days, a warrant of arrest will be issued. [1975 1st ex.s. c 54 § 114.]

46.90.740 Presumption in reference to illegal parking. (1) In any prosecution charging a violation of any law or regulation governing the stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the complaint was stopping, standing, or parking in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such violation, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure as prescribed in RCW 46.90.720 and 46.90.730 has been followed. [1975 1st ex.s. c 54 § 115.]

46.90.900 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.98.020, 46.98.030, 46.98.040, 47.36.060, 47.36.110, 47.36.180, 47.36.200, 47.36.220, 47.52.010, 47.52.011, 47.52.040, 47.52.110, 47.52.120, 70.84.020, 70.84.040, and 70.93.060. [1975 1st ex.s. c 54 § 116.]

46.90.910 Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those local authorities which enact it. [1975 1st ex.s. c 54 § 117.]

46.90.920 Short title. This chapter may be known and cited as the "Washington Model Traffic Ordinance." [1975 1st ex.s. c 54 § 118.]

46.90.930 Chapter not retroactive. This chapter shall not have a retroactive effect and shall not apply to any traffic accident, to any cause of action arising out of a traffic accident or judgment arising therefrom, or to any violation of a traffic ordinance of the local authority, occurring prior to the effective date of this chapter. [1975 1st ex.s. c 54 § 119.]

46.90.940 Severability—1975 1st ex.s. c 54. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 54 § 120.]

46.90.950 Effect of headings. Section headings contained in this chapter shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of the provisions of any section hereof. [1975 1st ex.s. c 54 § 121.]

Title 47 PUBLIC HIGHWAYS

Chapters

- 47.04** General provisions.
- 47.05** Priority programming for highway development.
- 47.12** Acquisition and disposition of state highway property.
- 47.17** State highway routes.
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- 47.64** Marine employees—Public employment relations. (Formerly: Marine employee commission.)

Chapter 47.04 GENERAL PROVISIONS

Sections

- 47.04.010 Definitions.

47.04.010 Definitions. The following words and phrases, wherever used in this title, shall have the meaning as in this section ascribed to them, unless where used the context thereof shall clearly indicate to the contrary or unless otherwise defined in the chapter of which they are a part:

(1) "Alley." A highway within the ordinary meaning of alley not designated for general travel and primarily used as a means of access to the rear of residences and business establishments;

(2) "Arterial highway." Every highway, as herein defined, or portion thereof designated as such by proper authority;

(3) "Business district." The territory contiguous to and including a highway, as herein defined, when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway;

(4) "Center line." The line, marked or unmarked parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers;

(5) "Center of intersection." The point of intersection of the center lines of the roadways of intersecting highways;

(6) "City street." Every highway as herein defined, or part thereof located within the limits of incorporated cities and towns, except alleys;

(7) "Combination of vehicles." Every combination of motor vehicle and motor vehicle, motor vehicle and trailer, or motor vehicle and semitrailer;

(8) "Commercial vehicle." Any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire;

(9) "County road." Every highway as herein defined, or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway, or branch thereof;

(10) "Crosswalk." The portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line ten feet therefrom, except as modified by a marked crosswalk;

(11) "Intersection area." (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection;

(c) The junction of an alley with a street or highway shall not constitute an intersection;

(12) "Intersection control area." The intersection area as herein defined, together with such modification of the adjacent roadway area as results from the arc or curb corners and together with any marked or unmarked crosswalks adjacent to the intersection;

(13) "Laned highway." A highway the roadway of which is divided into clearly marked lanes for vehicular traffic;

(14) "Local authorities." Every county, municipal, or other local public board or body having authority to adopt local police regulations under the Constitution and laws of this state;

(15) "Marked crosswalk." Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface thereof;

(16) "Metal tire." Every tire, the bearing surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;

(17) "Motor truck." Any motor vehicle, as herein defined, designed or used for the transportation of commodities, merchandise, produce, freight, or animals;

(18) "Motor vehicle." Every vehicle, as herein defined, which is in itself a self-propelled unit;

(19) "Multiple lane highway." Any highway the roadway of which is of sufficient width to reasonably accommodate two or more separate lanes of vehicular traffic in the same direction, each lane of which shall be not less than the maximum legal vehicle width, and whether or not such lanes are marked;

(20) "Operator." Every person who drives or is in actual physical control of a vehicle as herein defined;

(21) "Peace officer." Any officer authorized by law to execute criminal process or to make arrests for the violation of the statutes generally or of any particular statute or statutes relative to the highways of this state;

(22) "Pedestrian." Any person afoot;

(23) "Person." Every natural person, firm, copartnership, corporation, association, or organization;

(24) "Pneumatic tires." Every tire of rubber or other resilient material designed to be inflated with compressed air to support the load thereon;

(25) "Private road or driveway." Every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons;

(26) "Highway." Every way, lane, road, street, boulevard, and every way or place in the state of Washington open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;

(27) "Railroad." A carrier of persons or property upon vehicles, other than street cars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns;

(28) "Railroad sign or signal." Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(29) "Residence district." The territory contiguous to and including the highway, as herein defined, not comprising a business district, as herein defined, when the property on such highway for a continuous distance of three hundred feet or more on either side thereof is in the main improved with residences or residences and buildings in use for business;

(30) "Roadway." The paved, improved, or proper driving portion of a highway designed, or ordinarily used for vehicular travel;

(31) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by painted marks, signs, buttons, standards, or otherwise so as to be plainly discernible;

(32) "Sidewalk." That property between the curb lines or the lateral lines of a roadway, as herein defined, and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a highway and dedicated to use by pedestrians;

(33) "Solid tire." Every tire of rubber or other resilient material which does not depend upon inflation with compressed air for the support of the load thereon;

(34) "State highway." Every highway as herein defined, or part thereof, which has been designated as a state highway, or branch thereof, by legislative enactment;

(35) "Street car." A vehicle other than a train, as herein defined, for the transporting of persons or property and operated upon stationary rails principally within incorporated cities and towns;

(36) "Traffic." Pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly or together while using any highways for purposes of travel;

(37) "Traffic control signal." Any traffic device, as herein defined, whether manually, electrically, or mechanically operated, by which traffic alternately is directed to stop or proceed or otherwise controlled;

(38) "Traffic devices." All signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

(39) "Train." A vehicle propelled by steam, electricity, or other motive power with or without cars coupled thereto, operated upon stationary rails, except street cars;

(40) "Vehicle." Every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

Words and phrases used herein in the past, present, or future tense shall include the past, present, and future tenses; words and phrases used herein in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter genders; and words and phrases used herein in the singular or plural shall include the singular and plural; unless the context thereof shall indicate to the contrary. [1975 c 62 § 50; 1967 ex.s. c 145 § 42; 1961 c 13 § 47.04.010. Prior: 1937 c 53 § 1; RRS § 6400-1.]

Severability—1975 c 62: See note following RCW 36.75.010.

**Chapter 47.05
PRIORITY PROGRAMMING FOR HIGHWAY
DEVELOPMENT**

Sections	
47.05.030	Long range plan for improvements—Objectives—Categories—Priorities.
47.05.035	Allocation of revenues, factors—Graduated rates of development.
47.05.040	Six year comprehensive highway construction program and financial plan—Adoption—Biennial revision—Apportionment.
47.05.050	Repealed.
47.05.051	Six year comprehensive highway construction program—Priority selection criteria—Departure from criteria—Biennial revision.
47.05.055	Application of chapter 143, Laws of 1975 1st ex. sess.—Deviations from plans.

47.05.030 Long range plan for improvements—Objectives—Categories—Priorities. The state highway commission shall adopt and periodically revise after consultation with the legislative transportation committee and senate and house transportation and utilities committees a long range plan for highway improvements, specifying highway planning objectives for each of the highway categories, "A", "B", and "C", defined in this section, based upon needs for the ensuing fourteen year advance planning period, and within the framework of revenue estimates for such period. The plan shall be based upon the improvement needs for state highways as determined by the highway commission from time to time.

With such reasonable deviations as may be required to effectively utilize the available funds and to adjust to unanticipated delays in programmed projects, the highway commission shall allocate the estimated available funds among the following described categories of highway improvements, so as to carry out the commission's highway planning objectives within a fourteen year advance planning period:

(1) Category A shall consist of those improvements necessary to sustain the structural, safety, and operational integrity of the existing state highway system (other than improvements to the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations).

(2) Category B shall consist of improvements for the continued development of the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations.

(3) Category C shall consist of the development of major transportation improvements (other than improvements to the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations) including designated but unconstructed highways which are vital to the state-wide transportation network. [1975 1st ex.s. c 143 § 1; 1973 2nd ex.s. c 12 § 4; 1969 ex.s. c 39 § 3; 1965 ex.s. c 170 § 33; 1963 c 173 § 3.]

47.05.035 Allocation of revenues, factors—Graduated rates of development. (1) The commission, in preparing the long range plan for highway improvements, shall allocate the estimated revenues for the fourteen

year period among categories A, B, and C, giving primary consideration to the following factors:

(a) The relative needs in each of the categories of improvements;

(b) The need to provide adequate funding for category A improvements to protect the state's investment in its existing highway system; and

(c) The continuity of future highway development of all categories of improvements with those previously programmed.

(2) The commission in preparing the long range plan shall establish graduated rates of development of category A improvements according to functional class importance. [1975 1st ex.s. c 143 § 2.]

47.05.040 Six year comprehensive highway construction program and financial plan—Adoption—Biennial revision—Apportionment. (1) Prior to October 1 of each even-numbered year, the state highway commission shall adopt and thereafter shall biennially revise after consultation with the legislative transportation committee and senate and house transportation and utilities committees a comprehensive six year program and financial plan for highway construction, maintenance, and planning activities.

(2) The highway construction program for the ensuing six years shall allocate to category A improvements as a whole, and then to each of the five functional classes of state highways, that percentage of the estimated available construction funds as will be necessary to accomplish the commission's long range plan for highway improvements. The commission shall then apportion the available category A construction funds, according to functional class, among the several highway districts in the proportion that the estimated remaining category A improvement needs for each functional class of highway within each highway district bears to the total of such estimated needs for each functional class remaining unsatisfied throughout the state.

(3) The commission shall allocate to category B improvements for the ensuing six years, the estimated available federal aid interstate funds and state matching funds as necessary to accomplish the commission's long range plan for category B highway improvements throughout the state.

(4) The commission shall allocate to category C improvements for the ensuing six years, the remaining estimated available construction funds to accomplish to the extent possible the commission's long range plan for category C highway improvements throughout the state. [1975 1st ex.s. c 143 § 3; 1973 2nd ex.s. c 12 § 5; 1969 ex.s. c 39 § 4; 1963 c 173 § 4.]

47.05.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.05.051 Six year comprehensive highway construction program—Priority selection criteria—Departure from criteria—Biennial revision. (1) The six year comprehensive highway construction program for each category of improvements shall be based upon a priority selection system within the budget limits established for

the category. The commission using the criteria set forth in RCW 47.05.030, as now or hereafter amended, shall determine the category of each highway improvement.

(2) Selection of specific category A projects for the six year program shall be based on the priority of each highway section proposed to be improved or constructed in relation to other highway sections within the same functional class and within the respective highway district taking into account the criteria set forth in subsection (4) of this section.

(3) Selection of specific category B projects for the six year program shall be based on the priority of each interstate system highway section proposed to be improved or constructed in relation to other interstate highway sections within the state taking into account the criteria set forth in subsection (4) of this section.

(4) The priority of each category A and B project as provided in subsections (2) and (3) of this section shall be determined in accordance with the following criteria (not necessarily in order of importance):

(a) Its structural ability to carry loads imposed upon it;

(b) Its capacity to move traffic at reasonable speeds without undue congestion;

(c) Its adequacy of alignment and related geometrics;

(d) Its accident experience; and

(e) Its fatal accident experience.

(5) Selection of specific category C projects for the six year program shall be based on the priority of each highway section proposed to be improved in relation to other highway sections within the state with full regard to the structural, geometric, safety, and operational adequacy of the existing highway section taking into account the following:

(a) Continuity of development of the highway transportation network;

(b) Coordination with the development of other modes of transportation;

(c) The stated long range goals of the local area and its transportation plan;

(d) Its potential social, economic, and environmental impacts;

(e) Public views concerning proposed improvements;

(f) The conservation of energy resources and the capacity of the transportation corridor to move people and goods safely and at reasonable speeds; and

(g) Feasibility of financing the full proposed improvement.

(6) The commission in selecting any project for improvement in categories A, B, or C may depart from the priority of projects so established (a) to the extent that otherwise funds cannot be utilized feasibly within the program, (b) as may be required by a court judgment, legally binding agreement or state and federal laws and regulations, (c) as may be required to coordinate with federal, local or other state agency construction projects, (d) to take advantage of some substantial financial benefit that may be available, (e) for continuity of route development, or (f) because of changed financial or

physical conditions of an unforeseen or emergent nature. The commission shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority of projects.

(7) The six year construction program shall be revised biennially in accordance with revisions in functional classification or priority ratings resulting from changed conditions. The program shall be extended for an additional two years, to six years in the future, on July 1st of each odd-numbered year. [1975 1st ex.s. c 143 § 4.]

47.05.055 Application of chapter 143, Laws of 1975 1st ex. sess.—Deviations from plans. The provisions of *this 1975 amendatory act modifying existing procedures for priority programming for highway development as set forth in chapter 47.05 RCW, shall first apply to the long range plan for improvements for the period 1977 to 1991, and shall first apply to the preparation of the six year highway construction program for the period 1977 to 1983. For the biennium ending June 30, 1977, the commission may deviate from the existing long range plan and the six year plan whenever it shall determine that further development of any project, regardless of location or functional class, may be incompatible with the modified procedures prescribed by *this 1975 amendatory act and the long range plan and the six year plan being developed pursuant thereto for the periods 1977 to 1991 and 1977 to 1983 respectively. [1975 1st ex.s. c 143 § 6.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 143] consisted of amendments to RCW 47.05.030 and 47.05.040, the enactment of the instant section and RCW 47.05.035 and 47.05.051, and the repeal of RCW 47.05.050.

Chapter 47.12 ACQUISITION AND DISPOSITION OF STATE HIGHWAY PROPERTY

Sections

- 47.12.060 Sale or exchange of rights or land not needed for highway purposes—Sale by public auction only, when.
- 47.12.070 Sale or exchange of rights or land not needed for highway purposes—Sale or lease to a city or county—Proceeds.
- 47.12.080 Sale or exchange of rights or land not needed for highway purposes—Transfer to United States, municipal subdivision, public utility—Proceeds.
- 47.12.130 Exchange of land with abutting owner.
- 47.12.150 Acquisition, exchange, of property to relocate displaced facility.
- 47.12.290 Sale of real property—Execution, acknowledgement, and delivery of deed.

47.12.060 Sale or exchange of rights or land not needed for highway purposes—Sale by public auction only, when. When a state highway is relocated and the old route is abandoned, and the new route crosses land owned by a person who owns land abutting on the old route, the Washington state highway commission may agree with the owner to convey to him title to the old route or a part thereof as all or part consideration for his land to be taken for the new route.

Whenever the state has abandoned any highway rights of way, pit sites, stock pile sites or owns land not

needed for highway purposes, the Washington state highway commission may sell same to abutting owners for the fair market value or exchange with any person as a consideration or part consideration for lands or property rights needed by the state, or may sell same by public auction whenever it is deemed in the public interest to do so: *Provided*, That whenever the commission finds that it is in the public interest to sell such property to an abutting private owner and there are two or more abutting owners, the commission shall sell the same only by public auction unless every abutting owner but one signs a statement signifying he does not intend to bid on or purchase such property.

The Washington state highway commission shall certify the agreement to the director of highways with a description of the property to be conveyed, and the director of highways shall execute the deed which shall be duly acknowledged and deliver it to the grantee. [1975 1st ex.s. c 96 § 1; 1961 c 13 § 47.12.060. Prior: 1955 c 384 § 13; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400-28, part.]

47.12.070 Sale or exchange of rights or land not needed for highway purposes—Sale or lease to a city or county—Proceeds. If the Washington state highway commission deems that any land is no longer required for state highway purposes and that it is in the public interest so to do, said highway commission may negotiate for the sale of the land to a city or county of the state. The state highway commission shall certify the agreement for the sale to the director of highways, with a description of the land and the terms of the sale, and the director of highways shall execute the deed which shall be duly acknowledged and deliver it to the grantee.

Any moneys received pursuant to the provisions of this section shall be deposited in the motor vehicle fund. [1975 1st ex.s. c 96 § 2; 1969 c 91 § 2; 1961 c 13 § 47.12.070. Prior: 1955 c 384 § 14; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400-28, part.]

47.12.080 Sale or exchange of rights or land not needed for highway purposes—Transfer to United States, municipal subdivision, public utility—Proceeds. Whenever in the construction, reconstruction, location or improvement of any state highway it may become necessary to transfer and convey to the United States, its agencies or instrumentalities, to any municipal subdivision of this state, or to any public utility company, any unused state highway right of way or real property, and in the judgment of the highway commission and the attorney general, such transfer and conveyance is consistent with public interest, the highway commission may enter into agreements accordingly. Whenever the highway commission shall make any such agreement for any such transfer or conveyance, and together with the attorney general, certifies to the director of highways that such agreement has been made setting forth in such certification a description of the lands or premises involved, the director of highways shall execute and deliver unto the United States government, or its agencies

or instrumentalities, unto any municipal subdivision of this state, or unto any public utility company, a deed of conveyance, easement or other instrument, duly acknowledged, as shall be necessary to fulfill the terms of the aforesaid agreement. All moneys paid to the state of Washington under any of the provisions hereof shall be deposited in the motor vehicle fund. [1975 1st ex.s. c 96 § 3; 1961 c 13 § 47.12.080. Prior: 1945 c 127 § 1; Rem. Supp. 1945 § 6400–120.]

47.12.130 Exchange of land with abutting owner. Whenever the state department of highways shall have title to any parcel of land which the state highway commission shall determine is not necessary for highway purposes, the commission is authorized to cause such land to be deeded to the owner of land abutting upon such parcel in consideration, or partial consideration, for other lands owned by such property owner which the highway commission deems to be necessary for highway purposes. The director of highways shall execute the conveyances, which shall be duly acknowledged, necessary to carry out such exchange. [1975 1st ex.s. c 96 § 4; 1961 c 13 § 47.12.130. Prior: 1953 c 28 § 1.]

47.12.150 Acquisition, exchange, of property to relocate displaced facility. Whenever the highway commission shall need for highway purposes land or property rights belonging to the United States government or any municipality or political subdivision of the state, or which shall be a part of the right of way of any public utility having authority to exercise powers of eminent domain, when the acquisition of such property by the state will result in the displacement of any existing right of way or facility, the state highway commission is authorized to acquire by condemnation or otherwise such lands and property rights as shall be needed to relocate such right of way or facilities so displaced and to exchange lands or property rights so acquired in consideration or partial consideration for the land or property rights needed for highway purposes. The director of highways, at the request of the state highway commission, shall execute each conveyance, which shall be duly acknowledged, necessary to accomplish such exchange. [1975 1st ex.s. c 96 § 5; 1961 c 13 § 47.12.150. Prior: 1953 c 55 § 1.]

47.12.290 Sale of real property—Execution, acknowledgement, and delivery of deed. When full payment for real property agreed to be sold as authorized by RCW 47.12.280 has been received the director of highways shall execute the deed which shall be duly acknowledged and deliver it to the grantee. [1975 1st ex.s. c 96 § 6; 1973 1st ex.s. c 177 § 2.]

Chapter 47.17 STATE HIGHWAY ROUTES

Sections

47.17.045	State route No. 10.
47.17.085	State route No. 21.
47.17.115	State route No. 27.
47.17.155	State route No. 97.

47.17.205	Repealed.
47.17.265	Repealed.
47.17.300	State route No. 155.
47.17.315	State route No. 162.
47.17.416	State route No. 211.
47.17.453	State route No. 237.
47.17.570	Repealed.
47.17.650	State route No. 503.
47.17.775	Repealed.
47.17.840	State route No. 903.
47.17.867	State route No. 920.
47.17.917	State route No. 970.

47.17.045 State route No. 10. A state highway to be known as state route number 10 is established as follows:

Beginning at Teanaway junction thence easterly via the existing highway along the north side of the Yakima River to a junction with state route number 97 west of Ellensburg. [1975 c 63 § 14; 1971 ex.s. c 73 § 1; 1970 ex.s. c 51 § 10.]

47.17.085 State route No. 21. A state highway to be known as state route number 21 is established as follows:

Beginning at a junction with state route number 395 in the vicinity of Lind, thence northerly by the most feasible route by way of Odessa to a junction with state route number 2 in the vicinity west of Wilbur; also

Beginning at a junction with state route number 2 at Wilbur, thence northerly by the most feasible route to a junction with state route number 20 at Republic; also

Beginning at a junction with state route number 20 east of Republic, thence northeasterly by the most feasible route to the east of Curlew lake by way of Curlew to the international boundary line in the vicinity of Danville. [1975 c 63 § 1; 1970 ex.s. c 51 § 18.]

47.17.115 State route No. 27. A state highway to be known as state route number 27 is established as follows:

Beginning at a junction with state route number 270 at Pullman, thence northerly to a junction with state route number 271 in the vicinity of Oakesdale; also

From a junction with state route number 271 at Oakesdale, thence in a northerly direction by way of Tekoa, Latah, Fairfield and Rockford to a junction with state route number 90 in the vicinity of Opportunity. [1975 c 63 § 2; 1970 ex.s. c 51 § 24.]

47.17.155 State route No. 97. A state highway to be known as state route number 97 is established as follows:

Beginning at the Washington–Oregon boundary on the interstate bridge across the Columbia river at Biggs Rapids, thence in a northerly direction to the junction with state route number 14 in the vicinity of Maryhill, thence in a northerly direction by way of Goldendale, thence northeasterly by way of Satus Pass to a junction with state route number 22 at Toppenish, thence northwesterly south of the Yakima river to a junction with state route number 82 at Union Gap; also

Beginning at a junction with state route number 90 in the vicinity of Ellensburg, thence northeasterly by the most feasible route by way of Blewett Pass to a junction

with state route number 2 in the vicinity of Peshastin; also

Beginning at a junction with state route number 2 in the vicinity north of Wenatchee, thence northerly by the most feasible route by way of the vicinities of Chelan, Pateros, Brewster, Okanogan, and Oroville to the international boundary line: *Provided*, That until such times as the watergrade route between Chelan Station and Azwell, as designated by the highway commission, is constructed and opened to traffic the existing route on the west side of the Columbia river shall remain the traveled way of state route number 97. [1975 c 63 § 3; 1973 1st ex.s. c 151 § 2; 1970 ex.s. c 51 § 32.]

47.17.205 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.17.265 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.17.300 State route No. 155. A state highway to be known as state route number 155 is established as follows:

Beginning at a junction with state route number 2 in the vicinity north of Coulee City, thence northeasterly to the boundary of the federal reservation at the Grand Coulee dam; also

Beginning at the boundary of the federal reservation at the Grand Coulee dam, thence northwesterly by the most feasible route by way of Nespelem and Disautel to a junction with state route number 97 at Omak; also

Beginning at a junction with state route number 155 at Omak, thence northwesterly crossing the Okanogan river to a junction with state route number 215 at Omak. [1975 c 63 § 4; 1970 ex.s. c 51 § 61.]

47.17.315 State route No. 162. A state highway to be known as state route number 162 is established as follows:

Beginning at a junction with state route number 410 at Sumner, thence southerly to Orting, thence northeasterly to a junction with state route number 165 in the vicinity south of Buckley. [1975 c 63 § 5; 1971 ex.s. c 73 § 7; 1970 ex.s. c 51 § 64.]

47.17.416 State route No. 211. A state highway to be known as state route number 211 is established as follows:

Beginning at a junction with state route number 2 southwest of Newport, thence northerly by the most feasible route by way of Sacheen Lake to a junction with state route number 20 at Usk. [1975 c 63 § 10.]

47.17.453 State route No. 237. A state highway to be known as state route number 237 is established as follows:

Beginning at a junction with state route number 20 in the vicinity of Whitney, thence northerly to a junction with state route number 11 in the vicinity south of Blanchard. [1975 c 63 § 11.]

47.17.570 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.17.650 State route No. 503. A state highway to be known as state route number 503 is established as follows:

Beginning at a junction with state route number 500 at Orchards, thence northerly to a junction with state route number 502 at Battleground, thence northerly to Amboy, thence westerly to a junction with state route number 5 in the vicinity of Woodland. [1975 c 63 § 6; 1970 ex.s. c 51 § 131.]

47.17.775 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.17.840 State route No. 903. A state highway to be known as state route number 903 is established as follows:

Beginning at a junction with state route number 970 in the vicinity of Cle Elum, thence northwesterly by way of Cle Elum and Roslyn to the National Forest boundary in the vicinity of Lake Cle Elum. [1975 c 63 § 7; 1970 ex.s. c 51 § 169.]

47.17.867 State route No. 920. A state highway to be known as state route number 920 is established as follows:

Beginning at a junction with state route number 901 near the north end of Lake Sammamish thence easterly by the most feasible route to a junction with state route number 202 in the vicinity of Redmond. [1975 c 63 § 13.]

47.17.917 State route No. 970. A state highway to be known as state route number 970 is established as follows:

Beginning at a junction with state route number 90 in the vicinity of Cle Elum, thence northeasterly by way of Teanaway to a junction with state route number 97 in the vicinity of Virden. [1975 c 63 § 12.]

**Chapter 47.20
MISCELLANEOUS PROJECTS
(FORMERLY: SECONDARY HIGHWAY
ROUTES—MISCELLANEOUS PROJECTS)**

Sections	
47.20.645	Interstate 90 corridor—Legislative finding.
47.20.647	Interstate 90 corridor—Withdrawal of local governments from project—Effect on use of state funds.
47.20.649	Interstate 90 corridor—Public hearings, when required.
47.20.651	Interstate 90 corridor—Final environmental impact statement, when required.
47.20.653	Interstate 90 corridor—Court proceedings, priority.
47.20.660	West Seattle freeway corridor—Legislative finding.
47.20.662	West Seattle freeway corridor—Studies—Appropriation.
47.20.664	West Seattle freeway corridor—Study, advice by other agencies.
47.20.666	Urban arterial trust funds initially authorized in 1967–69 biennium—Obligation continued, limitations.
47.20.900	Severability—1975 1st ex.s. c 272.

47.20.645 Interstate 90 corridor—Legislative finding. The legislature finds that the Washington department of highways initiated route studies for the location of that segment of the national system of interstate and defense highways (interstate system) between south Bellevue and state route No. 5 in Seattle in 1957 culminating in a corridor public hearing and adoption of a corridor in 1963; that thereafter the department utilizing a multidisciplinary design team and soliciting the broadest public participation developed a series of designs culminating in a public design hearing in 1970, a public limited access hearing in 1971 and adoption of a design and limited access plan for the facility in 1971; that commencing in 1970 the proposed facility has been the subject of numerous lawsuits and administrative proceedings which have prevented advancement of the project to construction; that since further development of the project was enjoined by federal courts in 1971 the cost of constructing the project has increased by more than one hundred million dollars; that the traffic congestion and traffic hazards existing in the existing highway corridor between south Bellevue, Mercer Island and the city of Seattle are no longer tolerable; that after more than seventeen years of studies the public interest now requires that final decisions regarding the appropriate system for meeting the transportation requirements between south Bellevue and the city of Seattle be made promptly and in accordance with a prescribed schedule.

It is therefore the sense of the legislature that further protracted delay in establishing the transportation system to be constructed between south Bellevue and state route No. 5 in the city of Seattle is contrary to the interest of the people of this state and can no longer be tolerated as acceptable public administration. Accordingly the schedule for finally determining the character of transportation modes between south Bellevue and state route No. 5 in the city of Seattle as set forth in RCW 47.20.645 through 47.20.653, and 47.20.900 is adopted as the public policy of this state. [1975 1st ex.s. c 272 § 1.]

47.20.647 Interstate 90 corridor—Withdrawal of local governments from project—Effect on use of state funds. (1) The Puget Sound council of governments (until July 1, 1975, known as the Puget Sound governmental conference) now engaged in a study of the withdrawal from the interstate system of that segment of state route No. 90 between the south Bellevue interchange and the Connecticut street interchange on state route No. 5 and the substitution of public mass transit projects in lieu thereof as authorized by section 103(e)(4) of Title 23, United States Code, is directed to complete all phases of the study by November 1, 1975.

(2) No later than January 15, 1976, the city councils of Seattle, Mercer Island and Bellevue and the county council of King County shall each by resolution either approve or disapprove a request to withdraw from the interstate system the segment of state route No. 90 between south Bellevue interchange and the Connecticut street interchange on state route No. 5. Nothing in this subsection shall be construed as requiring the city or

county councils to adopt by January 15, 1976 any proposal for substitute mass transit projects.

(3) If at least three of the four city and county councils request withdrawal from the interstate system of the designated segment of state route No. 90 by January 15, 1976, and such request is thereafter concurred in by the governor and the Puget Sound council of governments, such determination shall be final as it relates to the state of Washington and except as may be required to terminate the project in an orderly manner, no moneys shall thereafter be expended from the motor vehicle fund for further development of the designated section of highway as an interstate highway without further express authorization of the legislature.

(4) If fewer than three of the four city and county councils request withdrawal from the interstate system of the designated segment of state route No. 90 by January 15, 1976, or if the governor does not concur in the withdrawal request, then no tax revenues collected by the state of Washington shall thereafter be expended for the construction of substitute public mass transit projects in the Seattle metropolitan area pursuant to section 103(e)(4) of Title 23, United States Code, without further express authorization of the legislature. [1975 1st ex.s. c 272 § 2.]

47.20.649 Interstate 90 corridor—Public hearings, when required. In the event that fewer than three of the four councils of the cities of Seattle, Mercer Island and Bellevue and King County pass resolutions requesting withdrawal from the interstate system of the segment of state route No. 90 between south Bellevue and state route No. 5 by January 15, 1976, the Washington department of highways shall conduct a public hearing as required by federal law and regulations relating to the location and design of the designated segment of the interstate system commencing no later than February 1, 1976. [1975 1st ex.s. c 272 § 3.]

47.20.651 Interstate 90 corridor—Final environmental impact statement, when required. In the event public hearings are conducted as described in RCW 47.20.649, and the department of highways determines that the segment of the interstate system along state route No. 90 between south Bellevue and state route No. 5 in Seattle should be constructed, then the department, in cooperation with the federal highway administration, shall complete a final environmental impact statement on such proposal in compliance with the national environmental policy act and chapter 43.21C RCW by May 1, 1976, and file the same with appropriate federal and state offices. [1975 1st ex.s. c 272 § 4.]

47.20.653 Interstate 90 corridor—Court proceedings, priority. State court proceedings instituted to challenge the validity of any steps taken in pursuance of the construction of the segment of the interstate system between south Bellevue and state route No. 5 in Seattle, or the construction of substitute public mass transit projects in lieu thereof, shall take precedence over all other causes not involving the public interest in all

courts of this state to the end construction of such facilities may be expedited to the fullest. The legislature of the state of Washington respectfully requests of the federal judiciary that challenges instituted in the federal courts relating to the validity of steps leading to the construction of the designated interstate highway or substitute public mass transit projects in lieu thereof be expedited to the fullest. [1975 1st ex.s. c 272 § 5.]

47.20.660 West Seattle freeway corridor—Legislative finding. The legislature hereby recognizes that the well-being of Washington citizens depends upon a sound and viable economic base; that the state of Washington is significantly involved in the maritime industry; that the Seattle area is an important contributor to the state's economy, and that the location of additional maritime and related industry in the Seattle area is desirable.

The legislature also recognizes that the lower Duwamish waterway in Seattle represents a high potential for increased maritime activity and resulting employment opportunities. [1975 1st ex.s. c 267 § 1.]

47.20.662 West Seattle freeway corridor—Studies—Appropriation. There is hereby appropriated to the Washington state highway commission the sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, from the motor vehicle fund to study the following issues regarding the proposed improved crossing of the Duwamish waterway to West Seattle:

(1) Feasibility of placing the corridor currently identified as the West Seattle freeway corridor, connecting West Seattle to Interstate 5, on the state highway system.

(2) Evaluation of existing studies regarding the proposed high-level crossings of the Duwamish waterway, or conduct additional studies as the commission deems appropriate, to determine the approximate amount of funds required for the construction of a high-level crossing of the Duwamish waterway.

(3) Identification of the principal groups or agencies benefiting from the construction of a high-level crossing of the Duwamish waterway and alternative methods of permitting such groups to participate in project costs including, but not limited to, user tolls or local improvement district assessments.

(4) Identification and analysis of sources of federal, state, and local revenues that may be available for transportation or economic development purposes that could be utilized for such high-level crossing.

(5) Recommended changes in legislation to permit the expeditious design and construction of such high-level crossing upon receipt of funding.

(6) Recommendation of an appropriate agency to administer the design and construction of such crossing.

The highway commission shall report its finding and recommendations to the house and senate transportation and utilities committees not later than July 1, 1976. [1975 1st ex.s. c 267 § 2.]

47.20.664 West Seattle freeway corridor—Study, advice by other agencies. The Washington state highway commission shall be advised in its study of the West Seattle freeway corridor, provided for in RCW 47.20.662, by, but not limited to, the chief executive, or his designee, of the port of Seattle, the Washington state department of commerce and economic development, the municipality of metropolitan Seattle, and the city of Seattle and such other persons, jurisdictions and agencies affected by the future development of the project as the commission deems appropriate. [1975 1st ex.s. c 267 § 3.]

47.20.666 Urban arterial trust funds initially authorized in 1967–69 biennium—Obligation continued, limitations. See RCW 47.26.281.

47.20.900 Severability—1975 1st ex.s. c 272. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 272 § 6.]

Reviser's note: This applies to RCW 47.20.645 through 47.20.653.

Chapter 47.26 DEVELOPMENT IN URBAN AREAS—URBAN ARTERIALS

Sections	
47.26.040	"Urban area" defined.
47.26.130	Urban arterial board—Expenses of members.
47.26.180	Division of roads or streets into arterial or access roads or streets—Classification of arterials—Review and revision by board.
47.26.183	Application for funds by political subdivisions previously ineligible.
47.26.185	Qualifications for administering and supervising urban arterial projects—Rules by board.
47.26.281	Urban arterial trust funds initially authorized in 1967–69 biennium—Obligation continued, limitations.

47.26.040 "Urban area" defined. The term "urban area" means every area of this state designated as an urban area by the state highway commission with the approval of the federal department of the secretary of transportation or the federal highway administrator in accordance with federal law, or areas within incorporated cities as determined by the office of program planning and fiscal management. [1975 1st ex.s. c 253 § 1; 1967 ex.s. c 83 § 10.]

47.26.130 Urban arterial board—Expenses of members. Members of the urban arterial board shall receive no compensation for their services on the board, but shall be reimbursed for travel and other expenses incurred while attending meetings of the board or while engaged on other business of the board when authorized by the board to the extent of twenty-five dollars per day plus the mileage rate authorized in RCW 43.03.060 or actual necessary transportation expenses. [1975 1st ex.s. c 1 § 2; 1969 ex.s. c 171 § 2; 1967 ex.s. c 83 § 19.]

47.26.180 Division of roads or streets into arterial or access roads or streets—Classification of arterials—Review and revision by board. Arterial designation and classification, as provided for by this chapter, shall be required to be an integral and coordinated portion of its planning process as authorized by chapters 35.63 or 36.70 RCW. The legislative authority of each county and city lying within or having within its boundaries an urban area shall with the advice and assistance of its chief engineer and its planning office divide all of its roads or streets into arterial roads or streets and access roads or streets and shall further subdivide the arterials into three functional classes to be known as major arterials, secondary arterials, and collector arterials, all in accordance with uniform standards established by the urban arterial board. Upon receipt of the classification plans of the several counties and cities, the urban arterial board shall review and revise the classification for the urban arterials as necessary to conform with its uniform standards for classifying urban arterials. [1975 1st ex.s. c 253 § 2; 1967 ex.s. c 83 § 24.]

47.26.183 Application for funds by political subdivisions previously ineligible. Political subdivisions that have previously been ineligible to apply for urban arterial trust funds, that are made eligible for such application by *this 1975 amendatory act, shall be afforded an opportunity by the urban arterial board to make such application. [1975 1st ex.s. c 253 § 3.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 253] consisted of amendments to RCW 47.26.040 and 47.26.180, the instant section, and RCW 47.26.185.

47.26.185 Qualifications for administering and supervising urban arterial projects—Rules by board. The urban arterial board may adopt rules establishing qualifications for cities and counties administering and supervising the design and construction of urban arterial projects financed in part from the urban arterial trust account. The rules establishing qualification shall take into account the resources and population of the city or county, its permanent engineering staff, its design and construction supervision experience and such other factors as the board deems appropriate. Any city or county failing to meet the qualifications established by the board for administering and supervising an urban arterial project, shall contract with a qualified city or county or the department of highways for the administration and supervision of the design and construction of any approved urban arterial project as a condition for receiving urban arterial trust account funds for the project. [1975 1st ex.s. c 253 § 4.]

47.26.281 Urban arterial trust funds initially authorized in 1967–69 biennium—Obligation continued, limitations. Urban arterial trust funds initially authorized by the state urban arterial board in the 1967–69 biennium for specific projects in cities over three hundred thousand population, as last determined by the office of program planning and fiscal management, shall remain obligated to such projects for the period through June 30, 1977 unless such project is earlier withdrawn or

abandoned by the sponsoring city. This continued obligation of urban arterial trust funds shall be terminated for any project if the sponsoring city earlier provides written notice of withdrawal or abandonment of the project to the urban arterial board or if the city acts to expend any other funds, exclusive of the required matching funds, which have heretofore been allocated or set aside to pay a part of the costs of such project.

After June 30, 1975, no additional urban arterial trust funds shall be expended for conceptual or feasibility studies of any project initially authorized prior to June 30, 1969 in a city of over three hundred thousand population, but such limitation shall not apply to the cost of preparing final plans, specifications and estimates or other contract documents required to advertise the project for competitive bids for its construction. [1975 1st ex.s. c 267 § 4.]

Chapter 47.36 TRAFFIC CONTROL DEVICES

Sections

47.36.250 Dangerous road conditions requiring special tires, chains or traction equipment—Signs or devices—Penalty.

47.36.250 Dangerous road conditions requiring special tires, chains or traction equipment—Signs or devices—Penalty. If the highway commission or its delegate determines at any time for any part of the public highway system that the unsafe conditions of the roadway require particular tires, tire chains or traction equipment in addition to or beyond the ordinary pneumatic rubber tires the commission may establish the following recommendations or requirements with respect to the use of such equipment for all persons using such public highway:

- (1) Dangerous road conditions, chains, or other approved traction devices recommended.
- (2) Dangerous road conditions, chains, or other approved traction devices required.
- (3) Dangerous road conditions, chains required.

Any equipment which may be required by this section shall be approved by the state commission on equipment as authorized under RCW 46.37.420.

The highway commission shall place and maintain signs and other traffic control devices on the public highways which shall indicate the tire, tire chain or traction equipment recommendation or requirement determined under this section. Such signs or traffic control devices shall in no event prohibit the use of studded tires from November 1 to April 1, but when the highway commission determines that chains are required and that no other traction equipment will suffice, such requirement shall be applicable to all types of tires including studded tires. Such signs or traffic control devices may specify different recommendations or requirements for four wheel drive vehicles in gear.

Failure to obey a requirement indicated by a sign or other traffic control device placed or maintained under this section shall be a misdemeanor. [1975 1st ex.s. c 255 § 1; 1969 ex.s. c 7 § 2.]

Restrictions as to tire equipment, metal studs: RCW 46.37.420.

Chapter 47.39

SCENIC AND RECREATIONAL HIGHWAY ACT
OF 1967

Sections

47.39.020 Designation of portions of existing highways as part of system.

47.39.020 Designation of portions of existing highways as part of system. The following portions of highways are designated as part of the scenic and recreational highway system:

(1) State route number 2, beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin;

(2) State route number 3, beginning at a junction with state route number 106 in the vicinity of Belfair, thence in a northeasterly direction to a junction with Arsenal Way south of Bremerton; also

Beginning at a junction of Erlands Point Road north of Bremerton thence northeasterly to a junction with state route number 104 in the vicinity of Port Gamble;

(3) State route number 8, beginning at a junction with state route number 12 in the vicinity of Elma, thence easterly to a junction with state route number 101 near Tumwater;

(4) State route number 10, beginning at Teanaway junction, thence easterly to a junction with state route number 97 west of Ellensburg;

(5) State route number 12, beginning at a junction with a county road approximately 2.8 miles west of the crossing of the Wynooche river which is approximately 1.2 miles west of Montesano, thence in an easterly direction to a junction with state route number 8 in the vicinity of Elma; also

Beginning at the Burlington Northern Railroad bridge approximately 3.4 miles west of Dixie, thence in a northerly and easterly direction by way of Dayton, Dodge, and Pomeroy to a junction with a county road approximately 2.4 miles west of a junction with state route number 129 at Clarkston;

(6) State route number 14, beginning at the crossing of Gibbons creek approximately 0.9 miles east of Washougal, thence in an easterly direction by way of Stevenson to a westerly junction with state route number 97 in the vicinity of Maryhill; also

Beginning at the easterly junction with state route number 97 in the vicinity of Maryhill, thence easterly along the north bank of the Columbia river to a point in the vicinity of Plymouth;

(7) State route number 17, beginning at a junction with state route number 395 in the vicinity of Eltopia, thence in a northwesterly direction to the south end of the overcrossing of state route number 90, in the vicinity of Moses Lake; also

Beginning at a junction with Grape Drive in the vicinity of Moses Lake, thence northwesterly and northerly by way of Soap Lake to a junction with state route number 2 west of Coulee City;

(8) State route number 20, beginning at the Keystone ferry slip on Whidbey Island, thence easterly and

northerly to a junction with Rhododendron road in the vicinity east of Coupeville; also

Beginning at a junction with Sherman road in the vicinity west of Coupeville, generally northerly to a junction with Miller road in the vicinity southwest of Oak Harbor; also

Beginning at a junction with Torpedo road in the vicinity northeast of Oak Harbor, thence northerly by way of Deception Pass to a junction with state route number 20 north in the vicinity southeast of Anacortes; also

Beginning at the crossing of Hanson creek approximately 6.0 miles west of Lyman, thence easterly by way of Concrete, Marblemount, Diablo Dam, and Twisp to a junction with state route number 153 southeast of Twisp; also

Beginning at a junction with state route number 21 approximately three miles east of Republic, thence in an easterly direction to a junction with state route number 395 at the west end of the crossing over the Columbia river at Kettle Falls; also

Beginning at a junction with a county road 2.76 miles east of the junction with state route number 395 in Colville, thence in a northeasterly direction to a junction with state route number 31 at Tiger; thence in a southerly direction to a junction with state route number 2 at Newport;

(9) State route number 21, beginning at the Keller ferry slip on the north side of Roosevelt lake, thence in a northerly direction to the crossing of Granite creek approximately fifty-four miles north of the Keller ferry;

(10) State route number 90, beginning at the CMSTPP railroad overcrossing approximately 2.3 miles southeast of North Bend, thence in an easterly direction by way of Snoqualmie pass to the crossing of the Cle Elum river approximately 2.6 miles west of Cle Elum;

(11) State route number 97, beginning at the crossing of the Columbia river at Biggs Rapids, thence in a northerly direction to the westerly junction with state route number 14 in the vicinity of Maryhill;

(12) State route number 101, beginning at a junction with state route number 109 in the vicinity of Queets, thence in a northerly, northeasterly, and easterly direction by way of Forks to the west boundary of the Olympic national park in the vicinity of Lake Crescent; also

Beginning at Sequim Bay state park, thence in a southeasterly and southerly direction to a junction with the Airport road north of Shelton; also

Beginning at a junction with state route number 3 south of Shelton, thence in a southerly and southeasterly direction to the west end of the Black Lake road overcrossing in the vicinity northeast of Tumwater;

(13) State route number 104, beginning at a junction with state route number 101 in the vicinity south of Discovery bay, thence in a southeasterly direction to the vicinity of Shine on Hood Canal; also

Beginning at a junction with state route number 3 east of the Hood Canal crossing, thence northeasterly to Port Gamble;

(14) State route number 105, beginning at a junction with state route number 101 at Raymond, thence west-erly and northerly by way of Tokeland and North Cove to the shore of Grays Harbor north of Westport; also

Beginning at a junction with state route number 105 in the vicinity south of Westport, thence northeasterly to a junction with state route number 101 at Aberdeen;

(15) State route number 106, beginning at a junction with state route number 101 in the vicinity of Union, thence northeasterly to a junction with state route number 3 in the vicinity of Belfair;

(16) State route number 109, beginning at a junction with a county road approximately 3.0 miles northwest of the junction with state route number 101 in Hoquiam, thence in a northwesterly direction by way of Ocean City, Copalis, Pacific Beach, and Moclips to a junction with state route number 101 in the vicinity of Queets;

(17) State route number 112, beginning at the easterly boundary of the Makah Indian reservation, thence in an easterly direction to the vicinity of Laird's corner on state route number 101;

(18) State route number 126, beginning at a junction with state route number 12 in the vicinity of Dayton, thence in a northeasterly direction to a junction with state route number 12 in the vicinity west of Pomeroy;

(19) State route number 153, beginning at a junction with state route number 97 in the vicinity of Pateros, thence in a northerly direction to a junction with state route number 20 in the vicinity south of Twisp;

(20) State route number 155, beginning at a junction with state route number 2 in the vicinity north of Coulee City, thence in a northeasterly direction to the boundary of the federal reservation at the Grand Coulee dam; also

Beginning at a junction with a county road 2.07 miles north of the junction with 12th street in Elmer City, thence in a northwesterly direction to the west end of the crossing of Omak creek east of Omak;

(21) State route number 206, Mt. Spokane Park Drive, beginning at a junction with state route number 2 near the north line of section 3, township 26 N, range 43 E, thence northeasterly to a point in section 28, township 28 N, range 45 E at the entrance to Mt. Spokane state park;

(22) State route number 395, beginning at a point approximately 2.6 miles north of Pasco thence in a north-erly direction to a junction with state route number 17 in the vicinity of Eltopia; also

Beginning at the north end of the crossing of Mill creek in the vicinity of Colville, thence in a northwesterly direction to a junction with state route number 20 at the west end of the crossing over the Columbia river at Kettle Falls;

(23) State route number 401, beginning at a junction with state route number 101 at Point Ellice, thence easterly and northerly to a junction with state route number 4 in the vicinity north of Naselle;

(24) State route number 504, beginning at a junction with state route number 5 in the vicinity north of Castle Rock, thence in an easterly direction by way of St. Helens and Spirit lake to Mt. St. Helens;

(25) State route number 525, beginning at a junction with Maxwellton road in the southern portion of Whidbey Island, thence northwesterly to a junction with state route number 20 east of the Keystone ferry slip;

(26) State route number 542, beginning at the Nugent crossing over the Nooksack river approximately 7.7 miles northeast of Bellingham, thence easterly to the vicinity of Austin pass in Whatcom county;

(27) State route number 821, beginning at a junction with state route number 82 at the Yakima firing center interchange, thence in a northerly direction to a junction with state route number 82 at the Thrall road in-terchange. [1975 c 63 § 8; 1973 1st ex.s. c 151 § 10; 1971 ex.s. c 73 § 29; 1970 ex.s. c 51 § 177; 1969 ex.s. c 281 § 6; 1967 ex.s. c 85 § 2.]

Chapter 47.42

HIGHWAY ADVERTISING CONTROL ACT— SCENIC VISTAS ACT

Sections	
47.42.040	Permissible signs classified.
47.42.062	Permissible signs visible from primary system within commercial and industrial areas—Sign require-ments, restrictions and prohibitions.
47.42.063	Permissible signs visible from primary system within commercial and industrial areas—Preexisting signs—Permissible signs—Spacing.
47.42.065	Regulations permitting signs for viewing from highways or streets not part of any system—Requirements.
47.42.102	Compensation for removal of signs—Authorized—Signs to which applicable.
47.42.140	Scenic areas designated.

47.42.040 Permissible signs classified. It is declared to be the policy of the state that no signs which are vis-ible from the main traveled way of the interstate sys-tem, primary system, or scenic system shall be erected or maintained except the following types:

(1) Directional or other official signs or notices that are required or authorized by law;

(2) Signs advertising the sale or lease of the property upon which they are located;

(3) Signs advertising activities conducted on the property on which they are located;

(4) Signs, not inconsistent with the policy of this chapter and the national policy set forth in section 131 of title 23, United States Code as codified and enacted by Public Law 85-767 and amended only by section 106, Public Law 86-342, and the national standards promulgated thereunder by the secretary of commerce or the secretary of transportation, advertising activities being conducted at a location within twelve miles of the point at which such signs are located: *Provided*, That no sign lawfully erected pursuant to this subsection ad-jacent to the interstate system and outside commercial and industrial areas shall be maintained by any person after three years from May 10, 1971;

(5) Signs, not inconsistent with the policy of this chapter and the national policy set forth in section 131 of title 23, United States Code as codified and enacted by Public Law 85-767 and amended only by section

106, Public Law 86-342, and the regulations promulgated thereunder by the secretary of commerce or the secretary of transportation, designed to give information in the specific interest of the traveling public: *Provided*, That no sign lawfully erected pursuant to this subsection adjacent to the interstate system and outside commercial and industrial areas shall be maintained by any person after three years from May 10, 1971;

(6) Signs lawfully in existence on October 22, 1965, determined by the commission, subject to the approval of the United States secretary of transportation, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance the preservation of which would be consistent with the purposes of chapter 47.42 RCW.

Only signs of type 1, 2 and 3 shall be erected or maintained within view of the scenic system. [1975 1st ex.s. c 271 § 1; 1971 ex.s. c 62 § 4; 1961 c 96 § 4.]

47.42.062 Permissible signs visible from primary system within commercial and industrial areas—Sign requirements, restrictions and prohibitions. Signs within six hundred and sixty feet of the nearest edge of the right of way which are visible from the main traveled way of the primary system within commercial and industrial areas and whose size, lighting, and spacing are consistent with the customary use of property for the effective display of outdoor advertising as set forth in this section may be erected and maintained: *Provided*, That this section shall not serve to restrict type 3 signs located along any portion of the primary system within an incorporated city or town or within any commercial or industrial area.

(1) General: Signs shall not be erected or maintained which (a) imitate or resemble any official traffic sign, signal, or device; (b) are erected or maintained upon trees or painted or drawn upon rocks or other natural features and which are structurally unsafe or in disrepair; or (c) have any visible moving parts.

(2) Size of signs:

(a) The maximum area for any one sign shall be six hundred seventy-two square feet with a maximum height of twenty-five feet and maximum length of fifty feet inclusive of any border and trim but excluding the base or apron, supports and other structural members: *Provided*, That cut-outs and extensions may add up to twenty percent of additional sign area.

(b) For the purposes of this subsection, double-faced, back-to-back, or V-type signs shall be considered as two signs.

(c) Signs which exceed three hundred twenty-five square feet in area may not be double-faced (abutting and facing the same direction).

(3) Spacing of signs:

(a) Signs may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.

(b) On limited access highways established pursuant to chapter 47.52 RCW no two signs shall be spaced less

than one thousand feet apart, and no sign may be located within three thousand feet of the center of an interchange, a safety rest area, or information center, or within one thousand feet of an intersection at grade. Double-faced signs shall be prohibited. Not more than a total of five sign structures shall be permitted on both sides of the highway per mile.

(c) On noncontrolled access highways inside the boundaries of incorporated cities and towns not more than a total of four sign structures on both sides of the highway within a space of six hundred sixty feet shall be permitted with a minimum of one hundred feet between sign structures. In no event, however, shall more than four sign structures be permitted between platted intersecting streets or highways. On noncontrolled access highways outside the boundaries of incorporated cities and towns minimum spacing between sign structures on each side of the highway shall be five hundred feet.

(d) For the purposes of this subsection, a back-to-back sign and a V-type sign shall be considered one sign structure.

(e) Official signs, and signs advertising activities conducted on the property on which they are located shall not be considered in determining compliance with the above spacing requirements. The minimum space between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply to signs located on the same side of the highway.

(4) Lighting: Signs may be illuminated, subject to the following restrictions:

(a) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(d) All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the state. [1975 1st ex.s. c 271 § 3; 1974 ex.s. c 154 § 2; 1974 ex.s. c 138 § 2; 1971 ex.s. c 62 § 7.]

47.42.063 Permissible signs visible from primary system within commercial and industrial areas—Preexisting signs—Permissible signs—Spacing. (1) Signs within six hundred and sixty feet of the nearest edge of the right of way lawfully erected and maintained which are visible from the main traveled way of the primary system within commercial and industrial areas on June 1, 1971 shall be permitted to remain and be maintained.

(2) Signs within six hundred and sixty feet of the nearest edge of the right of way which are visible from the main traveled way of the primary system within commercial and industrial areas whose size, lighting, and spacing are consistent with customary use as set forth in RCW 47.42.062 may be erected and maintained. Signs lawfully erected and maintained on June 1, 1971 shall be included in the determination of spacing requirements for additional signs. [1975 1st ex.s. c 271 § 4; 1971 ex.s. c 62 § 8.]

47.42.065 Regulations permitting signs for viewing from highways or streets not part of any system—Requirements. Notwithstanding any other provision of chapter 47.42 RCW, signs may be erected and maintained more than six hundred and sixty feet from the nearest edge of the right of way which are visible from the main traveled way of the interstate system, primary system, or scenic system when designed and oriented to be viewed from highways or streets other than the interstate system, primary system, or the scenic system and the advertising or informative contents of which may not be clearly comprehended by motorists using the main traveled way of the interstate system, primary system or scenic system. [1975 1st ex.s. c 271 § 5; 1971 ex.s. c 62 § 9.]

47.42.102 Compensation for removal of signs—Authorized—Signs to which applicable. (1) Except as otherwise provided in subsection (3) of this section, just compensation shall be paid upon the removal of any sign (pursuant to the provisions of chapter 47.42 RCW), lawfully erected under state law, which is visible from the main traveled way of the interstate system or the primary system.

(2) Such compensation shall be paid for the following:

(a) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(b) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(3) In no event, however, shall compensation be paid for the taking or removal of signs adjacent to the interstate system and the scenic system which became subject to removal pursuant to chapter 96, Laws of 1961 as amended by section 55, chapter 3, Laws of 1963 ex. sess. prior to May 10, 1971. [1975 1st ex.s. c 271 § 2; 1971 ex.s. c 62 § 12.]

47.42.140 Scenic areas designated. The following portions of state highways are designated as a part of the scenic system:

(1) State route number 2 beginning at the crossing of Woods creek at the east city limits of Monroe, thence in an easterly direction by way of Stevens pass to a junction with state route number 97 in the vicinity of Peshastin.

(2) State route number 7 beginning at a junction with state route number 706 at Elbe, thence in a northerly

direction to a junction with state route number 507 south of Spanaway.

(3) State route number 11 beginning at the Blanchard overcrossing, thence in a northerly direction to the limits of Larabee state park (north line of section 36, township 37 north, range 2 east).

(4) State route number 12 beginning at Kosmos southeast of Morton, thence in an easterly direction across White pass to the Oak Flat junction with state route number 410 northwest of Yakima.

(5) State route number 90 beginning at the westerly junction with state route number 901, thence in an easterly direction by way of North Bend and Snoqualmie pass to a junction with state route number 970 at Cle Elum.

(6) State route number 97 beginning at a junction with state route number 970 at Virden, thence via Blewett pass to a junction with state route number 2 in the vicinity of Peshastin.

(7) State route number 123 beginning at a junction with state route number 12 at Ohanapecosh junction in the vicinity west of White pass, thence in a northerly direction to a junction with state route number 410 at Cayuse junction in the vicinity west of Chinook pass.

(8) State route number 165 beginning at the northwest entrance to Mount Rainier national park, thence in a northerly direction to a junction with state route number 162 east of the town of South Prairie.

(9) State route number 305, beginning at the ferry slip at Winslow on Bainbridge Island, thence northwesterly by way of Agate Pass bridge to a junction with state route number 3 approximately four miles northwest of Poulsbo.

(10) State route number 410 beginning at the crossing of Scatter creek approximately six miles east of Enumclaw, thence in an easterly direction by way of Chinook pass to a junction of state route number 12 and state route number 410.

(11) State route number 706 beginning at a junction with state route number 7 at Elbe thence in an easterly direction to the southwest entrance to Mount Rainier national park.

(12) State route number 970 beginning at a junction with state route number 90 in the vicinity of Cle Elum thence via Teanaway to a junction with state route number 97 in the vicinity of Virden. [1975 c 63 § 9; 1974 ex.s. c 138 § 4. Prior: 1971 ex.s. c 73 § 28; 1971 ex.s. c 62 § 18; 1961 c 96 § 14. Cf. 1974 ex.s. c 154 § 4.]

Chapter 47.44

FRANCHISES ON STATE HIGHWAYS

Sections

47.44.010	Wire and pipe line and tram and railway franchises—Application—Notice—Posting and publication.
47.44.020	Grant of franchise—Conditions—Hearing.

47.44.010 Wire and pipe line and tram and railway franchises—Application—Notice—Posting and publication. The highway commission or such persons as it may designate shall have the power to grant franchises to persons, associations, private or municipal corporations, the United States government or any

agency thereof, to use any state highway for the construction and maintenance of water pipes, flume, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams or railways, and any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the highway commission, and any other such facilities. All applications for such franchise shall be made in writing and subscribed by the applicant, and shall describe the state highway or portion thereof over which franchise is desired and the nature of the franchise. Upon the filing of any such applications, a notice of the filing shall be given in the county or counties in which any portion of the state highway upon which such franchise is applied for is located, at the expense of the applicant, by posting written or printed notice in a public place at the county seat of such county or counties and by publishing a like notice in two successive issues of a newspaper having a general circulation in such county or counties; which notice shall state the name or names of the applicant or applicants, and a description of the state highway or part thereof over which the franchise is applied for. It shall be the duty of the county auditor of the respective counties to cause such notices to be posted and published upon receipt and to file proof of such posting and publication with the highway commission.

Sufficient copies of the notice required by this section shall be sent directly to the county auditor of the respective counties. [1975 1st ex.s. c 46 § 1; 1967 c 108 § 7; 1963 c 70 § 1; 1961 ex.s. c 21 § 26; 1961 c 13 § 47.44.010. Prior: 1943 c 265 § 2; 1937 c 53 § 83; Rem. Supp. 1943 § 6400-83.]

Urban public transportation system defined: RCW 47.04.082.

47.44.020 Grant of franchise—Conditions—Hearing. When fourteen days have elapsed after the notice has been posted and published as required in RCW 47.44.010 as now or hereafter amended and if the highway commission or such persons as it may designate deems it to be for the public interest, the franchise may be granted in whole or in part, with or without hearing under such regulations and conditions as the commission may prescribe, with or without compensation, but not in excess of the reasonable cost for investigating, handling and granting the franchise. The commission or such persons as it may designate may require that the utility and appurtenances be so placed on the highway that they will, in its opinion, least interfere with other uses of the highway.

If a hearing is held, it shall be conducted by the commission or such persons as it may designate, and may be adjourned from time to time until completed. The applicant may be required to produce all facts pertaining to the franchise, and evidence may be taken for and against granting it.

The facility shall be made subject to removal when necessary for the construction, alteration, repair, or improvement of the highway and at the expense of the franchise holder, except that the state shall pay the cost of such removal whenever the state shall be entitled to

receive proportionate reimbursement therefor from the United States in the cases and in the manner set forth in RCW 47.44.030. Renewal upon expiration of a franchise shall be by application and notice posted and published, and a hearing may or may not be conducted in the same manner as an original application. A person constructing or operating such a utility on a state highway is liable to any person injured thereby for any damages incident to the work of installation or the continuation of the occupancy of the highway by the utility, and except as provided above, is liable to the state for all necessary expenses incurred in restoring the highway to a permanent suitable condition for travel. No franchise shall be granted for a longer period than fifty years, and no exclusive franchise or privilege shall be granted. [1975 1st ex.s. c 46 § 2; 1961 c 13 § 47.44.020. Prior: 1959 c 330 § 1; 1937 c 53 § 84; RRS § 6400-84.]

Chapter 47.56

STATE TOLL BRIDGES, TUNNELS AND FERRIES

Sections

47.56.725 Ferry systems operated by Pierce, Skagit, and Whatcom counties—Deficit reimbursements.

47.56.725 Ferry systems operated by Pierce, Skagit, and Whatcom counties—Deficit reimbursements. (1) The Washington state highway commission is hereby authorized to enter into a continuing agreement with Pierce, Skagit, and Whatcom counties pursuant to which the state highway commission shall pay to each of the counties from moneys appropriated for such purpose the amounts authorized in subsection (2) of this section.

(2) The Washington state highway commission is authorized to include in the continuing agreement a provision to reimburse Pierce, Skagit, and Whatcom counties each for fifty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry systems owned and operated by such counties, commencing with the fiscal year ending June 30, 1976: *Provided*, That the tolls of each county ferry system existing as of May 6, 1975 shall not be decreased.

(3) The annual fiscal year deficit, if any, shall be determined by Pierce, Skagit, and Whatcom counties subject to review and approval of the Washington state highway commission. The annual fiscal year deficit is defined as the total of operations and maintenance expenditures less the sum of ferry toll revenues and that portion of fuel tax revenue distributions which are attributable to the county ferry as determined by the Washington state highway commission. Payments of the amounts authorized by subsection (2) of this section shall be made by the Washington state highway commission upon the receipt of properly executed vouchers from each county. [1975 1st ex.s. c 21 § 1.]

Appropriation—1975 1st ex.s. c 21: "There is hereby appropriated from the counties share of the motor vehicle fund to the Washington state highway commission for the biennium ending June 30, 1977, the sum of one hundred twenty thousand dollars or so much thereof as

may be necessary to carry out the provisions of *section 1 of this 1975 amendatory act." [1975 1st ex.s. c 21 § 5.]

*Reviser's note: "section 1 of this 1975 amendatory act" [1975 1st ex.s. c 21] is RCW 47.56.725.

Chapter 47.64
MARINE EMPLOYEES—PUBLIC
EMPLOYMENT RELATIONS
(FORMERLY: MARINE EMPLOYEE
COMMISSION)

Sections

47.64.010	Definitions.
47.64.020	Repealed.
47.64.030	Duties of commission in general.
47.64.040	Adjudication of labor disputes—Hearings— Subpoenas.

47.64.010 Definitions. Words and phrases used in this chapter shall have the meaning in this chapter ascribed to them except where, from the context thereof, they shall clearly have a contrary meaning:

(1) "Washington toll bridge authority" and "authority," "toll bridge authority" shall be used herein interchangeably and shall mean the Washington toll bridge authority as now, or as hereafter constituted by law, or such board, commission, authority, or officers as shall succeed to its duties;

(2) "Commission" means public employment relations commission;

(3) "Ferry" shall mean any ferry, ferry system, wharves, terminals constructed or acquired under the authority of the Washington toll bridge authority;

(4) "Employee" shall mean any person employed aboard ferries, wharves, or terminals acquired or constructed under the authority of the Washington toll bridge authority. [1975 1st ex.s. c 296 § 33; 1961 c 13 § 47.64.010. Prior: 1949 c 148 § 2; Rem. Supp. 1949 § 6524-23.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

For powers and duties of commission, see chapter 41.58 RCW.

47.64.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.64.030 Duties of commission in general. The authority is empowered to negotiate and to enter into labor agreements with its employees or their representatives, including provisions for health and welfare benefits for its employees to be financed either wholly or in part by contributions from the operating fund. The commission shall have the authority to administer labor relations and to adjudicate all labor disputes on the best interests of the efficient operation of any ferry or ferry system. In adjudicating disputes, the commission shall take into consideration that though an individual employee shall be free to decline to associate with his fellow employees, it is necessary that he have full freedom of association, self-organization and designation of representatives of his own choosing who shall represent him in all respects before the authority to negotiate the terms and conditions of his employment and before the commission for the settlement of his labor disputes. The commission shall make such surveys of

wages, hours and working conditions as it deems necessary, shall consider the prevailing practices for similarly skilled trades in the area in which the employee is employed. The commission shall adjust complaints, grievances and disputes concerning labor arising out of the operation of the ferry or ferry system. [1975 1st ex.s. c 296 § 34; 1961 c 13 § 47.64.030. Prior: 1953 c 211 § 2; 1949 c 148 § 3, part; Rem. Supp. 1949 § 6524-24, part.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

47.64.040 Adjudication of labor disputes—Hearings—Subpoenas. Any employee, employee's representative, or Washington toll bridge authority claiming labor disputes shall in writing notify the commission who shall make careful inquiry into the cause thereof and issue an order in writing advising the employee, or his representative, and the authority as to the decision of the commission.

The parties shall be entitled to offer evidence relating to disputes at all hearings conducted by the commission. All evidence, statements and testimony in any commission hearing under this chapter shall be transcribed and preserved by the commission and be available as a public record. The orders and awards of the commission shall be final and binding upon any employee or employees or their representatives affected thereby and upon the Washington toll bridge authority.

The commission shall by regulation prescribe its rules of procedure.

The commission shall have the authority to subpoena any employee or employees, or their representatives, and any member or representative of the Washington toll bridge authority, and any witnesses. The commission shall have power to require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission shall be enforceable by order of any superior court in the state of Washington for the county within which such proceedings may be pending. [1975 1st ex.s. c 296 § 35; 1961 c 13 § 47.64.040. Prior: 1949 c 148 § 3, part; Rem. Supp. 1949 § 6524-24, part.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Title 48
INSURANCE

Chapters

- 48.01 Initial provisions.**
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- 48.10 Reciprocal insurers.**
- 48.13 Investments.**
- 48.15 Unauthorized insurers.**
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**Chapter 48.01
INITIAL PROVISIONS**

- Sections
48.01.010 Short title.

48.01.010 Short title. Title 48 RCW constitutes the insurance code. [1975 1st ex.s. c 266 § 2; 1947 c 79 § .01.01; Rem. Supp. 1947 § 45.01.01.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

**Chapter 48.05
INSURERS—GENERAL REQUIREMENTS**

- Sections
48.05.185 Fine in addition or in lieu of suspension, revocation or refusal.

48.05.185 Fine in addition or in lieu of suspension, revocation or refusal. After hearing or with the consent of the insurer and in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of authority the commissioner may levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than five thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of such order. Upon failure to pay any such fine when due the commissioner shall revoke the certificate of authority of the insurer if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund. [1975 1st ex.s. c 266 § 3; 1965 ex.s. c 70 § 3.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

**Chapter 48.07
DOMESTIC INSURERS—POWERS**

- Sections
48.07.090 Management, control and exclusive agency contracts.

48.07.090 Management, control and exclusive agency contracts. (1) No incorporated domestic insurer shall make any contract whereby any person is granted or is to enjoy in fact the control and management of the insurer, or control of underwriting, investment, loss adjustments, production, or other major function of the insurer, all to the material exclusion of its board of directors, or the controlling or preemptive right to produce substantially all insurance business for the insurer, or, if an officer, director, or otherwise part of the insurer's management, is directly or indirectly to receive any commission, bonus, or compensation based upon

the volume of the insurer's business or transactions unless such contract has been filed with and approved by the commissioner. The contract shall be deemed approved unless disapproved by the commissioner within thirty days after date of filing. Any disapproval shall be delivered to the insurer in writing, stating the reasons therefor.

(2) Any such contract hereafter made shall provide that any such manager, producer of its business, or contract holder shall within ninety days after expiration of each calendar year thereunder furnish the insurer's board of directors a written statement of amounts received under or on account of the contract and amounts expended thereunder during such calendar year, with specification of the compensation and emoluments received therefrom by the respective directors, officers, and other principal management personnel of the insurer, or manager, or producer, or contract holder with such classification of items and further detail as the insurer's board of directors may reasonably require.

(3) The commissioner shall not approve any contract referred to in subsection (1) which:

- (a) Subjects the insurer to excessive charges for expenses or commissions; or
- (b) does not contain fair and adequate standards of performance; or
- (c) is to extend for an unreasonable length of time; or
- (d) provides for commission, bonus, or compensation without reasonable relationship to the insurer's current expense, net growth, and net gain in surplus factors, or without reasonable limitation of the amount of money to be received as such commission, bonus, or compensation with respect to the insurer's business in any one calendar year; or
- (e) contains other inequitable provision or provisions which may jeopardize the security of policyholders or the reasonable interests of stockholders.

(4) The commissioner may, after a hearing held thereon, withdraw his approval of any such contract theretofore permitted to become effective, if he finds that any basis of his original approval of, or failure to disapprove, the contract no longer exists, or that the contract has, in actual operation, shown itself to be subject to disapproval on any of the grounds referred to in subsection (3) of this section. [1975 1st ex.s. c 266 § 4; 1953 c 197 § 3; 1947 c 79 § .07.09; Rem. Supp. 1947 § 45.07.09.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

**Chapter 48.10
RECIPROCAL INSURERS**

- Sections
48.10.070 Surplus funds required.

48.10.070 Surplus funds required. (1) A domestic reciprocal insurer hereafter formed, if it has otherwise complied with the provisions of this code, may be authorized to transact insurance if it deposits and maintains on deposit with the commissioner surplus funds in

the minimum amount of three hundred thousand dollars.

(2) A domestic reciprocal insurer may be authorized to transact other kinds of insurance in addition to that for which it was originally authorized, if it has otherwise complied with the provisions of this code therefor and possesses and maintains surplus funds equal to the paid-in capital stock required under RCW 48.05.340 of a stock insurer transacting like kinds of insurance, and the special surplus, if any, required under RCW 48.05.360 as to such a stock insurer. The minimum deposit held by the commissioner shall constitute part of the surplus funds so otherwise required. The insurer need not deposit such additional surplus funds with the commissioner: *Provided*, That a domestic reciprocal insurer which under prior laws held authority to transact insurance in this state may continue to be so authorized so long as it otherwise qualifies therefor and maintains surplus funds in amount not less than as required under laws of this state in force at the time such authority to transact insurance in this state was granted.

(3) A domestic reciprocal insurer heretofore formed shall maintain on deposit with the commissioner surplus funds of not less than the sum of one hundred thousand dollars, and to transact kinds of insurance transacted by it in addition to that authorized by its original certificate of authority, shall have and maintain surplus (including the amount of such deposit) in amount not less than the paid-in capital stock required under RCW 48.05.340(1) plus special surplus, if any, required under RCW 48.05.360, of a domestic stock insurer formed after 1967 and transacting the same kinds of insurance. Such additional surplus funds need not be deposited with the commissioner. [1975 1st ex.s. c 266 § 5; 1963 c 195 § 5; 1947 c 79 § .10.07; Rem. Supp. 1947 § 45.10.07.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Chapter 48.13 INVESTMENTS

Sections

48.13.110 Mortgages, deeds of trust, mortgage bonds, notes, contracts.

48.13.110 Mortgages, deeds of trust, mortgage bonds, notes, contracts. An insurer may invest any of its funds in:

(1)(a) Bonds or evidences of debt which are secured by first mortgages or deeds of trust on improved unencumbered real property located in the United States;

(b) Chattel mortgages in connection therewith pursuant to RCW 48.13.150;

(c) The equity of the seller of any such property in the contract for a deed, covering the entire balance due on a bona fide sale of such property, in amount not to exceed ten thousand dollars or the amount permissible under RCW 48.13.030, whichever is greater, in any one such contract for deed.

(2) Purchase money mortgages or like securities received by it upon the sale or exchange of real property

acquired pursuant to RCW 48.13.160 as amended in *section 7 of this 1969 amendatory act.

(3) Bonds or notes secured by mortgage or trust deed guaranteed or insured by the Federal Housing Administration under the terms of an act of congress of the United States of June 27, 1934, entitled the "National Housing Act," as amended.

(4) Bonds or notes secured by mortgage or trust deed guaranteed or insured as to principal in whole or in part by the Administrator of Veterans' Affairs pursuant to the provisions of Title III of an act of congress of the United States of June 22, 1944, entitled the "Service-men's Readjustment Act of 1944," as amended.

(5) Evidences of debt secured by first mortgages or deeds of trust upon leasehold estates, except agricultural leaseholds executed pursuant to RCW 79.01.096, running for a term of not less than fifteen years beyond the maturity of the loan as made or as extended, in improved real property, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold.

(6) Evidences of debt secured by first mortgages or deeds of trust upon agricultural leasehold estates executed pursuant to RCW 79.01.096, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold. [1975 1st ex.s. c 154 § 1; 1969 ex.s. c 241 § 4; 1947 c 79 § .13.11; Rem. Supp. 1947 § 45.13.11.]

***Reviser's note:** "section 7 of this 1969 amendatory act" refers to section 7 of chapter 241, Laws of 1969 ex.s., which amended RCW 48.13.160.

Chapter 48.15 UNAUTHORIZED INSURERS

Sections

48.15.090 Solvent insurer required.

48.15.090 Solvent insurer required. (1) A surplus line broker shall not knowingly place surplus line insurance with insurers unsound financially. The broker shall ascertain the financial condition of the unauthorized insurer before placing insurance therewith. The broker shall not so insure with any insurer having less capital and surplus or combined capital funds than the minimum amounts required for an admitted multiple line insurer in accordance with RCW 48.05.340 as now or hereafter amended, unless there is on file with the commissioner a copy of a trust agreement, certified by the trustee, evidencing a subsisting trust deposit of not less than a like amount by such insurer with a bank or trust company in the United States, and which deposit is held for the protection of United States policyholders. The commissioner may, by rule and regulation, prescribe the terms under which the foregoing financial requirements may be waived in circumstances where insurance cannot be otherwise procured on risks located in this state.

(2) For any violation of this section the broker shall be fined not less than twenty-five dollars or more than two hundred and fifty dollars, his surplus line broker's license shall be revoked, and the broker may not again

be so licensed within a period of two years thereafter. [1975 1st ex.s. c 266 § 6; 1969 ex.s. c 241 § 10; 1955 c 303 § 5; 1947 c 79 § .15.09; Rem. Supp. 1947 § 45.15.09.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

**Chapter 48.17
AGENTS, BROKERS, SOLICITORS, AND
ADJUSTERS**

Sections

48.17.060 License required—Exceptions—Penalty.
48.17.560 Fines may be imposed.

48.17.060 License required—Exceptions—Penalty. (1) No person shall in this state act as or hold himself out to be an agent, broker, solicitor, or adjuster unless then licensed therefor by this state.

(2) No agent, solicitor, or broker shall solicit or take applications for, procure, or place for others any kind of insurance for which he is not then licensed.

(3) This section shall not apply with respect to any person securing and forwarding information required for the purposes of group credit life and credit disability insurance in connection with an extension of credit and such other credit life or disability insurance lines as the commissioner shall determine, and where no commission or other compensation is payable on account of the securing and forwarding of such information: *Provided*, That the reimbursement of a creditor's actual expenses for securing and forwarding information required for the purposes of such group insurance shall not be considered a commission or other compensation if such reimbursement does not exceed three dollars per certificate issued, or in the case of a monthly premium plan extending beyond twelve months, not to exceed three dollars per loan transaction revision per year.

(4) Any person violating this section shall be liable to a fine of not to exceed five hundred dollars and imprisonment for not to exceed six months for each instance of such violation. [1975 1st ex.s. c 266 § 7; 1955 c 303 § 9; 1947 c 79 § .17.06; Rem. Supp. 1947 § 45.17.06.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.17.560 Fines may be imposed. After hearing or upon stipulation by the licensee and in addition to or in lieu of the suspension, revocation, or refusal to renew any such license, the commissioner may levy a fine upon the licensee for each offense in amount not less than fifty dollars and not more than five hundred dollars, but in no case more than a total of one thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid, and which period shall be not less than fifteen nor more than thirty days from the date of the order. Upon failure to pay any such fine when due, the commissioner shall revoke the licenses of the licensee if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney

general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund. [1975 1st ex.s. c 266 § 8; 1967 c 150 § 25; 1947 c 79 § .17.56; Rem. Supp. 1947 § 45.17.56.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

**Chapter 48.20
DISABILITY INSURANCE**

Sections

48.20.015 Endorsements.
48.20.052 Standard provision No. 2—Time limit on certain defenses.
48.20.450 Standardization and simplification of terms and coverages—Establishment—Categories of coverage—Definitions.
48.20.460 Standardization and simplification of terms and coverages—Minimum standards for benefits and coverages.
48.20.470 Standardization and simplification of terms and coverages—Outline of coverage to be furnished—Contents.
48.20.480 Standardization and simplification of terms and coverages—Use of simplified application form—Coverage of loss from preexisting health condition.

48.20.015 Endorsements. If a contract is issued on any basis other than as applied for, an endorsement setting forth such modification(s) must accompany and be attached to the policy; and no endorsement shall be effective unless signed by the policyowner, and a signed copy thereof returned to the insurer. [1975 1st ex.s. c 266 § 9.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.20.052 Standard provision No. 2—Time limit on certain defenses. There shall be a provision as follows:

"TIME LIMIT ON CERTAIN DEFENSES: (a) After two years from the date of issue of this policy no misstatements except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two year period, nor to limit the application of RCW 48.20.172, 48.20.182, 48.20.192, 48.20.202, and 48.20.212 in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

"After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall

become incontestable as to the statements contained in the application.")

"(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

(More stringent provisions may be required by the commissioner in connection with individual disability policies sold without any application or with minimal applications.) [1975 1st ex.s. c 266 § 12; 1973 1st ex.s. c 152 § 4; 1969 ex.s. c 241 § 12; 1951 c 229 § 6.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Severability—1973 1st ex.s. c 152: See note following RCW 48.05.140.

48.20.450 Standardization and simplification of terms and coverages—Establishment—Categories of coverage—Definitions. The commissioner shall issue regulations to establish specific standards, including standards of full and fair disclosure, that set forth the manner, content, and required disclosure for the sale of individual policies of disability insurance which shall be in addition to and in accordance with applicable laws of this state, including RCW 48.20.032, which may cover but shall not be limited to:

- (1) Terms of renewability;
- (2) Initial and subsequent conditions of eligibility;
- (3) Nonduplication of coverage provisions;
- (4) Coverage of dependents;
- (5) Preexisting conditions;
- (6) Termination of insurance;
- (7) Probationary periods;
- (8) Limitations;
- (9) Exceptions;
- (10) Reductions;
- (11) Elimination periods;
- (12) Requirements for replacement;
- (13) Recurrent conditions; and

(14) The definition of terms including but not limited to the following: Hospital, accident, sickness, injury, physician, accidental means, total disability, partial disability, nervous disorder, guaranteed renewable, and noncancellable. [1975 1st ex.s. c 266 § 16.]

Purpose—1975 1st ex.s. c 266: "The purpose of *sections 14 through 18 of this 1975 amendatory act is to provide reasonable standardization and simplification of terms and coverages of individual disability insurance policies to facilitate public understanding and comparison, to eliminate provisions contained in individual disability insurance policies which may be misleading or unreasonably confusing in connection either with the purchase of such coverages or with the settlement of claims, and to provide for full disclosure in the sale of disability coverages." [1975 1st ex.s. c 266 § 15.]

***Reviser's note:** During the course of passage of 1975 1st ex.s. c 266 [Substitute House Bill No. 198], the section numbering was changed, but the internal references were not changed accordingly. Thus the reference "sections 14 through 18 of this 1975 amendatory act" appears to be erroneous. What was apparently intended was "sections 15 through 19", codified herein as this section and RCW 48.20.450 through 48.20.480.

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.20.460 Standardization and simplification of terms and coverages—Minimum standards for benefits and coverages. (1) The commissioner shall issue regulations to establish minimum standards for benefits under each of the following categories of coverage in individual policies, other than conversion policies issued pursuant to a contractual conversion privilege under a group policy, of disability insurance:

- (a) Basic hospital expense coverage;
- (b) Basic medical–surgical expense coverage;
- (c) Hospital confinement indemnity coverage;
- (d) Major medical expense coverage;
- (e) Disability income protection coverage;
- (f) Accident only coverage; and
- (g) Specified disease or specified accident coverage.

(2) Nothing in this section shall preclude the issuance of any policy which combines two or more of the categories of coverage enumerated in items (a) through (f) of subsection (1) of this section.

(3) No policy shall be delivered or issued for delivery in this state which does not meet the prescribed minimum standards for the categories of coverage listed in items (a) through (g) of subsection (1) of this section, unless the commissioner finds such policy will be in the public interest and such policy meets the requirements set forth in RCW 48.18.110.

(4) The commissioner shall prescribe the method of identification of policies based upon coverages provided. [1975 1st ex.s. c 266 § 17.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.20.470 Standardization and simplification of terms and coverages—Outline of coverage to be furnished—Contents. (1) No policy of individual disability insurance shall be delivered or issued for delivery in this state unless an outline of coverage described in subsection (2) of this section is furnished to the applicant in accord with such rules or regulations as the commissioner shall prescribe.

(2) The commissioner shall prescribe the format and content of the outline of coverage required by subsection (1) of this section. "Format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

(a) A statement identifying the applicable category or categories of coverage provided by the policy as prescribed in *section 15 of this 1975 act;

(b) A description of the principal benefits and coverage provided in the policy;

(c) A statement of the exceptions, reductions and limitations contained in the policy;

(d) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums; and

(e) A statement that the outline is a summary of the policy issued or applied for and that the policy should

be consulted to determine governing contractual provisions. [1975 1st ex.s. c 266 § 18.]

***Reviser's note:** During the course of passage of 1975 1st ex.s. c 266 [Substitute House Bill No. 198], the section numbering was changed, but the internal references were not changed accordingly. Thus the reference to "section 15 of this 1975 act" appears to be erroneous. What was apparently intended was "section 16", codified herein as RCW 48.20.450.

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.20.480 Standardization and simplification of terms and coverages—Use of simplified application form—Coverage of loss from preexisting health condition. Notwithstanding the provisions of RCW 48.20.052, if an insurer elects to use a simplified application form, with or without a question as to the applicant's health at the time of application, but without any questions concerning the insured's health history or medical treatment history, the policy must cover any loss occurring after twelve months from any preexisting condition not specifically excluded from coverage by terms of the policy, and, except as so provided, the policy shall not include wording that would permit a defense based upon preexisting conditions. [1975 1st ex.s. c 266 § 19.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Chapter 48.21

GROUP AND BLANKET DISABILITY INSURANCE

Sections

- 48.21.075 Payment of premiums by employee in event of suspension of compensation due to labor dispute.
- 48.21.190 Alcoholism treatment benefits—RCW 48.21.160–48.21.190, 48.44.240 inapplicable, when.
- 48.21.200 Reduction or refusal of benefits on basis of other existing coverages.

48.21.075 Payment of premiums by employee in event of suspension of compensation due to labor dispute. Any employee whose compensation includes group disability or blanket disability insurance providing health care services, the premiums for which are paid in full or in part by an employer including the state of Washington, its political subdivisions, or municipal corporations, or paid by payroll deduction, may pay the premiums as they become due directly to the policyholder whenever the employee's compensation is suspended or terminated directly or indirectly as the result of a strike, lockout, or other labor dispute, for a period not exceeding six months and at the rate and coverages as the policy provides. During that period of time the policy may not be altered or changed. Nothing in this section shall be deemed to impair the right of the insurer to make normal decreases or increases of the premium rate upon expiration and renewal of the policy, in accordance with the provisions of the policy. Thereafter, if such insurance coverage is no longer available, then the employee shall be given the opportunity to purchase an individual policy at a rate consistent with rates filed by the insurer with the commissioner. When the employee's compensation is so suspended or terminated, the employee shall be notified immediately by

the policyholder in writing, by mail addressed to the address last on record with the policyholder, that the employee may pay the premiums to the policyholder as they become due as provided in this section.

Payment of the premiums must be made when due or the insurance coverage may be terminated by the insurer.

The provisions of any insurance policy contrary to provisions of this section are void and unenforceable after May 29, 1975. [1975 1st ex.s. c 117 § 1.]

Severability—1975 1st ex.s. c 117: "If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 117 § 4.]

48.21.190 Alcoholism treatment benefits—RCW 48.21.160–48.21.190, 48.44.240 inapplicable, when. RCW 48.21.160 through 48.21.190 and 48.44.240 as now or hereafter amended shall not apply to the renewal of a contract in force prior to the pertinent date provided for such contract under RCW 48.21.160 through 48.21.190 and 48.44.240 as now or hereafter amended where there exists a right of renewal on the part of the insured or subscriber without any change in any provision of the contract: *Provided further,* That RCW 48.21.160 through 48.21.190 and 48.44.240 as now or hereafter amended shall not apply to contracts which provide only accident coverage, nor to any contract written as supplemental coverage to any federal or state programs of health care including, but not limited to, Title XVIII health insurance for the aged (commonly referred to as Medicare, Parts A and B), and amendments thereto. [1975 1st ex.s. c 266 § 10; 1974 ex.s. c 119 § 5.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

48.21.200 Reduction or refusal of benefits on basis of other existing coverages. (1) No group disability insurance policy which provides benefits for hospital, medical, or surgical expenses shall be delivered or issued for delivery in this state after September 8, 1975 which contains any provision whereby the insurer may reduce or refuse to pay such benefits otherwise payable thereunder solely on account of the existence of similar benefits provided under any individual disability insurance policy, or under any individual health care service contract.

(2) No group disability insurance policy providing hospital, medical or surgical expense benefits and which contains a provision for the reduction of benefits otherwise payable thereunder on the basis of other existing coverages, shall provide that such reduction will operate to reduce total benefits payable below an amount equal to one hundred percent of total allowable expenses. The commissioner shall by rule establish guidelines for the application of this section, including: (a) The procedures by which persons insured under such policies are to be made aware of the existence of such a provision; (b) the benefits which may be subject to such a provision; (c) the effect of such a provision on the benefits provided; (d) establishment of the order of benefit determination; and (e) reasonable claim administration

procedures to expedite claim payments under such a provision.

(3) The provisions of this section shall apply to health care service contractor contracts. [1975 1st ex.s. c 266 § 20.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Chapter 48.24 GROUP LIFE AND ANNUITIES

Sections

- 48.24.025 Payment of premium by employee in event of suspension of compensation due to labor dispute.
48.24.030 Dependents of employees or members of certain groups.

48.24.025 Payment of premium by employee in event of suspension of compensation due to labor dispute. Any employee whose compensation includes group life insurance, the premiums for which are paid in full or in part by an employer including the state of Washington, its political subdivisions, or municipal corporations, or paid by payroll deduction, may pay the premiums as they become due directly to the policyholder whenever the employee's compensation is suspended or terminated directly or indirectly as the result of a strike, lock-out, or other labor dispute, for a period not exceeding six months and at the rate and coverages as the policy provides. During that period of time the policy may not be altered or changed. Nothing in this section shall be deemed to impair the right of the insurer to make normal decreases or increases of the premium rate upon expiration and renewal of the policy, in accordance with the provisions of the policy. Thereafter, if such insurance coverage is no longer available, then the employee shall be given the opportunity to purchase an individual policy at a rate consistent with rates filed by the insurer with the commissioner. When the employee's compensation is so suspended or terminated, the employee shall be notified immediately by the policyholder in writing, by mail addressed to the address last on record with the policyholder, that the employee may pay the premiums to the policyholder as they become due as provided in this section.

Payment of the premiums must be made when due or the insurance coverage may be terminated by the insurer.

The provisions of any insurance policy contrary to provisions of this section are void and unenforceable after May 29, 1975. [1975 1st ex.s. c 117 § 2.]

Severability—1975 1st ex.s. c 117: See note following RCW 48.21.075.

48.24.030 Dependents of employees or members of certain groups. (1) Insurance under any group life insurance policy issued pursuant to RCW 48.24.020, or 48.24.050, or 48.24.060, or 48.24.070 or 48.24.090 may, if seventy-five percent of the then insured employees or labor union members or public employee association members or members of the Washington state patrol elect, be extended to insure the spouse and dependent children, or any class or classes thereof, of each such

insured employee or member who so elects, in amounts in accordance with a plan which precludes individual selection by the employees or members or by the employer or labor union or trustee, and which insurance on the life of any one family member other than a spouse shall not be in excess of fifty percent of the insurance on the life of the insured employee or member or two thousand dollars, whichever is less.

Insurance on the life of a spouse of an insured employee or member shall not exceed fifty percent of the amount of insurance on the life of the insured employee or member.

Premiums for the insurance on such family members shall be paid by the policyholder, either from the employer's funds or funds contributed by him, trustee's funds, or labor union funds, and/or from funds contributed by the insured employees or members, or from both.

(2) Such a spouse insured pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employee or member under this chapter. [1975 1st ex.s. c 266 § 11; 1965 ex.s. c 70 § 23; 1963 c 192 § 1; 1953 c 197 § 10; 1947 c 79 § .24.03; Rem. Supp. 1947 § 45.24.03.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Chapter 48.32A WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION ACT

Sections

- 48.32A.060 Reinsurance, guaranty of policies, contracts.
48.32A.090 Certificates of contribution—Allowance as asset—
Offset against premium taxes.

48.32A.060 Reinsurance, guaranty of policies, contracts. (1) The association shall, subject to such terms and conditions as it may impose with the approval of the commissioner, assume, reinsure, or guarantee the performance of the policies and contracts of any domestic life or disability insurer with respect to which an order of liquidation has been entered by any court of general jurisdiction in the state of Washington, and shall have power to receive, own, and administer any assets acquired in connection with such assumption, reinsurance, or guaranty. The association, as to any such policy or contract under which there is no default in payment of premiums subsequent to such assumption, reinsurance, or guaranty, shall make or cause to be made prompt payment of the benefits due under the terms of the policy or contract.

(2) The association shall make or cause to be made payment of the death, endowment, or disability insurance or annuity benefits due under the terms of each policy or contract insuring the life or health of, or providing annuity or other benefits for, a resident of this state which was issued or assumed by a foreign or alien insurer with respect to which an order of liquidation has been entered by a court of competent jurisdiction in the state or country of its domicile.

(3) In determining benefits to be paid with respect to the policies and contracts of a particular liquidating insurer the board may give due consideration to amounts reasonably recoverable or deductible because of the contingent liability, if any, of policyholders of the insurer (if a mutual insurer) or recoverable because of the assessment liability, if any, of the insurer's stockholders (if a stock insurer).

(4) With respect to an insolvent domestic insurer, the board shall have power to petition the court in which the delinquency proceedings are pending for, and the court shall have authority to order and effectuate, such modifications in the terms, benefits, values, and premiums thereafter to be in effect of policies and contracts of the insurer as may reasonably be necessary to effect a bulk reinsurance of such policies and contract in a solvent insurer.

In the event, after the entry of an order of liquidation, an assessment on the members is necessary to increase the assets of the insolvent company to an extent that a bulk reinsurance of such policies may be effected, the court shall have authority to order such assessment.

(5) In addition to any other rights of the association acquired by assignment or otherwise, the association shall be subrogated to the rights of any person entitled to receive benefits under this chapter against the liquidating insurer, or the receiver, rehabilitator, liquidator, or conservator, as the case may be, under the policy or contract with respect to which a payment is made or guaranteed, or obligation assumed by the association pursuant to this section, and the association may require an assignment to it of such rights by any such persons as a condition precedent to the receipt by such person of payment of any benefits under this chapter.

(6) For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the liquidating insurer to the extent of assets attributable to covered policies and contracts reduced by any amounts to which the association is entitled as a subrogee. All assets of the liquidating insurer attributable to covered policies and contracts shall be used to continue all covered policies and contracts and pay all contractual obligations of the liquidating insurer as required by this chapter. Assets attributable to covered policies and contracts, as used in this subsection, are those in that proportion of the assets which the reserves that should have been established for such policies and contracts bear to the reserves that should have been established for all insurances written by the liquidating insurer.

(7) The association shall have the power to petition the superior court for an order appointing the commissioner as receiver of a domestic insurer upon any of the grounds set forth in RCW 48.31.030. [1975 1st ex.s. c 133 § 2; 1971 ex.s. c 259 § 6.]

48.32A.090 Certificates of contribution—Allowance as asset—Offset against premium taxes. (1) The association shall issue to each insurer paying an assessment under this chapter certificates of contribution, in appropriate form and terms as prescribed or approved by the

commissioner, for the amounts so paid into the respective funds. All outstanding certificates against a particular fund shall be of equal dignity and priority without reference to amounts or dates of issue.

(2) An outstanding certificate of contribution shall be shown by the insurer in its financial statements as an admitted asset for such amount and period of time as the commissioner may approve: *Provided*, That unless a longer period has been allowed by the commissioner the insurer shall in any event at its option have the right to so show a certificate of contribution as an admitted asset at percentages of original face amount for calendar years as follows:

100% for the calendar year of issuance;

90% for the first calendar year after the year of issuance;

80% for the second calendar year after the year of issuance;

70% for the third calendar year after the year of issuance;

60% for the fourth calendar year after the year of issuance;

50% for the fifth calendar year after the year of issuance;

40% for the sixth calendar year after the year of issuance;

30% for the seventh calendar year after the year of issuance;

20% for the eighth calendar year after the year of issuance;

10% for the ninth calendar year after the year of issuance; and

0% for the tenth and subsequent calendar years after the year of issuance.

(3) The insurer shall offset the amount written off by it in a calendar year under subsection (2) of this section against its premium tax liability to this state accrued with respect to business transacted in such year.

(4) Any sums recovered by the association representing sums which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (3) of this section, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of the state of Washington.

(5) No distribution to stockholders, if any, of a liquidating insurer shall be made unless and until the total amount of assessments levied by the association with respect to such insurer have been fully recovered by the association. [1975 1st ex.s. c 133 § 1; 1971 ex.s. c 259 § 9.]

Chapter 48.34

CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

Sections

48.34.090 Policy or certificate—Contents—Delivery, copy of application or notice in lieu—Substitute insurer, premium, etc., on rejection.

48.34.090 Policy or certificate—Contents—Delivery, copy of application or notice in lieu—Substitute insurer, premium, etc., on rejection. (1) All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

(2) Each individual policy or group certificate of credit life insurance, and/or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor, the premium or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and health insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance exceeds the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate. With respect to any policy issued after September 8, 1975, credit life insurance shall not be subject to any exceptions or reductions other than for fraud, or for suicide occurring within two years of the effective date of the insurance.

(3) The individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as provided in subsections (4) and (5).

(4) If such individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer; the name or names of the debtor; the premium or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and health insurance; the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument, or agreement, or the application for any such loan, sale or credit, unless the information required by this subsection is prominently set forth therein under a descriptive heading which shall be underlined and printed in capital letters. Upon acceptance of the insurance by the insurer and within thirty days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in RCW 48.34.080.

(5) If the named insurer does not accept the risk, then the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made. [1975 1st ex.s. c 266 § 13; 1961 c 219 § 9.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Chapter 48.44 HEALTH CARE SERVICES

Sections

- 48.44.240 Alcoholism treatment benefits—Provisions of group contracts entered into or renewed after September 8, 1975.
- 48.44.250 Payment of premium by employee in event of suspension of compensation due to labor dispute.

48.44.240 Alcoholism treatment benefits—Provisions of group contracts entered into or renewed after September 8, 1975. Each group contract for health care services which is entered into, or renewed, on or after September 8, 1975 between a health care service contractor and the person or persons to receive such care shall contain provisions providing benefits for the treatment of alcoholism rendered to such person or persons by an alcoholic treatment facility which is an "approved treatment facility" under RCW 70.96A.020(2). [1975 1st ex.s. c 266 § 14; 1974 ex.s. c 119 § 4.]

Severability—1975 1st ex.s. c 266: See note following RCW 31.08.175.

Legislative declaration—1974 ex.s. c 119: See RCW 48.21.160.

48.44.250 Payment of premium by employee in event of suspension of compensation due to labor dispute. Any employee whose compensation includes a health care services contract providing health care services expenses, the premiums for which are paid in full or in part by an employer including the state of Washington, its political subdivisions, or municipal corporations, or paid by payroll deduction, may pay the premiums as they become due directly to the health care service contractor whenever the employee's compensation is suspended or terminated directly or indirectly as the result of a strike, lockout, or other labor dispute, for a period not exceeding six months and at the rate and coverages as the health care services contract provides. During that period of time such contract may not be altered or changed. Nothing in this section shall be deemed to impair the right of the insurer to make normal decreases or increases of the premium rate upon expiration and renewal of the policy, in accordance with the provisions of the policy. Thereafter, if such health care services coverage is no longer available, then the employee shall be given the opportunity to purchase an individual health care services contract at a rate consistent with rates filed by the health care service contractor with the commissioner. When the employee's compensation is so suspended or terminated, the employee shall be notified immediately by the contract

holder in writing, by mail addressed to the address last of record with the contract holder, that the employee may pay the premiums to the health care service contractor as they become due as provided in this section.

Payment of the premiums must be made when due or the coverage may be terminated by the health care service contractor.

The provisions of any health care services contract contrary to provisions of this section are void and unenforceable after May 29, 1975. [1975 1st ex.s. c 117 § 3.]

Severability—1975 1st ex.s. c 117: See note following RCW 48.21.075.

**Chapter 48.46
HEALTH MAINTENANCE ORGANIZATIONS**

Sections

- 48.46.010 Legislative declaration—Purpose.
- 48.46.020 Definitions.
- 48.46.030 Eligibility requirements for certificate of registration—Application requirements, information.
- 48.46.040 Certificate of registration—Issuance—Grounds for refusal—Name restrictions—Inspection and review of facilities.
- 48.46.050 Powers of certificate holder include powers of health care contractors.
- 48.46.060 Standards for forms and documents—Cancellation or failure to renew—Filing of contract forms.
- 48.46.070 Governing body.
- 48.46.080 Annual report—Filing—Contents.
- 48.46.090 Standard of services provided.
- 48.46.100 Grievance procedure.
- 48.46.110 Name restrictions—Discrimination—Recovery of costs of health care services participant not entitled to.
- 48.46.120 Examination of health maintenance organizations.
- 48.46.130 Investigation of violations—Hearing—Findings—Penalties—Order requiring compliance, etc.—Suspension or revocation of certificate, effect—Application to courts.
- 48.46.140 Fees.
- 48.46.150 Medicaid services.
- 48.46.160 Report to legislature.
- 48.46.170 Effect of chapter as to other laws—Construction.
- 48.46.180 Duty of employer to inform and make available to employees option of enrolling in health maintenance organization.
- 48.46.190 Payroll deductions for capitation payments to health maintenance organizations.
- 48.46.200 Rules and regulations.
- 48.46.210 Compliance with federal funding requirements—Construction.
- 48.46.220 Review of administrative action.
- 48.46.900 Liberal construction.
- 48.46.905 Studies by legislature.
- 48.46.910 Severability—1975 1st ex.s. c 290.
- 48.46.920 Short title.

48.46.010 Legislative declaration—Purpose. In affirmation of the declared principle that health care is a right of every citizen of the state, the legislature expresses its concern that the present high costs of health care in Washington may be preventing or inhibiting a large segment of the people from obtaining access to quality health care services.

The legislature declares that the establishment of qualified prepaid group and individual practice health care delivery systems should be encouraged in order to provide all citizens of the state with the freedom of

choice between competitive, alternative health care delivery systems necessary to realize their right to health. It is the purpose and policy of this chapter to provide for the development and registration of prepaid group and individual practice health care plans as health maintenance organizations, which the legislature declares to be in the interest of the health, safety and welfare of the people. [1975 1st ex.s. c 290 § 2.]

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

(1) "Health maintenance organization" means any organization receiving a certificate of authority by the commissioner under this chapter which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(2) "Comprehensive health care services" means basic consultative, diagnostic, and therapeutic services rendered by licensed health professionals together with emergency and preventive care, inpatient hospital, outpatient and physician care, at a minimum, and any additional health care services offered by the health maintenance organization.

(3) "Enrolled participant" means a person who or group of persons which has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

(4) "Health professionals" means practitioners who are licensed under the provisions of chapters 18.22, 18.25, 18.29, 18.32, 18.34, 18.53, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.74, 18.78, 18.83, or 18.88 RCW.

(5) "Health care service contractor" means any corporation, cooperative group, partnership, or association which is registered as a health care contractor pursuant to the provisions of chapter 48.44 RCW.

(6) "Health maintenance agreement" means an agreement for services between a health maintenance organization which is registered pursuant to the provisions of this chapter and enrolled participants of such organization which provides enrolled participants with comprehensive health services rendered to enrolled participants by health professionals, groups, facilities, and other personnel associated with the health maintenance organization.

(7) "Consumer" means any member, subscriber, enrollee, beneficiary, or other person entitled to health care services under terms of a health maintenance agreement, but not including health professionals, employees of health maintenance organizations, partners, or shareholders of stock corporations licensed as health maintenance organizations.

(8) "Meaningful role in policy making" means a procedure approved by the commissioner which provides consumers or elected representatives of consumers a means of submitting the views and recommendations of

such consumers to the governing board of such organization coupled with reasonable assurance that the board will give regard to such views and recommendations.

(9) "Meaningful grievance procedure" means a procedure for investigation of consumer grievances in a timely manner aimed at mutual agreement for settlement according to procedures approved by the commissioner, and which may include arbitration procedures.

(10) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes any health care services and is licensed or otherwise authorized to furnish such services.

(11) "Department" means the state department of social and health services.

(12) "Commissioner" means the insurance commissioner.

(13) "Group practice" means a partnership, association, corporation, or other group of health professionals:

(a) The members of which may be individual health professionals, clinics, or both individuals and clinics who engage in the coordinated practice of their profession; and

(b) The members of which are compensated by a prearranged salary, or by capitation payment or drawing account that is based on the number of enrolled participants.

(14) "Individual practice health care plan" means an association of health professionals in private practice who associate for the purpose of providing prepaid comprehensive health care services on a fee-for-service or capitation basis. [1975 1st ex.s. c 290 § 3.]

48.46.030 Eligibility requirements for certificate of registration—Application requirements, information. Any corporation, cooperative group, partnership, individual, association, or groups of health professionals licensed by the state of Washington, public hospital district, or public institutions of higher education shall be entitled to a certificate of registration as a health maintenance organization if it:

(1) Provides comprehensive health care services to enrolled participants on a group practice per capita prepayment basis or on a prepaid individual practice plan and provides such health services either directly or through arrangements with institutions, entities, and persons which its enrolled population might reasonably require as determined by the health maintenance organization in order to be maintained in good health; and

(2) Otherwise meets the requirements of chapter 48.44 RCW: *Provided*, That this requirement shall not apply to public institutions of higher education; and

(3) Is governed by a board elected by enrolled participants, or otherwise provides its enrolled participants with a meaningful role in policy making procedures of such organization, as defined in RCW 48.46.020(8), and 48.46.070; and

(4) Affords enrolled participants with a meaningful grievance procedure aimed at settlement of disputes between such persons and such health maintenance organization, as defined in RCW 48.46.020(9) and 48.46.100; and

(5) Provides enrolled participants, or makes available for inspection at least annually, financial statements pertaining to health maintenance agreements, disclosing income and expenses, assets and liabilities, and the bases for proposed rate adjustments for health maintenance agreements relating to its activity as a health maintenance organization; and

(6) Demonstrates to the satisfaction of the commissioner that its facilities and personnel are reasonably adequate to provide comprehensive health care services to enrolled participants and that it is financially capable of providing such members with, or has made adequate contractual arrangements through insurance or otherwise to provide such members with, such health services; and

(7) Substantially complies with administrative rules and regulations of the commissioner for purposes of this chapter; and

(8) Submits an application for a certificate of registration which shall be verified by an officer or authorized representative of the applicant, being in form as the commissioner prescribes, and setting forth:

(a) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar documents, if any, which regulate the conduct of the internal affairs of the applicant, and all amendments thereto;

(c) A list of the names, addresses, members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers, partners, or members;

(d) A full and complete disclosure of any financial interests held by any officer, or director in any provider associated with the applicant or any provider of the applicant.

(e) A description of the health maintenance organization, its facilities and its personnel, and the applicant's most recent financial statement pertaining to prepaid health maintenance agreements, showing such organization's assets, liabilities, income, and other sources of financial support;

(f) A description of the geographic areas and the population groups to be served and the size and composition of the anticipated enrollee population;

(g) A copy of each type of health maintenance contract to be issued to enrolled participants;

(h) A schedule of all proposed rates of reimbursement to contracting health care facilities or providers, if any, and a schedule of the proposed charges for enrollee coverage for health care services, accompanied by data relevant to the formulation of such schedules;

(i) A description of the proposed method and schedule for soliciting enrollment in the applicant health

maintenance organization and the basis of compensation for such solicitation services;

(j) A copy of the solicitation document to be distributed to all prospective enrolled participants in connection with any solicitation;

(k) A financial projection which sets forth the anticipated results during the initial two years of operation of such organization, if such organization has not operated previously as a health care contractor under chapter 48.44 RCW, accompanied by a summary of the assumptions and relevant data upon which the projection is based. The projection should include the projected expenses, enrollment trends, income, enrollee utilization patterns, and sources of working capital;

(l) A detailed description of the enrollee complaint system as provided by RCW 48.46.100;

(m) A detailed description of the procedures and programs to be implemented to assure that the health care services delivered to enrolled participants will be of professional quality; and

(n) Such other information as the commissioner shall require by rule or regulation which is reasonably necessary to carry out the provisions of this section.

A health maintenance organization shall, unless otherwise provided for in this chapter, file a notice describing any modification of any of the information required by subsection (8) of this section. Such notice shall be filed with the commissioner. [1975 1st ex.s. c 290 § 4.]

48.46.040 Certificate of registration—Issuance—Grounds for refusal—Name restrictions—Inspection and review of facilities. After January 1, 1976, the commissioner shall issue a certificate of registration to the applicant within sixty days of such filing unless he notifies the applicant within such time that such application is not complete and the reasons therefor; or that he is not satisfied that:

(1) The basic organizational document of the applicant when combined with the powers enumerated in RCW 48.46.050 permits the applicant to conduct business as a health maintenance organization;

(2) The organization has demonstrated the intent and ability to assure that comprehensive health care services will be provided in a manner to assure both their availability and accessibility;

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to its enrolled participants. In making this determination, the commissioner shall consider among other relevant factors:

(a) Any agreements with an insurer, a medical or hospital service bureau, a government agency or any other organization paying or insuring payment for health care services;

(b) Any agreements with providers for the provision of health care services; and

(c) Any arrangements for liability and malpractice insurance coverage;

(4) The procedures for offering health care services and offering or terminating contracts with enrolled participants are reasonable and equitable in comparison

with prevailing health insurance subscription practices and health maintenance organization enrollment procedures; and, that

(5) Procedures have been established to:

(a) Monitor the quality of care provided by such organization, including, as a minimum, procedures for internal peer review;

(b) Resolve complaints and grievances initiated by enrolled participants in accordance with *sections 2(8) and 11 of this 1975 amendatory act;

(c) Offer enrolled participants an opportunity to participate in matters of policy and operation in accordance with RCW 48.46.020(8) and 48.46.070.

No person to whom a certificate of registration has not been issued, except a health maintenance organization certified by the secretary of the department of health, education and welfare, pursuant to Public Law 93-222 or its successor, shall use the words "health maintenance organization" or the initials "HMO" in its name, contracts, or literature: *Provided however*, That persons who are contracting with, operating in association with, recruiting enrolled participants for, or otherwise authorized by a health maintenance organization possessing a certificate of registration to act on its behalf may use the terms "health maintenance organization" or "HMO" for the limited purpose of denoting or explaining their relationship to such health maintenance organization.

The department of social and health services, at the request of the insurance commissioner, shall inspect and review the facilities of every applicant health maintenance organization to determine that such facilities are reasonably adequate to provide the health care services offered in their contracts. If the commissioner has information to indicate that such facilities fail to continue to be adequate to provide the health care services offered, the department of social and health services, upon request of the insurance commissioner, shall reinspect and review the facilities and report to the insurance commissioner as to their adequacy or inadequacy. [1975 1st ex.s. c 290 § 5.]

***Reviser's note:** The reference to "section 2(8)" appears to be erroneous, as section 2 is a purpose section with no subsections. Section 2 is codified as RCW 48.46.010 and section 11 as RCW 48.46.100.

48.46.050 Powers of certificate holder include powers of health care contractors. The powers of a holder of a certificate of registration issued pursuant to RCW 48.46.040 shall include, in addition to any other powers conferred by the law, those conferred on health care contractors pursuant to chapter 48.44 RCW. Nothing in this chapter shall be deemed to preclude a health maintenance organization from training or employing any health personnel. [1975 1st ex.s. c 290 § 6.]

48.46.060 Standards for forms and documents—Cancellation or failure to renew—Filing of contract forms. (1) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall

comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(2) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status: *Provided however*, That nothing contained herein shall prevent cancellation of a contract with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge, including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(3) No contract form or amendment to an approved contract form shall be used unless it is filed with the commissioner. [1975 1st ex.s. c 290 § 7.]

48.46.070 Governing body. (1) The members of the governing body of a health maintenance organization shall be nominated by the voting members or by the enrolled participants and providers, and shall be elected by the enrolled participants or voting members pursuant to the provisions of their bylaws, which shall not be restricted to providers. At least one-third of such body shall consist of consumers who are substantially representative of the enrolled population of such organization: *Provided, however*, That any panel medicine plan, qualified pursuant to chapter 41.05 RCW, and licensed as a health care contractor as of January 1, 1975, may have a governing body which shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population.

(2) For health maintenance organizations formed by public institutions of higher education or public hospital districts, the governing body shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population. [1975 1st ex.s. c 290 § 8.]

48.46.080 Annual report—Filing—Contents. (1) Every health maintenance organization shall annually file with the commissioner a report, under oath, in accordance with the provisions of this chapter.

(2) Such annual report shall be in such form as the commissioner shall prescribe and shall include:

(a) A financial statement of such organization, including its balance sheet and receipts and disbursements for the preceding year, which reflects at a minimum,

(i) all prepayments and other payments received for health care services rendered pursuant to health maintenance agreements;

(ii) expenditures to all categories of health care facilities, providers, insurance companies, or hospital or medical service plan corporations with which such organization has contracted to fulfill obligations to enrolled participants arising out of its health maintenance contracts, together with all other direct expenses including depreciation, enrollment, and commission; and

(iii) expenditures for capital improvements, or additions thereto, including but not limited to construction, renovation, or purchase of facilities and capital equipment;

(b) The number of participants enrolled and terminated during the report period. Every employer offering health care benefits to their employees through a group contract with a health maintenance organization shall furnish said health maintenance organization with a list of their employees enrolled under such plan;

(c) A report of the names and addresses of all officers, directors, or trustees of the health maintenance organization during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals for services to such organization. For partnership and professional service corporations, a report shall be made for partners or shareholders as to any compensation or expense reimbursement received by them for services, other than for services and expenses relating directly for patient care;

(d) Such other information relating to the performance of the health maintenance organization or the health care facilities or providers with which it has contracted as reasonably necessary to the proper and effective administration of this chapter, in accordance with rules and regulations; and

(e) Disclosure of any financial interests held by officers and directors in any providers associated with the health maintenance organization or any provider of the health maintenance organization. [1975 1st ex.s. c 290 § 9.]

48.46.090 Standard of services provided. A health maintenance organization, and the health care facilities and providers with which such organization has entered into contracts to provide health care services to its enrolled participants, shall provide such services in a manner consistent with the dignity of each enrolled participant as a human being. [1975 1st ex.s. c 290 § 10.]

48.46.100 Grievance procedure. A health maintenance organization shall establish and maintain a grievance procedure, approved by the commissioner, to provide reasonable and effective resolution of complaints initiated by enrolled participants concerning any matter relating to the interpretation of any provision of such enrolled participants' health maintenance contracts, including, but not limited to, claims regarding

the scope of coverage for health care services; denials, cancellations, or nonrenewals of enrolled participants' coverage; and the quality of the health care services rendered, and which may include procedures for arbitration. [1975 1st ex.s. c 290 § 11.]

48.46.110 Name restrictions—Discrimination—Recovery of costs of health care services participant not entitled to. (1) No health maintenance organization may refer to itself in its name or advertising with any of the words: "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business, or deceptively similar to the name or description of any insurance or surety corporation doing business in this state.

(2) No health maintenance organization, nor any health care facility or provider with which such organization has contracted to provide health care services, shall discriminate against any person from whom or on whose behalf, payment to meet the required charge is available, with regard to enrollment, disenrollment, or the provision of health care services, on the basis of such person's race, color, sex, religion, place of residence if there is reasonable access to the facility of the health maintenance organization, socioeconomic status, or status as a recipient of medicare under Title XVIII of the Social Security Act, 42 U.S.C. section 1396, et seq.

(3) Where a health maintenance organization determines that an enrolled participant has received health care services to which such enrolled participant is not entitled under the terms of his health maintenance contract, neither such organization, nor any health care facility or provider with which such organization has contracted to provide health care services, shall have recourse against such enrolled participant for any amount above the actual cost of providing such service, if any, specified in such contract, unless the enrolled participant or a member of his family has given or withheld information to the health maintenance organization, the effect of which is to mislead or misinform the health maintenance organization as to the enrolled participant's right to receive such services. [1975 1st ex.s. c 290 § 12.]

48.46.120 Examination of health maintenance organizations. (1) The commissioner may make an examination of the operations of any health maintenance organization as often as he deems necessary in order to carry out the purposes of this chapter.

(2) Every health maintenance organization shall submit its books and records relating its operation for such examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and agents of the health maintenance organization and the principals of such providers concerning their business. [1975 1st ex.s. c 290 § 13.]

48.46.130 Investigation of violations—Hearing—Findings—Penalties—Order requiring compliance, etc.—Suspension or revocation of certificate, effect—Application to courts. (1) The commissioner may, consistent with the provisions of the administrative procedure act, chapter 34.04 RCW, initiate proceedings to determine whether a health maintenance organization has:

(a) Operated in a manner that materially violates its organizational documents;

(b) Materially breached its obligation to furnish the health care services specified in its contracts with enrolled participants;

(c) Violated any provision of this chapter, or any rules and regulations promulgated thereunder;

(d) Made any false statement with respect to any report or statement required by this chapter or by the commissioner under this chapter;

(e) Advertised or marketed, or attempted to market, its services in such a manner as to misrepresent its services or capacity for services, or engaged in deceptive, misleading, or unfair practices with respect to advertising or marketing;

(f) Prevented the commissioner from the performance of any duty imposed by this chapter; or

(g) Fraudulently procured or attempted to procure any benefit under this chapter.

(2) After providing written notice and an opportunity for a hearing to be scheduled no sooner than ten days following such notice, the commissioner shall make administrative findings and may, as appropriate:

(a) Impose a penalty of not more than ten thousand dollars for each and every unlawful act committed which materially affects the health services offered or furnished;

(b) Issue an administrative order requiring the health maintenance organization to:

(i) Cease or modify inappropriate conduct or practices by it or any of the personnel employed or associated with it;

(ii) Fulfill its contractual obligations;

(iii) Provide a service which has been improperly denied;

(iv) Take steps to provide or arrange for any service which it has agreed to make available; or

(v) Abide by the terms of an arbitration proceeding, if any;

(c) Suspend or revoke the certificate of authority of the health maintenance organization:

(i) If its certificate of authority is suspended, the organization shall not, during the period of such suspension, enroll any additional participants except newborn children or other newly acquired dependents of existing enrolled participants, and shall not engage in any advertising or solicitation whatsoever;

(ii) If its certificate of authority is revoked, the organization shall proceed under the supervision of the commissioner immediately following the effective date of the order of revocation to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of such affairs: *Provided*, That the commissioner may, by written order,

permit such further operation of the organization as it may find to be in the best interest of enrolled participants, to the end that such enrolled participants will be afforded the greatest practical opportunity to obtain continuing health care coverage: *Provided, further*, That if the organization is qualified to operate as a health care service contractor under chapter 48.44 RCW, it may continue to operate as such when it obtains the appropriate license.

(3) The commissioner may apply to any court for such legal or equitable relief as it deems necessary to effectively carry out the purposes of this chapter, including, but not limited to, an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond. [1975 1st ex.s. c 290 § 14.]

48.46.140 Fees. Every organization subject to this chapter shall pay to the commissioner the following fees:

(1) For filing a copy of its application for a certificate of registration or amendment thereto, one hundred dollars;

(2) For filing each annual report pursuant to RCW 48.46.080, ten dollars. [1975 1st ex.s. c 290 § 15.]

48.46.150 Medicaid services. (1) The department is hereby authorized to enter into contracts with health maintenance organizations to furnish, directly or through contractual arrangements with providers or other persons, medicaid services to eligible recipients of medical assistance under Title XIX of the Social Security Act, 42 U.S.C. section 1396, et seq.

(2) The department shall enter into negotiations with any health maintenance organization for the provision of the medical needs of such recipients on a group basis located within the appropriate defined service area of such health maintenance organization in order to realize the possibility of obtaining cost savings of public funds in the purchase of health care services for such recipients, based on differentials between the cost of such services when offered by health maintenance organizations and other providers: *Provided*, That nothing herein shall require the department to enter into any contract: *And provided further*, That no such recipient shall be obligated to receive any such medical care from any health maintenance organization under contract with the department. [1975 1st ex.s. c 290 § 16.]

48.46.160 Report to legislature. The commissioner shall report annually to the legislature regarding the effect of this chapter on the development and operation of health maintenance organizations, the effect of such development and operation on both enrolled participants and nonenrollees including participation in medicare, the extent to which the purposes and provisions of

this chapter have been carried out, and the modifications in this chapter, if any, necessary to further the interests of the public. [1975 1st ex.s. c 290 § 17.]

48.46.170 Effect of chapter as to other laws—Construction. (1) Solicitation of enrolled participants by a health maintenance organization granted a certificate of registration, or its agents or representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(2) Any health maintenance organization authorized under this chapter shall not be deemed to be violating any law prohibiting the practice by unlicensed persons of podiatry, chiropractic, dental hygiene, opticianary, dentistry, optometry, osteopathy, pharmacy, medicine and surgery, physical therapy, nursing, or psychology: *Provided*, That this subsection shall not be construed to expand a health professional's scope of practice or to allow employees of a health maintenance organization to practice as a health professional unless licensed.

(3) Nothing contained in this chapter shall alter any statutory obligation, or rule or regulation promulgated thereunder, in chapter 70.38 or 70.39 RCW.

(4) Any health maintenance organization receiving a certificate of registration pursuant to this chapter shall be exempt from the provisions of chapter 48.05 RCW, and shall not be required to register as a health care contractor under chapter 48.44 RCW but shall be subject to all other provisions of chapters 48.44 and 70.39 RCW. [1975 1st ex.s. c 290 § 18.]

48.46.180 Duty of employer to inform and make available to employees option of enrolling in health maintenance organization. (1) The state government, or any political subdivision thereof, which offers its employees a health benefits plan shall make available to and inform its employees or members of the option to enroll in at least one health maintenance organization holding a valid certificate of authority which provides health care services in the geographic areas in which such employees or members reside.

(2) Each employer, public or private, having more than fifty employees in this state which offers its employees a health benefits plan, and each employee benefits fund in this state having more than fifty members which offers its members any form of health benefits shall make available to and inform its employees or members of the option to enroll in at least one health maintenance organization holding a valid certificate of authority which provides health care services in the geographic areas in which a substantial number of such employees or members reside: *Provided*, That unless at least twenty-five employees agree to participate in a health maintenance organization the employer need not provide such an option: *Provided further*, That where such employees are members of a bona fide bargaining unit covered by a labor-management collective bargaining agreement, the selection of the options required by this section may be specified in such agreement: *And provided further*, That the provisions of this section shall not be mandatory where such members are covered by a Taft-Hartley health care trust, except that

the labor-management trustees may contract with a health maintenance organization if a feasibility study determines it is to the advantage of the members to so contract.

(3) Subsections (1) and (2) of this section shall impose no responsibilities or duties upon state government or any political subdivision thereof or any other employer, either public or private, to provide health maintenance organization coverage when no health maintenance organization exists for the purpose of providing health care services in the geographic areas in which the employees or members reside.

(4) No employer in this state shall in any way be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract of obligation for the provision of health benefits between such employer and its employees. [1975 1st ex.s. c 290 § 19.]

48.46.190 Payroll deductions for capitation payments to health maintenance organizations. See RCW 41.04.233.

48.46.200 Rules and regulations. The commissioner may, in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW, promulgate rules and regulations as necessary or proper to carry out the provisions of this chapter. Nothing in this chapter shall be construed to prohibit the commissioner from requiring changes in procedures previously approved by him. [1975 1st ex.s. c 290 § 21.]

48.46.210 Compliance with federal funding requirements—Construction. Nothing in this chapter shall prohibit any health maintenance organization from meeting the requirements of any federal law which would authorize such health maintenance organization to receive federal financial assistance or enroll beneficiaries assisted by federal funds. [1975 1st ex.s. c 290 § 22.]

48.46.220 Review of administrative action. Any party aggrieved by a decision, order, or regulation made under this chapter by the commissioner shall have the right to have such reviewed pursuant to the provisions of the administrative procedure act, chapter 34.04 RCW. [1975 1st ex.s. c 290 § 23.]

48.46.900 Liberal construction. It is intended that the provisions of this chapter shall be liberally construed to accomplish the purposes provided for and authorized herein. [1975 1st ex.s. c 290 § 24.]

48.46.905 Studies by legislature. The legislature shall make a study of the appropriate financial security requirements, investment restrictions, bonding requirements, and the possibilities of providing arbitration proceedings as an acceptable grievance procedure for health maintenance organizations, and shall also study the establishment of a system for classifying contracts

for health care coverage by health maintenance organizations and all other health care contractors and insurers according to the benefits they offer and appropriate procedures for quality review.

In all such studies under this section, the legislature may be advised by a committee which shall be generally representative of health maintenance organizations, consumers, professional organizations representing health professionals, and a representative of the commissioner. The results of such studies shall be reported to the governor and to the legislature prior to the first session of the legislature after January 1, 1977. [1975 1st ex.s. c 290 § 25.]

48.46.910 Severability—1975 1st ex.s. c 290. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 290 § 26.]

48.46.920 Short title. This 1975 amendatory act may be known and cited as "The Washington Health Maintenance Organization Act of 1975". [1975 1st ex.s. c 290 § 27.]

Title 49 LABOR REGULATIONS

Chapters

- 49.08** Arbitration of disputes.
- 49.46** Minimum wage act.
- 49.52** Wages—Deductions—Contributions—Rebates.
- 49.60** Law against discrimination.

Chapter 49.08 ARBITRATION OF DISPUTES

Sections

- 49.08.010 Duty of director—Mediation—Board of arbitration selected—Board's findings final.
- 49.08.020 Procedure for arbitration.

49.08.010 Duty of director—Mediation—Board of arbitration selected—Board's findings final. It shall be the duty of the chairman of the public employment relations commission upon application of any employer or employee having differences, as soon as practicable, to visit the location of such differences and to make a careful inquiry into the cause thereof and to advise the respective parties, what, if anything, ought to be done or submitted to by both to adjust said dispute and should said parties then still fail to agree to a settlement through said chairman, then said chairman shall endeavor to have said parties consent in writing to submit their differences to a board of arbitrations to be chosen from citizens of the state as follows, to wit: Said employer shall appoint one and said employees acting through a majority, one, and these two shall select a third, these three to constitute the board of arbitration

and the findings of said board of arbitration to be final. [1975 1st ex.s. c 296 § 36; 1903 c 58 § 1; RRS § 7667.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.
Public employment relations commission: Chapter 41.58 RCW.

49.08.020 Procedure for arbitration. The proceedings of said board of arbitration shall be held before the chairman of the public employment relations commission who shall act as moderator or chairman, without the privilege of voting, and who shall keep a record of the proceedings, issue subpoenas and administer oaths to the members of said board, and any witness said board may deem necessary to summon. [1975 1st ex.s. c 296 § 37; 1903 c 58 § 2; RRS § 7668.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

Chapter 49.46 MINIMUM WAGE ACT

Sections

49.46.010	Definitions.
49.46.020	Minimum hourly wage.
49.46.130	Minimum rate of compensation for employment in excess of forty hour work week—Exceptions.
49.46.140	Notification of employers.
49.46.920	Effective date—1975 1st ex.s. c 289.

49.46.010 Definitions. As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by regulations of the director under *RCW 49.46.050;

(3) "Employ" includes to suffer or to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; and the exclusions from the term "employee" provided in this item shall not be deemed applicable with respect to commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or

horticultural commodity after its delivery to a terminal market for distribution for consumption;

(b) Any individual employed in domestic service in or about a private home;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the director: *Provided however*, That such terms shall be defined and delimited by the state personnel board pursuant to chapter 41.06 RCW and the higher education personnel board pursuant to chapter 28B.16 RCW for employees employed under their respective jurisdictions);

(d) Any individual engaged in the activities of an educational, charitable, religious, governmental agency or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously;

(e) Any newspaper vendor or carrier;

(f) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(g) Any individual engaged in forest protection and fire prevention activities;

(h) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(i) Any individual whose duties require that he reside or sleep at the place of his employment or who otherwise spends a substantial portion of his work time subject to call, and not engaged in the performance of active duties;

(j) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution.

(k) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature.

(l) All vessel operating crews of the Washington state ferries operated by the state highway commission.

(m) Any individual employed as a seaman on a vessel other than an American vessel.

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed. [1975 1st ex.s. c 289 § 1; 1974 ex.s. c 107 § 1; 1961 ex.s. c 18 § 2; 1959 c 294 § 1.]

***Reviser's note:** "RCW 49.46.050" referred to in subsection (2) was repealed by 1961 ex.s. c 18 § 7. See RCW 49.46.080.

49.46.020 Minimum hourly wage. (1) Every employer shall pay to each of his employees who have reached the age of eighteen years wages at a rate of not less than one dollar and sixty cents per hour except as may be otherwise provided under subsections (2) through (7) of this section or as otherwise provided under this

chapter: *Provided*, That beginning the calendar year 1974, the applicable rate under this section shall be one dollar and eighty cents per hour, and beginning with September 1, 1975 the applicable rate under this section shall be two dollars and ten cents an hour, and beginning the calendar year 1976 the applicable rate under this section shall be two dollars and thirty cents an hour.

(2) Any individual eighteen years of age or older, unless exempt under the provisions of *section 1(5)(k)(8) of this 1975 amendatory act, employed by the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof shall be paid wages beginning with September 1, 1975, at a rate of not less than two dollars an hour, and beginning the calendar year 1976 at a rate of not less than two dollars and twenty cents an hour, and beginning the calendar year 1977 at a rate of not less than two dollars and thirty cents an hour.

(3) Any individual eighteen years of age or older engaged in performing services in a nursing home licensed pursuant to chapter 18.51 RCW, shall be paid wages beginning with September 1, 1975, at a rate of not less than two dollars and ten cents an hour, and beginning the calendar year 1976, at a rate of not less than two dollars and twenty cents an hour, and beginning the calendar year 1977, at a rate of not less than two dollars and thirty cents an hour.

(4) Any individual eighteen years of age or older engaged in performing services in a hospital licensed pursuant to chapter 70.41 RCW, or chapter 71.12 RCW, shall be paid wages beginning with September 1, 1975, at a rate of not less than two dollars and ten cents an hour, and beginning the calendar year 1976, at a rate of not less than two dollars and twenty cents an hour, and beginning the calendar year 1977 at a rate of not less than two dollars and thirty cents an hour.

(5) Any individual eighteen years of age or older employed in a retail or service establishment and who is so employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs shall be paid wages beginning with September 1, 1975, at a rate of not less than two dollars an hour, and beginning the calendar year 1976, at a rate of not less than two dollars and twenty cents an hour, and beginning the calendar year 1977, at a rate of not less than two dollars and thirty cents an hour. [1975 1st ex.s. c 289 § 2; 1973 2nd ex.s. c 9 § 1; 1967 ex.s. c 80 § 1; 1961 ex.s. c 18 § 3; 1959 c 294 § 2.]

***Reviser's note:** The reference to "section 1(5)(k)(8) of this 1975 amendatory act" [1975 1st ex.s. c 289] appears to be erroneous. Section 1 amended RCW 49.46.010, but the amendment does not contain a sub-subsection (8) of subsection (5)(k) of that section.

Notification of employers: RCW 49.46.140.

49.46.130 Minimum rate of compensation for employment in excess of forty hour work week—Exceptions. (1) No employer shall employ any of his

employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed, except that the provisions of this subsection (1) shall not apply to any person exempted pursuant to RCW 49.46.010(5) as now or hereafter amended and the provision of this subsection shall not apply to employees who request compensating time off in lieu of overtime pay nor to any individual employed as a seaman whether or not the seaman is employed on a vessel other than an American vessel.

(2) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty-eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred and forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty-eight days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as two hundred forty hours bears to twenty-eight days; compensation at a rate not less than one and one-half times the regular rate at which he is employed: *Provided*, That this section shall not apply to any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption: *Provided further*, That in any industry in which federal law provides for an overtime payment based on a work week other than forty hours then provisions of this section shall not apply; however the provisions of the federal law regarding overtime payment based on a work week other than forty hours shall nevertheless apply to employees covered by this section without regard to the existence of actual federal jurisdiction over the industrial activity of the particular employer within this state: *Provided further*, That "industry" as that term is used in this section shall mean a trade, business, industry, or other activity, or branch, or group thereof, in which individuals are gainfully employed (Section 3(h) of the Fair Labor

Standards Act of 1938, as amended (Public Law 93-259). [1975 1st ex.s. c 289 § 3.]

Hours of labor: Chapter 49.28 RCW.

49.46.140 Notification of employers. The director of the department of labor and industries and the commissioner of employment security shall each notify employers of the requirements of *this act through their regular quarterly notices to employers. [1975 1st ex.s. c 289 § 4.]

***Reviser's note:** "this act" [1975 1st ex.s. c 289] consists of RCW 49.46.130, 49.46.140 and 49.46.920 and amendments to RCW 49.46-.010 and 49.46.020.

49.46.920 Effective date—1975 1st ex.s. c 289. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect September 1, 1975. [1975 1st ex.s. c 289 § 5.]

Chapter 49.52

WAGES—DEDUCTIONS— CONTRIBUTIONS—REBATES

Sections

- 49.52.010 Employees' benefit deductions and employer contributions are trust funds—Enforcement.
49.52.020 Lien of party rendering service.

49.52.010 Employees' benefit deductions and employer contributions are trust funds—Enforcement. All moneys collected by any employer from his or its employees and all money to be paid by any employer as his contribution for furnishing, either directly, or through contract, or arrangement with a hospital association, corporation, firm or individual, of medicine, medical or surgical treatment, nursing, hospital service, ambulance service, dental service, burial service, or any or all of the above enumerated services, or any other necessary service, contingent upon sickness, accident or death, are hereby declared to be a trust fund for the purposes for which the same are collected. The trustees (or their administrator, representative, or agent under direction of the trustees) of such fund are authorized to take such action as is deemed necessary to ensure that the employer contributions are made including, but not limited to filing actions at law, and filing liens against moneys due to the employer from the performance of labor or furnishing of materials to which the employees contributed their services. Such trust fund is subject to the provisions of chapter 48.52 RCW. [1975 c 34 § 1; 1927 c 307 § 1; RRS § 7614-1.]

49.52.020 Lien of party rendering service. In case any employer collecting moneys from his employees or making contributions to any type of benefit plan for any or all of the purposes specified in RCW 49.52.010, shall enter into a contract or arrangement with any hospital association, corporation, firm or individual, to furnish any such service to its employees, the association, corporation, firm or individual contracting to furnish such services, shall have a lien upon such trust

fund prior to all other liens except taxes. The lien hereby created shall attach from the date of the arrangement or contract to furnish such services and may be foreclosed in the manner provided by law for the foreclosure of other liens on personal property. [1975 c 34 § 2; 1927 c 307 § 2; RRS § 7614-2.]

Chapter 49.60

LAW AGAINST DISCRIMINATION

Sections

- 49.60.222 Unfair practices with respect to real estate transactions, facilities or services.
Capital projects for community colleges, bonds for, consideration to be given minority contractors: RCW 28B.58.010.
Capital projects for institutions of higher education, bonds for, consideration to be given minority contractors: RCW 28B.14.010.
Sexual equality mandated for public schools: Chapter 28A.85 RCW.

49.60.222 Unfair practices with respect to real estate transactions, facilities or services. It is an unfair practice for any person, whether acting for himself or another, because of sex, marital status, race, creed, color or national origin:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property;
- (6) To print, circulate, post or mail or cause to be so published a statement, advertisement or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;
- (7) To offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (8) To expel a person from occupancy of real property;
- (9) To discriminate in the course of negotiating, executing or financing a real estate transaction whether by mortgage, deed of trust, contract or other instrument imposing a lien or other security in real property or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of

RCW 49.60.176 relating to unfair practices in credit transactions; or

(10) To attempt to do any of the unfair practices defined in this section.

Notwithstanding any other provision of law, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls or other student housing to persons of one sex or to make distinctions on the basis of marital or family status. [1975 1st ex.s. c 145 § 1; 1973 c 141 § 13; 1969 ex.s. c 167 § 4.]

Severability—1969 ex.s. c 167: See note following RCW 49.60.010.

Title 50 UNEMPLOYMENT COMPENSATION

Chapters

- 50.04 Definitions.
- 50.06 Temporary total disability.
- 50.12 Administration.
- 50.16 Funds.
- 50.20 Benefits and claims.
- 50.24 Contributions by employers.
- 50.29 Employer experience rating.
- 50.32 Review, hearings and appeals.
- 50.44 Special coverage provisions.

Chapter 50.04 DEFINITIONS

Sections

- 50.04.355 Wages, remuneration—Average annual wage—Average weekly wage—Qualifying annual wage—Qualifying weekly wage—Average annual wage for contributions purposes.

50.04.355 Wages, remuneration—Average annual wage—Average weekly wage—Qualifying annual wage—Qualifying weekly wage—Average annual wage for contributions purposes. On or before the fifteenth day of June of each year an "average annual wage", an "average weekly wage", a "qualifying annual wage", a "qualifying weekly wage", and an "average annual wage for contributions purposes" shall be computed from information for the preceding calendar year including corrections thereof reported within three months after the close of that year by all employers as defined in RCW 50.04.080. The "average annual wage" is the quotient derived by dividing total remuneration reported by all employers by the average number of workers reported for all months and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. The "average annual wage" thus obtained shall be divided by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar to determine the "average weekly wage". The "qualifying annual wage" shall be computed by multiplying the

"average annual wage" by fifteen percent and if the result is not a multiple of fifty dollars, rounding the result to the next lower multiple of fifty dollars. The "qualifying weekly wage" shall be computed by multiplying the "average weekly wage" by fifteen percent and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. The "average annual wage" for contribution purposes is the quotient derived by dividing total remuneration reported by all employers subject to contributions by the average number of workers reported for all months by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. [1975 1st ex.s. c 228 § 1; 1973 c 73 § 3; 1970 ex.s. c 2 § 6.]

Effective date—1975 1st ex.s. c 228: "All sections of this 1975 amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on the first Sunday following signature by the governor." [1975 1st ex.s. c 228 § 19.]

Effective date—1973 c 73: See note following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Chapter 50.06 TEMPORARY TOTAL DISABILITY

Sections

- 50.06.010 Purpose.
- 50.06.020 Allowable beneficiaries.
- 50.06.030 Application for initial determination of disability—Special base year—Special individual benefit year.
- 50.06.040 Laws and regulations governing amounts payable and right to benefits.
- 50.06.050 Use of wages and time worked for prior claims—Effect.
- 50.06.900 Chapter prospective.
- 50.06.910 Partial invalidity of chapter.

50.06.010 Purpose. This chapter is enacted for the purpose of providing the protection of the unemployment compensation system to workers who have suffered a temporary total disability compensable under industrial insurance and is a recognition by this legislature of the economic hardship confronting those workers who have not been promptly reemployed after a prolonged period of temporary total disability. [1975 1st ex.s. c 228 § 7.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.020 Allowable beneficiaries. Only individuals who have suffered a temporary total disability and have received compensation under the industrial insurance laws of this state, any other state or the United States for a period of not less than thirteen consecutive calendar weeks by reason of such temporary total disability shall be allowed the benefits of this chapter. [1975 1st ex.s. c 228 § 8.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.030 Application for initial determination of disability—Special base year—Special individual benefit year. An application for initial determination made

pursuant to this chapter, to be considered timely, must be filed in writing with the employment security department within twenty-six weeks following the week in which the period of temporary total disability commenced. Notice from the department of labor and industries shall satisfy this requirement. The records of the agency supervising the award of compensation shall be conclusive evidence of the fact of temporary disability and the beginning date of such disability. The employment security department shall process and issue an initial determination of entitlement or nonentitlement as the case may be.

For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters immediately prior to the first day of the calendar week in which the individual's temporary total disability commenced, and a special individual benefit year is established consisting of the entire period of disability and a fifty-two consecutive week period commencing with the first day of the calendar week immediately following the week or part thereof with respect to which the individual received his final temporary total disability compensation under the applicable industrial insurance laws except that no special benefit year shall have a duration in excess of three hundred twelve calendar weeks: *Provided however*, That such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the disability and filing requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year provided by this chapter, notwithstanding the provisions in RCW 50.04.030 relating to the establishment of a subsequent benefit year and RCW 50.40.010 relating to waiver of rights, may elect to establish a special benefit year under this chapter: *Provided further*, that the unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish such special benefit year. [1975 1st ex.s. c 228 § 9.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.040 Laws and regulations governing amounts payable and right to benefits. The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provision contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and regulations relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter. [1975 1st ex.s. c 228 § 10.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.050 Use of wages and time worked for prior claims—Effect. The fact that wages, hours or weeks worked during the special base year may have been used in the computation of a prior valid claim for unemployment compensation shall not affect a claim for

benefits made pursuant to the provisions of this chapter; however, wages, hours and weeks worked used in computing entitlement on a claim filed pursuant to this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year. [1975 1st ex.s. c 228 § 11.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.900 Chapter prospective. This chapter shall be available only to individuals who suffer a temporary total disability, compensable by an industrial insurance program, after the effective date of this chapter. [1975 1st ex.s. c 228 § 12.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.910 Partial invalidity of chapter. Should any part of this chapter be declared unconstitutional by the final decision of any court or declared out of conformity by the United States secretary of labor, the commissioner shall immediately discontinue the payment of benefits based on this chapter, declare it inoperative and report that fact to the governor and the legislature. [1975 1st ex.s. c 228 § 13.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Chapter 50.12 ADMINISTRATION

Sections

50.12.070 Employing unit records and reports.

50.12.070 Employing unit records and reports. Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he deems necessary for the effective administration of this title. Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the names of all such workers, the number of weeks for which the worker earned the "qualifying weekly wage" and such other information as the commissioner may by regulation prescribe.

In the event the employing unit fails or has failed to report the number of weeks in a reporting period for which a worker earned the "qualifying weekly wage" such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such weeks the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the "qualifying weekly wage" in effect for such reporting period and the quotient,

disregarding any remainder, shall be credited to the worker: *Provided*, That the total number of weeks credited to the worker for any quarterly period shall not exceed thirteen weeks: *Provided, further*, That the computation so made will not be subject to appeal by the employing unit. [1975 1st ex.s. c 228 § 2; 1945 c 35 § 46; Rem. Supp. 1945 § 9998-184. Prior: 1943 c 127 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Chapter 50.16 FUNDS

Sections

50.16.020 Administration of funds—Accounts.

50.16.020 Administration of funds—Accounts. The commissioner shall designate a treasurer and custodian of the unemployment compensation fund and of the administrative contingency fund, who shall administer such funds in accordance with the directions of the commissioner and shall issue his warrants upon them in accordance with such regulations as the commissioner shall prescribe. He shall maintain within the unemployment compensation fund three separate accounts as follows:

- (1) a clearing account,
- (2) an unemployment trust fund account, and
- (3) a benefit account.

All moneys payable to the unemployment compensation fund, upon receipt thereof by the commissioner, shall be forwarded to the treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to the provisions of this title from the unemployment compensation fund may be paid from the clearing account upon warrants issued by the treasurer under the direction of the commissioner: *Provided, however*, That refunds of interest on delinquent contributions shall be paid from the administrative contingency fund upon warrants issued by the treasurer under the direction of the commissioner.

After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the social security act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding.

The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Moneys in the clearing and benefit accounts and in the administrative contingency fund shall not be commingled with other state funds, but shall be deposited by the treasurer, under the direction of the commissioner, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

Such moneys shall be secured by said bank or public depository to the same extent and in the same manner as required by the general depository law of the state and collateral pledged shall be maintained in a separate custody account.

The treasurer shall give a bond conditioned upon the faithful performance of his duties as a custodian of the funds in an amount fixed by the director of the department of general administration and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund. All sums recovered on official bonds for losses sustained by the unemployment compensation fund shall be deposited in such fund. All sums recovered on official bonds for losses sustained by the administrative contingency fund shall be deposited in such fund. [1975 c 40 § 12; 1953 ex.s. c 8 § 6; 1945 c 35 § 61; Rem. Supp. 1945 § 9998-199. Prior: 1943 c 126 §§ 6, 9; 1939 c 214 § 11; 1937 c 162 § 13.]

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

Chapter 50.20 BENEFITS AND CLAIMS

Sections

50.20.030 Repealed.
50.20.190 Recovery of benefit payments.

50.20.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

50.20.190 Recovery of benefit payments. An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: *Provided*, That in the absence of fraud, misrepresentation, or wilful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of the individual's benefit year in which the purported overpayment was made unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

The commissioner may waive an overpayment if he finds that said overpayment was not the result of fraud, misrepresentation, wilful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience: *Provided, however*, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: *Provided*, That an appeal from any determination covering overpayment only, shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within ten days of the delivery of the notice of determination of liability, or within ten days of the mailing of the notice of determination, whichever is the earlier, said determination of liability shall be deemed conclusive and final, and the court shall, upon application of the commissioner, enter a judgment in the amount provided by the notice of determination, which judgment shall have and be given the same effect as if entered pursuant to civil action.

On request of any agency which administers an employment security law of another state, the United States or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact with respect to a claim taken in this state as an agent for such agency, the commissioner may collect the amount of such benefits from such claimant to be refunded to such agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection. [1975 1st ex.s. c 228 § 3; 1973 1st ex.s. c 158 § 7; 1953 ex.s. c 8 § 14; 1951 c 215 § 8; 1947 c 215 § 18; 1945 c 35 § 87; Rem. Supp. 1947 § 9998-225. Prior: 1943 c 127 § 12; 1941 c 253 § 13; 1939 c 214 § 14; 1937 c 162 § 16.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

Government or retirement pension plan payments as remuneration or wages—Recovery of excess over benefits allowable, limitations: RCW 50.04.323.

Chapter 50.24 CONTRIBUTIONS BY EMPLOYERS

Sections

50.24.115 Warrant—Authorized—Filing—Lien—Enforcement.

50.24.115 Warrant—Authorized—Filing—Lien—Enforcement. Whenever any order and notice of assessment or jeopardy assessment shall have become

final in accordance with the provisions of this title the commissioner may file with the clerk of any county within the state a warrant in the amount of the notice of assessment plus interest and a filing fee of five dollars. The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the employer mentioned in the warrant, the amount of the tax, interest and filing fee and the date when such warrant was filed. The aggregate amount of such warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. Such warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant, and charged by the commissioner to the employer or employing unit. A copy of the warrant shall be mailed to the employer or employing unit by certified mail to his last known address within five days of filing with the clerk. [1975 1st ex.s. c 228 § 15.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Chapter 50.29 EMPLOYER EXPERIENCE RATING

Sections

50.29.020 Experience rating accounts.

50.29.020 Experience rating accounts. (1) An experience rating account shall be established and maintained for each employer based on existing records of the employment security department and shall be effective beginning with July 1, 1967. Benefits paid to any eligible individuals for benefit years beginning subsequent to June 30, 1967, shall be charged to the experience rating accounts of each of his employers during his base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year.

(2) The legislature finds that certain benefit payments should not be charged to the experience rating accounts of employers whose employees are not covered under chapter 50.44 RCW, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer. [1975 1st ex.s. c 228 § 6; 1970 ex.s. c 2 § 11.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Chapter 50.32 REVIEW, HEARINGS AND APPEALS

Sections

- 50.32.025 Mailed appeal or petition—When deemed filed and received.
50.32.070 Petition for review by commissioner.
50.32.075 Waiver of time for appeal or petition.

50.32.025 Mailed appeal or petition—When deemed filed and received. The appeal or petition from a determination, redetermination, order and notice of assessment, appeals decision, or commissioner's decision which is (1) transmitted through the United States mail, shall be deemed filed and received by the addressee on the date shown by the United States postal service cancellation mark stamped by the United States postal service employees upon the envelope or other appropriate wrapper containing it or, (2) mailed but not received by the addressee, or where received and the United States postal service cancellation mark is illegible, erroneous or omitted, shall be deemed filed and received on the date it was mailed, if the sender establishes by competent evidence that the appeal or petition was deposited in the United States mail on or before the date due for filing: *Provided*, That in the case of a metered cancellation mark by the sender and a United States postal service cancellation mark on the same envelope or other wrapper, the latter shall control: *Provided, further*, That in any of the above circumstances, the appeal or petition must be properly addressed and have sufficient postage affixed thereto. [1975 1st ex.s. c 228 § 4; 1969 ex.s. c 200 § 1.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.32.070 Petition for review by commissioner. Within ten days from the date of notification or mailing, whichever is the earlier, of any decision of an appeal tribunal, the commissioner on his own order may, or upon petition of any interested party shall, take jurisdiction of the proceedings for the purpose of review thereof. Appeal from any decision of an appeal tribunal may be perfected so as to prevent finality of such decision if, within ten days from the date of mailing the appeal tribunal decision, or notification thereof, whichever is the earlier, a petition in writing for review by the commissioner is received by the commissioner or by such representative of the commissioner as the commissioner by regulation shall prescribe. The commissioner may also prevent finality of any decision of an appeal tribunal and take jurisdiction of the proceedings for his review thereof by entering an order so providing on his

own motion and mailing a copy thereof to the interested parties within the same period allowed herein for receipt of a petition for review. The time limit provided herein for the commissioner's assumption of jurisdiction on his own motion for review shall be deemed to be jurisdictional. [1975 1st ex.s. c 228 § 5; 1947 c 215 § 31; 1945 c 35 § 123; Rem. Supp. 1947 § 9998-261.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.32.075 Waiver of time for appeal or petition. For good cause shown the appeal tribunal or the commissioner may waive the time limitations for administrative appeals or petitions set forth in the provisions of this title. [1975 1st ex.s. c 228 § 16.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Chapter 50.44 SPECIAL COVERAGE PROVISIONS

Sections

- 50.44.040 Services excluded under "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030.
50.44.050 Benefits payable, terms and conditions.

50.44.040 Services excluded under "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030. The term "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030 shall not include service performed:

(1) In the employ of (a) a church or convention or association of churches, or (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) In the employ of a nongovernmental educational institution, approved or accredited by the state board of education, which is not an "institution of higher education", or in the employ of a nongovernmental preschool. A preschool is an organization devoted exclusively to the area of child development training of preschool-age children through an established curriculum of formal classroom and/or laboratory instruction; or

(4) In a facility conducted for the purpose of carrying out a program of (a) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or (b) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in

part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or

(6) For a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution; or

(7) In the employ of a hospital, if such service is performed by a patient of such hospital; or

(8) In the employ of a school, college, or university, if such service is performed (a) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (b) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; or

(9) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employee, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or

(10) In the employ of the state or one of its instrumentalities or a political subdivision or one of its instrumentalities by an individual who is (a) occupying an elective office, or (b) who is compensated solely on a fee or per diem basis; or

(11) In the employ of the legislature of the state of Washington by an individual who is compensated pursuant to an agreement which provides for a guaranteed rate of compensation for irregular hours worked. [1975 1st ex.s. c 67 § 1; 1975 c 4 § 1; 1973 c 73 § 9; 1971 c 3 § 21.]

Effective date—1973 c 73: See note following RCW 50.04.030.

50.44.050 Benefits payable, terms and conditions.

Benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title: *Provided however*, That benefits based on service in an instructional, research or principal administrative capacity in an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for an institution or institutions of higher education for both such academic years or both such terms; or during

any nonwork period occurring during a term that does not diminish the individual's salary for the term: *Provided further*, That benefits based on service in an instructional, research, or principal administrative capacity in an educational institution other than an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity in an educational institution or institutions other than an institution of higher education for both such academic years or both such terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term: *Provided further*, That any employee of a common school district who is conclusively presumed to have been reemployed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term. [1975 1st ex.s. c 288 § 17; 1973 c 73 § 10; 1971 c 3 § 22.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Effective date—1973 c 73: See note following RCW 50.04.030.

Title 51 INDUSTRIAL INSURANCE

Chapters

- 51.04 General provisions.
- 51.08 Definitions.
- 51.12 Employments and occupations covered.
- 51.28 Notice and report of accident—Application for compensation.
- 51.32 Compensation—Right to and amount.
- 51.36 Medical aid.
- 51.44 Funds.
- 51.52 Appeals.

Chapter 51.04 GENERAL PROVISIONS

Sections

- 51.04.110 Workmen's compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study.

51.04.110 Workmen's compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study. The director shall appoint a workmen's compensation advisory committee composed of nine members: Three representing subject workmen, three representing subject employers, one representing self-insurers, one representing workmen of self-insurers, and one ex officio member, without a vote, representing the department, who shall be chairman. This committee shall conduct a continuing study of any aspects of workmen's compensation as the committee shall determine require their consideration. The

committee shall report its findings to the department or the board of industrial insurance appeals for such action as deemed appropriate. The members of the committee shall be appointed for a term of three years commencing on July 1, 1971 and the terms of the members representing the workmen and employers shall be staggered so that the director shall designate one member from each such group initially appointed whose term shall expire on June 30, 1972 and one member from each such group whose term shall expire on June 30, 1973. The members shall serve without compensation, but shall be entitled to expenses as provided in RCW 43.03.050 and 43.03.060. The committee may hire such experts, if any, as it shall require to discharge its duties, and may utilize such personnel and facilities of the department and board of industrial insurance appeals as it shall need without charge. All expenses of this committee shall be paid by the department.

The workmen's compensation advisory committee created by this section shall conduct a study of the advisability and necessity of deposits by self-insurers into the reserve fund to guarantee the payments of pensions established pursuant to this title, and shall report its findings and recommendations on this study to the department, and the department shall transmit said findings and recommendations to the next regular session of the legislature. [1975 1st ex.s. c 224 § 1; 1972 ex.s. c 43 § 37; 1971 ex.s. c 289 § 67.]

Effective date—1975 1st ex.s. c 224: "This 1975 amendatory act shall take effect on July 1, 1975." [1975 1st ex.s. c 224 § 20.]

Chapter 51.08 DEFINITIONS

Sections

51.08.012 "Accredited school".

51.08.012 "Accredited school". For the purposes of this title, "accredited school" means a school or course of instruction which is:

(1) Approved by the state superintendent of public instruction, the state board of education, the state board for community college education, or the state division of vocational education of the *coordinating council for occupational education; or

(2) Regulated or licensed as to course content by any agency of the state or under any occupational licensing act of the state, or recognized by the apprenticeship council under an agreement registered with the apprenticeship council pursuant to chapter 49.04 RCW. [1975 1st ex.s. c 224 § 2; 1969 ex.s. c 77 § 3.]

***Reviser's note:** The "coordinating council for occupational education" was abolished, see RCW 28C.04.500.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Chapter 51.12

EMPLOYMENTS AND OCCUPATIONS COVERED

Sections

51.12.035 Volunteers, inclusion for medical aid benefit purposes—"Volunteer" defined.

51.12.100 Maritime occupations—Segregation of payrolls—Common enterprise.

51.12.035 Volunteers, inclusion for medical aid benefit purposes—"Volunteer" defined. (1) Volunteers shall be deemed employees and/or workmen, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW.

A "volunteer" shall mean a person who performs any assigned or authorized duties for the state or any agency thereof, except emergency services workers as described by chapter 38.52 RCW, brought about by one's own free choice, receives no wages, and is registered and accepted as a volunteer by the state or any agency thereof, prior to the occurrence of the injury or the contraction of an occupational disease, for the purpose of engaging in authorized volunteer service: *Provided*, That such person shall be deemed to be a volunteer although he may be granted maintenance and reimbursement for actual expenses necessarily incurred in performing his assigned or authorized duties.

Any and all premiums or assessments due under this title on account of such volunteer service shall be the obligation of and be paid by the state or any agency thereof which has registered and accepted the services of volunteers.

(2) Volunteers may be deemed employees and/or workmen, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW at the option of any city, county, town, special district, municipal corporation, or political subdivision of any type, or any private nonprofit charitable organization, when any such unit of local government or any such nonprofit organization has given notice of covering all of its volunteers to the director prior to the occurrence of the injury or contraction of an occupational disease.

A "volunteer" shall mean a person who performs any assigned or authorized duties for any such unit of local government, or any such organization, except emergency services workers as described by chapter 38.52 RCW, or firemen covered by chapter 41.24 RCW, brought about by one's own free choice, receives no wages, and is registered and accepted as a volunteer by any such unit of local government, or any such organization which has given such notice, for the purpose of engaging in authorized volunteer services: *Provided*, That such person shall be deemed to be a volunteer although he may be granted maintenance and reimbursement for actual expenses necessarily incurred in performing his assigned or authorized duties.

Any and all premiums or assessments due under this title on account of such volunteer service for any such unit of local government, or any such organization shall be the obligation of and be paid by such organization which has registered and accepted the services of volunteers and exercised its option to secure the medical aid benefits under chapter 51.36 RCW for such volunteers. [1975 1st ex.s. c 79 § 1; 1974 ex.s. c 171 § 44; 1971 c 20 § 1.]

51.12.100 Maritime occupations—Segregation of payrolls—Common enterprise. The provisions of this title shall not apply to a master or member of a crew of any vessel, or to employers and workmen for whom a right or obligation exists under the maritime laws for personal injuries or death of such workmen.

If an accurate segregation of payrolls of workmen for whom such a right or obligation exists under the maritime laws cannot be made by the employer, the director is hereby authorized and directed to fix from time to time a basis for the approximate segregation of the payrolls of employees to cover the part of their work for which no right or obligation exists under the maritime laws for injuries or death occurring in such work, and the employer, if not a self-insurer, shall pay premiums on that basis for the time such workmen are engaged in their work.

Where two or more employers are simultaneously engaged in a common enterprise at one and the same site or place in maritime occupations under circumstances in which no right or obligation exists under the maritime laws for personal injuries or death of such workmen, such site or place shall be deemed for the purposes of this title to be the common plant of such employers.

In the event payments are made under this title prior to the final determination under the maritime laws, such benefits shall be repaid if recovery is subsequently made under the maritime laws. [1975 1st ex.s. c 224 § 3; 1972 ex.s. c 43 § 11; 1961 c 23 § 51.12.100. Prior: 1931 c 79 § 1; 1925 ex.s. c 111 § 1; RRS § 7693a.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Ferry system employees in extrahazardous employment: RCW 47.64.070.

Chapter 51.28

NOTICE AND REPORT OF ACCIDENT— APPLICATION FOR COMPENSATION

Sections

- 51.28.010 Notice of accident—Notification of workman's rights.
51.28.025 Duty of employer to report injury or disease—Contents—Penalty.
51.28.070 Claim files and records confidential.

51.28.010 Notice of accident—Notification of workman's rights. Whenever any accident occurs to any workman it shall be the duty of such workman or someone in his behalf to forthwith report such accident to his employer, superintendent or foreman in charge of the work, and of the employer to at once report such accident and the injury resulting therefrom to the department pursuant to RCW 51.28.025, as now or hereafter amended, where the workman has received treatment from a physician, has been hospitalized, disabled from work, or has died as the apparent result of such accident and injury.

Upon receipt of such notice of accident, the department shall immediately forward to the workman or his beneficiaries or dependents notification, in nontechnical language, of their rights under this title. [1975 1st ex.s. c

224 § 4; 1971 ex.s. c 289 § 5; 1961 c 23 § 51.28.010. Prior: 1915 c 188 § 9; 1911 c 74 § 14; RRS § 7689.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.28.025 Duty of employer to report injury or disease—Contents—Penalty. (1) Whenever an employer has notice or knowledge of an injury or occupational disease sustained by any workman in his employment who has received treatment from a physician, has been hospitalized, disabled from work or has died as the apparent result of such injury or occupational disease, he shall immediately report the same to the department on forms prescribed by it. The report shall include:

- (a) The name, address, and business of the employer;
- (b) The name, address, and occupation of the workman;
- (c) The date, time, cause, and nature of the injury or occupational disease;
- (d) Whether the injury or occupational disease arose in the course of the injured workman's employment;
- (e) All available information pertaining to the nature of the injury or occupational disease including but not limited to any visible signs, any complaints of the workman, any time lost from work, and the observable effect on the workman's bodily functions, so far as is known; and

(f) Such other pertinent information as the department may prescribe by regulation.

(2) Failure or refusal to file the report required by subsection (1) shall subject the offending employer to a penalty of one hundred dollars for each offense, to be collected in a civil action in the name of the department and paid into the supplemental pension fund. [1975 1st ex.s. c 224 § 5; 1971 ex.s. c 289 § 39.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.28.070 Claim files and records confidential. Information contained in the claim files and records of injured workmen, under the provisions of this title, shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but representatives of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant. Employers or their duly authorized representatives may review any files of their own injured workmen in connection with any pending claims. Physicians treating or examining workmen claiming benefits under this title, or physicians giving medical advice to the department regarding any claim may, at the discretion of the department, inspect the claim files and records of injured workmen, and other persons may make such inspection, at the departments discretion, when such persons are rendering assistance to the

department at any stage of the proceedings on any matter pertaining to the administration of this title. [1975 1st ex.s. c 224 § 6; 1961 c 23 § 51.28.070. Prior: 1957 c 70 § 51.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Chapter 51.32

COMPENSATION—RIGHT TO AND AMOUNT

Sections

- 51.32.005 Repealed.
- 51.32.010 Who entitled to compensation.
- 51.32.025 Payments for children cease at age eighteen—
Exceptions.
- 51.32.040 Exemption of awards—Payment of awards after
death—Time limitations for filing—Confinement
in institution under conviction and sentence.
- 51.32.050 Death benefits.
- 51.32.060 Permanent total disability compensation—Personal
attendant.
- 51.32.070 Repealed.
- 51.32.072 Additional payments for prior pensioners—Chil-
dren—Remarriage—Attendant.
- 51.32.073 Additional payments for prior pensioners—Premium
liability of workman and employer for additional pay-
ments (as amended by 1975 1st ex.s. c 224).
- 51.32.073 Additional payments for prior pensioners—Premium
liability of workman and employer for additional pay-
ments (as amended by 1975 1st ex.s. c 286).
- 51.32.075 Adjustments in compensation or death benefits.
- 51.32.090 Temporary total disability—Partial restoration of
earning power—Return to available work—When
employer continues wages—Limitation.
- 51.32.220 Reduction in compensation for temporary or permanent
total disability—Limitation.
- 51.32.240 Payments made due to error, mistake, erroneous adjudi-
cation, fraud, etc.

51.32.005 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

51.32.010 Who entitled to compensation. Each workman injured in the course of his employment, or his family or dependents in case of death of the workman, shall receive compensation in accordance with this chapter, and, except as in this title otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever: *Provided*, That if an injured workman, or the surviving spouse of an injured workman shall not have the legal custody of a child for, or on account of whom payments are required to be made under this title, such payment or payments shall be made to the person or persons having the legal custody of such child but only for the periods of time after the department has been notified of the fact of such legal custody, and it shall be the duty of any such person or persons receiving payments because of legal custody of any child immediately to notify the department of any change in such legal custody. [1975 1st ex.s. c 224 § 7; 1971 ex.s. c 289 § 40; 1961 c 23 § 51.32.010. Prior: 1957 c 70 § 26; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Saving—**Severability**—**Repeal and saving**—**Effective date**—1923 c 136: See notes following RCW 51.04.030.

51.32.025 Payments for children cease at age eighteen—Exceptions. Any payments to or on account of any child or children of a deceased or temporarily or totally permanently disabled workman pursuant to any of the provisions of chapter 51.32 RCW shall terminate when any such child reaches the age of eighteen years unless such child is a dependent invalid child or is permanently enrolled at a full time course in an accredited school, in which case such payments after age eighteen shall be made directly to such child. Payments to any dependent invalid child over the age of eighteen years shall continue in the amount previously paid on account of such child until he shall cease to be dependent. Payments to any child over the age of eighteen years permanently enrolled at a full time course in an accredited school shall continue in the amount previously paid on account of such child until he reaches an age over that provided for in the definition of "child" in this title or ceases to be permanently enrolled whichever occurs first. Where the workman sustains an injury or dies when any of his children is over the age of eighteen years and is either a dependent invalid child or is a child permanently enrolled at a full time course in an accredited school the payment to or on account of any such child shall be made as herein provided. [1975 1st ex.s. c 224 § 11.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

51.32.040 Exemption of awards—Payment of awards after death—Time limitations for filing—Confinement in institution under conviction and sentence. No money paid or payable under this title shall, except as provided for in RCW 74.20A.090 and 74.20A.100, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or charge shall be void: *Provided*, That if any workman suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he shall have received payment of his award for such permanent partial injury, or if any workman suffers any other injury before he shall have received payment of any monthly installment covering any period of time prior to his death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That, if any workman suffers an injury and dies therefrom before he shall have received payment of any monthly installment covering time loss for any period of time prior to his death, the amount of such monthly payment shall be paid to the surviving spouse, or to the child or children if there

is no surviving spouse: *Provided further*, That any application for compensation under the foregoing provisos of this section shall be filed with the department or self-insuring employer within one year of the date of death: *Provided further*, That if the injured workman resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: *Provided further*, That any workman receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible therefor while confined in any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such workman would, but for the provisions of this proviso, otherwise be entitled thereto: *Provided further*, That if any prisoner is injured in the course of his employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his participation in such program has been canceled, or unless he is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: *Provided further*, That if such incarcerated workman has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him for himself and his beneficiaries had he not been so confined. Any lump sum benefits to which the workman would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his beneficiaries. [1975 1st ex.s. c 224 § 8; 1974 ex.s. c 30 § 1. Prior: 1973 1st ex.s. c 154 § 95; 1972 ex.s. c 43 § 18; 1971 ex.s. c 289 § 43; 1965 ex.s. c 165 § 2; 1961 c 23 § 51.32.040; prior: 1957 c 70 § 29; prior: 1947 c 56 § 1, part; 1927 c 310 § 7, part; 1923 c 136 § 4, part; 1921 c 182 § 6, part; 1919 c 131 § 6, part; 1911 c 74 § 10, part; Rem. Supp. 1947 § 7684, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

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

Saving—Severability—Repeal and saving—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.050 Death benefits. (1) Where death results from the injury the expenses of burial not to exceed one thousand dollars shall be paid.

(2) Where death results from the injury, a surviving spouse of a deceased workman eligible for benefits under this title shall receive monthly for life or until remarriage the following sums: (a) If there are no children of the deceased workman, sixty percent of the wages of the deceased workman but not less than one hundred eighty-five dollars. (b) If there is one child of the deceased workman and in the legal custody of such spouse, sixty-two percent of the wages of the deceased workman but not less than two hundred twenty-two

dollars. (c) If there are two children of the deceased workman and in the legal custody of such spouse, sixty-four percent of the wages of the deceased workman but not less than two hundred fifty-three dollars. (d) If there are three children of the deceased workman and in the legal custody of such spouse, sixty-six percent of the wages of the deceased workman but not less than two hundred seventy-six dollars. (e) If there are four children of the deceased workman and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased workman but not less than two hundred ninety-nine dollars. (f) If there are five or more children of the deceased workman and in the legal custody of such spouse, seventy percent of the wages of the deceased workman but not less than three hundred twenty-two dollars. (g) Where the surviving spouse does not have legal custody of any child or children of the deceased workman or where after the death of the workman legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the wages of the deceased workman for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

Payments to the surviving spouse of the deceased workman shall cease at the end of the month in which remarriage occurs: *Provided*, That the monthly payment made to the child or children of the deceased workman shall from the month following such remarriage be a sum equal to five percent of the wages of the deceased workman for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. In no event shall the monthly payments provided in subsection (2) of this section exceed seventy-five percent of the average monthly wage in the state as computed under RCW 51.08.018.

In addition to the monthly payments above provided for, a surviving spouse or child or children of such workman if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased workman shall be forthwith paid the sum of eight hundred dollars, any such children, or parents to share and share alike in said sum.

Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as

provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs, and the surviving spouse shall have an option of:

(i) He or she shall receive, once and for all, a lump sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser.

(ii) If a surviving spouse does not choose the option specified in subsection (2)(i) of this section, to accept the lump sum payment, the remarriage of the surviving spouse of a workman shall not bar him or her from exercising the option granted in subsection (2)(i) of this section during the life of the remarriage and shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment provided in this section: *Provided, however,* That if the surviving spouse during the remarriage should die without having previously received the lump sum payment provided herein his or her estate shall be entitled to receive the sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

The effective date of an award of payments to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death, or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(3) If there is a child or children and no surviving spouse of the deceased workman or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased workman shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: *Provided,* That benefits under this subsection or subsection (4) shall not exceed sixty-five percent of the wages of the deceased workman at the time of his death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums.

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased workman shall receive the same payment as provided in subsection (3) of this section.

(5) If the workman leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the workman during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed sixty-five percent of the wages of the deceased workman at the time of the death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums. If any dependent is under the age of eighteen years at the time of the occurrence of

the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) If the injured workman dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased workman remarries. [1975 1st ex.s. c 179 § 1; 1973 1st ex.s. c 154 § 96; 1972 ex.s. c 43 § 19; 1971 ex.s. c 289 § 7; 1965 ex.s. c 122 § 1; 1961 c 274 § 1; 1961 c 23 § 51.32.050. Prior: 1957 c 70 § 30; 1951 c 115 § 1; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

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

Saving—**Severability**—**Repeal and saving**—**Effective date**—1923 c 136: See notes following RCW 51.04.030.

51.32.060 Permanent total disability compensation—Personal attendant. When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the workman shall receive monthly during the period of such disability:

(1) If married at the time of injury, sixty-five percent of his wages but not less than two hundred fifteen dollars per month.

(2) If married with one child at the time of injury, sixty-seven percent of his wages but not less than two hundred fifty-two dollars per month.

(3) If married with two children at the time of injury, sixty-nine percent of his wages but not less than two hundred eighty-three dollars.

(4) If married with three children at the time of injury, seventy-one percent of his wages but not less than three hundred six dollars per month.

(5) If married with four children at the time of injury, seventy-three percent of his wages but not less than three hundred twenty-nine dollars per month.

(6) If married with five or more children at the time of injury, seventy-five percent of his wages but not less than three hundred fifty-two dollars per month.

(7) If unmarried at the time of the injury, sixty percent of his wages but not less than one hundred eighty-five dollars per month.

(8) If unmarried with one child at the time of injury, sixty-two percent of his wages but not less than two hundred twenty-two dollars per month.

(9) If unmarried with two children at the time of injury, sixty-four percent of his wages but not less than two hundred fifty-three dollars per month.

(10) If unmarried with three children at the time of injury, sixty-six percent of his wages but not less than two hundred seventy-six dollars per month.

(11) If unmarried with four children at the time of injury, sixty-eight percent of his wages but not less than two hundred ninety-nine dollars per month.

(12) If unmarried with five or more children at the time of injury, seventy percent of his wages but not less than three hundred twenty-two dollars per month.

(13) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workmen, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(14) In case of permanent total disability, if the character of the injury is such as to render the workman so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the workman is receiving care under or pursuant to the provisions of chapters 51.36 and 51.40 RCW.

(15) Should any further accident result in the permanent total disability of an injured workman, he shall receive the pension to which he would be entitled, notwithstanding the payment of a lump sum for his prior injury.

(16) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018, except that this limitation shall not apply to the payments provided for in subsection (14) of this section. [1975 1st ex.s. c 224 § 9; 1973 c 147 § 1; 1972 ex.s. c 43 § 20; 1971 ex.s. c 289 § 8; 1965 ex.s. c 122 § 2; 1961 c 274 § 2; 1961 c 23 § 51.32.060. Prior: 1957 c 70 § 31; 1951 c 115 § 2; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Saving—Severability—Repeal and saving—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

51.32.072 Additional payments for prior pensioners—Children—Remarriage—Attendant. Notwithstanding any other provision of law, every surviving spouse and every permanently totally disabled workman or temporarily totally disabled workman, if such workman was unmarried at the time of his injury or was then married but the marriage was later terminated by judicial action, receiving a pension or compensation for temporary total disability under this title pursuant to compensation schedules in effect prior to July 1, 1971, shall after July 1, 1975, be paid fifty percent of

the average monthly wage in the state as computed under RCW 51.08.018 per month and an amount equal to five percent of such average monthly wage per month to such totally disabled workman if married at the time of his injury and the marriage was not later terminated by judicial action, and an additional two percent of such average monthly wage for each child of such totally disabled workman at the time of injury in the legal custody of such totally disabled workman or such surviving spouse up to a maximum of five such children. The monthly payments such surviving spouse or totally disabled workman are receiving pursuant to compensation schedules in effect prior to July 1, 1971 shall be deducted from the monthly payments above specified.

Where such a surviving spouse has remarried, or where any such child of such workman, whether living or deceased, is not in the legal custody of such workman or such surviving spouse there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under compensation schedules in effect prior to July 1, 1971 for the benefit of and on account of each such child. In the case of any child or children of a deceased workman not leaving a surviving spouse or where the surviving spouse has later died, there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under such schedules for the benefit of and on account of each such child.

If the character of the injury or occupational disease is such as to render the workman so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues but such payments shall not obtain or be operative while the workman is receiving care under or pursuant to the provisions of this title except for care granted at the discretion of the supervisor pursuant to RCW 51.36.010: *Provided*, That such payments shall not be considered compensation nor shall they be subject to any limitation upon total compensation payments.

No part of such additional payments shall be payable from the accident fund.

The director shall pay monthly from the supplemental pension fund such an amount as will, when added to the compensation theretofore paid under compensation schedules in effect prior to July 1, 1971, equal the amounts hereinabove specified.

In cases where money has been or shall be advanced to any such person from the pension reserve, the additional amount to be paid under this section shall be reduced by the amount of monthly pension which was or is predicated upon such advanced portion of the pension reserve. [1975 1st ex.s. c 224 § 12.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

51.32.073 Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1975 1st ex.s. c 224). Each employer shall retain from the earnings of each workman that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: *Provided*, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and shall be no more than necessary to make such payments on a current basis. [1975 1st ex.s. c 224 § 10; 1973 c 110 § 3; 1972 ex.s. c 43 § 24; 1971 ex.s. c 289 § 17.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

51.32.073 Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1975 1st ex.s. c 286). Each employer shall retain from the earnings of each workman that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: *Provided*, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments prescribed in *RCW 51.32.070 and for the amount of any increase payable under the provisions of RCW 51.32.075 and shall be no more than necessary to make such payments on a current basis. [1975 1st ex.s. c 286 § 1; 1973 c 110 § 3; 1972 ex.s. c 43 § 24; 1971 ex.s. c 289 § 17.]

Reviser's note: (1) RCW 51.32.073 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

* (2) "RCW 51.32.070" was repealed by 1975 1st ex.s. c 224 § 19.

51.32.075 Adjustments in compensation or death benefits. Effective July 1 of each year, the compensation or death benefits payable pursuant to the provisions of this chapter, for temporary total disability, permanent total disability or death arising out of injuries or occupational diseases shall be adjusted as follows:

(1) For those whose right to compensation was established on or after July 1, 1971, and before July 1, 1975, an initial adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the maximum amount of compensation payable for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the maximum amount of compensation payable in the fiscal year ending June 30, 1975. After the initial adjustment has been made, subsequent adjustments shall be made in the same manner as provided in RCW 51.32.075, provided that the base upon which such subsequent adjustments are made shall be the amount of compensation determined after the initial adjustment. [1975 1st ex.s. c 286 § 2.]

51.32.090 Temporary total disability—Partial restoration of earning power—Return to available work—When employer continues wages—Limitation. (1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1) through (13) of RCW 51.32.060 as amended shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured workman as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3) As soon as recovery is so complete that the present earning power of the workman, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable unless the loss of earning power shall exceed five percent.

(4) Whenever an employer requests that a workman who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his usual work, the employer shall furnish to the physician, with a copy to the workman, a statement describing the available work in terms that will enable the physician to relate the physical activities of the job to the workman's disability. The physician shall then determine whether the workman is physically able to perform the work described. If the workman is released by his physician for said work, and the work thereafter comes to an end before the workman's recovery is sufficient in the judgment of his physician to permit him to return to his usual job, or to perform other available work, the workman's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the workman, impede his recovery to the extent that in the judgment of his physician he should not continue to work, the workman's temporary total disability payments shall be resumed when the workman ceases such work.

Once the workman returns to work under the terms of this subsection, he shall not be assigned by the employer to work other than the available work described without the workman's written consent, or without prior review and approval by the workman's physician.

In the event of any dispute as to the workman's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No workman shall receive compensation for or during the day on which injury was received or the three days following the same, unless his disability shall continue for a period of fourteen consecutive calendar days from date of injury.

(6) Should a workman suffer a temporary total disability and should his employer at the time of the injury continue to pay him the wages which he was earning at the time of such injury, such injured workman shall not

receive any payment provided in subsection (1) of this section during the period his employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018. [1975 1st ex.s. c 235 § 1; 1972 ex.s. c 43 § 22; 1971 ex.s. c 289 § 11; 1965 ex.s. c 122 § 3; 1961 c 274 § 4; 1961 c 23 § 51.32.090. Prior: 1957 c 70 § 33; 1955 c 74 § 8; prior: 1951 c 115 § 3; 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Saving—Severability—Repeal and saving—Effective date—
1923 c 136: See notes following RCW 51.04.030.

51.32.220 Reduction in compensation for temporary or permanent total disability—Limitation. For persons under the age of sixty-two receiving compensation for temporary or permanent total disability pursuant to the provisions of chapter 51.32 RCW, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 USC 424a. However, such reduction shall not apply when the combined compensation provided pursuant to chapter 51.32 RCW and the federal old-age, survivors and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 USC 424a. [1975 1st ex.s. c 286 § 3.]

51.32.240 Payments made due to error, mistake, erroneous adjudication, fraud, etc. (1) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived. The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.04 RCW, may exercise his discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the

state fund or self-insurer, as the case may be. The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.04 RCW, may exercise his discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(3) Whenever any payment of benefits under this title has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the fraud was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within one year of the discovery of the fraud. [1975 1st ex.s. c 224 § 13.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Chapter 51.36 MEDICAL AID

Sections

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| 51.36.010 | Extent and duration. |
| 51.36.020 | Transportation to place of treatment—Artificial substitutes and mechanical aids. |
| 51.36.060 | Duties of attending physician—Medical information. |

51.36.010 Extent and duration. Upon the occurrence of any injury to a workman entitled to compensation under the provisions of this title, he shall receive proper and necessary medical and surgical services at the hands of a physician of his own choice, if conveniently located, and proper and necessary hospital care and services during the period of his disability from such injury, but the same shall be limited in point of duration as follows:

In the case of permanent partial disability, not to extend beyond the date when compensation shall be awarded him, except when the workman returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him shall cease: *Provided*, That after any injured workman has returned to his work his medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his more complete recovery; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him or he is placed upon the permanent pension roll: *Provided, however*, That the supervisor of industrial insurance, solely in his discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such workman's life or provide for the administration of medical and therapeutic measures

including payment of prescription medications, but not including those controlled substances currently scheduled by the state board of pharmacy as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary. [1975 1st ex.s. c 234 § 1; 1971 ex.s. c 289 § 50; 1965 ex.s. c 166 § 2; 1961 c 23 § 51.36.010. Prior: 1959 c 256 § 2; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Saving—Severability—Repeal and saving—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.36.020 Transportation to place of treatment—Artificial substitutes and mechanical aids. When the injury to any workman is so serious as to require his being taken from the place of injury to a place of treatment, his employer shall, at the expense of the medical aid fund, or self-insurer, as the case may be, furnish transportation to the nearest place of proper treatment.

Every workman whose injury results in the loss of one or more limbs or eyes shall be provided with proper artificial substitutes and every workman, who suffers an injury to an eye producing an error of refraction, shall be once provided proper and properly equipped lenses to correct such error of refraction and his disability rating shall be based upon the loss of sight before correction. Every workman, whose accident results in damage to or destruction of an artificial limb, eye, or tooth, shall have same repaired or replaced. Every workman whose hearing aid or eyeglasses or lenses are damaged, destroyed, or lost as a result of an industrial accident shall have the same restored or replaced. The department or self-insurer shall be liable only for the cost of restoring damaged hearing aids or eyeglasses to their condition at the time of the accident. All mechanical appliances necessary in the treatment of an injured workman, such as braces, belts, casts, and crutches, shall be provided and all mechanical appliances required as permanent equipment after treatment has been completed shall continue to be provided or replaced without regard to the date of injury or date treatment was completed, notwithstanding any other provision of law. A workman, whose injury is of such short duration as to bring him within the time limit provisions of RCW 51.32.090, shall nevertheless receive during the omitted period medical, surgical, and hospital care and service and transportation under the provisions of this chapter. [1975 1st ex.s. c 224 § 14; 1971 ex.s. c 289 § 51; 1965 ex.s. c 166 § 3; 1961 c 23 § 51.36.020. Prior: 1959 c 256 § 3; prior: 1951 c 236 § 6; 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Saving—Severability—Repeal and saving—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.36.060 Duties of attending physician—Medical information. Physicians examining or attending injured workmen under this title shall comply with rules and regulations adopted by the director, and shall make such reports as may be requested by the department or self-insurer upon the condition or treatment of any such workman, or upon any other matters concerning such workmen in their care. All medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any workman whose injury or occupational disease is the basis of a claim under this title shall be made available at any stage of the proceedings to the employer, the claimant's representative, and the department upon request, and no person shall incur any legal liability by reason of releasing such information. [1975 1st ex.s. c 224 § 15; 1971 ex.s. c 289 § 53.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Chapter 51.44 FUNDS

Sections

51.44.033	Supplemental pension fund.
51.44.160	Interfund loans between reserve and supplemental pension funds—Audit.

51.44.033 Supplemental pension fund. There shall be, in the office of the state treasurer, a fund to be known and designated as the "supplemental pension fund". The director shall be the administrator thereof. Said fund shall be used for the sole purpose of making the additional payments therefrom prescribed in this title. [1975 1st ex.s. c 224 § 16; 1971 ex.s. c 289 § 18.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.44.160 Interfund loans between reserve and supplemental pension funds—Audit. The director is authorized to make periodic temporary interfund transfers between the reserve and supplemental pension funds as may be necessary to provide for payments from the supplemental pension fund as prescribed in this title. At least once annually, the director shall cause an audit to be made of all pension funds administered by the department to insure that proper crediting of funds has been made, and further to direct transfers between the funds for any interfund loans which may have been made in the preceding year and not fully reimbursed. [1975 1st ex.s. c 224 § 17; 1971 ex.s. c 289 § 60.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Chapter 51.52 APPEALS

Sections

- 51.52.050 Copy of department action to be served—Appeal.
 51.52.060 Notice of appeal—Time—Cross-appeal—Department may modify, reverse, etc.—Denial of appeal without prejudice.
 51.52.070 Contents of notice—Transmittal of record.
 51.52.106 Review of decision and order by board.

51.52.050 Copy of department action to be served—Appeal. Whenever the department has made any order, decision, or award, it shall promptly serve the workman, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award must be appealed to the board, Olympia, within sixty days, or the same shall become final.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the workman, beneficiary, employer, or other person aggrieved thereby may appeal to the board and said appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter. [1975 1st ex.s. c 58 § 1; 1961 c 23 § 51.52.050. Prior: 1957 c 70 § 55; 1951 c 225 § 5; prior: (i) 1947 c 281 § 1, part; 1943 c 210 § 1, part; 1939 c 41 § 1, part; 1937 c 211 § 1, part; 1927 c 310 § 1, part; 1921 c 182 § 1, part; 1919 c 131 § 1, part; 1911 c 74 § 2, part; Rem. Supp. 1947 § 7674, part. (ii) 1947 c 247 § 1, part; 1911 c 74 § 20, part; Rem. Supp. 1947 § 7676e, part. (iii) 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part. (iv) 1923 c 136 § 7, part; 1921 c 182 § 10, part; 1917 c 29 § 3, part; RRS § 7712, part. (v) 1917 c 29 § 11; RRS § 7720. (vi) 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

Saving—Severability—Repeal and saving—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.52.060 Notice of appeal—Time—Cross-appeal—Department may modify, reverse, etc.—Denial of appeal without prejudice. Any workman, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which such copy of such order, decision, or

award was communicated to such person, a notice of appeal to the board. Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties thereto of the receipt thereof and shall forward a copy of said notice of appeal to such other interested parties. Within twenty days of the receipt of such notice of the board, the workman or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken: *Provided*, That nothing contained in this section shall be deemed to change, alter or modify the practice or procedure of the department for the payment of awards pending appeal: *And provided*, That failure to file notice of appeal with both the board and the department shall not be ground for denying the appeal if the notice of appeal is filed with either the board or the department: *And provided*, That, if within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department shall direct the submission of further evidence or the investigation of any further fact, the time for filing such notice of appeal shall not commence to run until such person shall have been advised in writing of the final decision of the department in the matter: *Provided, further*, That in the event the department shall direct the submission of further evidence or the investigation of any further fact, as above provided, the department shall render a final order, decision, or award within ninety days from the date such further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days: *Provided, further*, That the department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may modify, reverse or change any order, decision, or award, or may hold any such order, decision, or award in abeyance for a period of ninety days which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal, and the board shall thereupon deny the appeal, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department. [1975 1st ex.s. c 58 § 2; 1963 c 148 § 1; 1961 c 274 § 8; 1961 c 23 § 51.52.060. Prior: 1957 c 70 § 56; 1951 c 225 § 6; prior: 1949 c 219 §§ 1, part, 6, part; 1947 c 246 § 1, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 §§ 2, part, 6, part; 1927 c 310 §§ 4, part, 8, part; 1923 c 136 § 2, part; 1919 c 134 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 §§ 5, part, 20, part; Rem Supp. 1949 §§ 7679, part, 7697, part.]

51.52.070 Contents of notice—Transmittal of record. The notice of appeal to the board shall set forth in full detail the grounds upon which the person appealing considers such order, decision, or award is unjust or unlawful, and shall include every issue to be considered by the board, and it must contain a detailed

statement of facts upon which such workman, beneficiary, employer, or other person relies in support thereof. The workman, beneficiary, employer, or other person shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in such notice of appeal or appearing in the records of the department. The department shall promptly transmit its original record, or a legible copy thereof produced by mechanical, photographic, or electronic means, in such matter to the board. [1975 1st ex.s. c 224 § 18; 1975 1st ex.s. c 58 § 3; 1961 c 23 § 51.52.070. Prior: 1957 c 70 § 57; 1951 c 225 § 7; prior: 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

51.52.106 Review of decision and order by board.

After the filing of a petition or petitions for review as provided for in RCW 51.52.104 the proposed decision and order of the hearing examiner, petition or petitions for review and, in its discretion, the record or any part thereof, may be considered by the board and on agreement of at least two of the regular members thereof, the board may, within twenty days after the receipt of such petition or petitions, decline to review the proposed decision and order and thereupon deny the petition or petitions. In such event all parties shall forthwith be notified in writing of said denial: *Provided*, That if a petition for review is not denied within said twenty days it shall be deemed to have been granted. If the petition for review is granted, the proposed decision and order, the petition or petitions for review and the record or any part thereof deemed necessary shall be considered by a panel of at least two of the members of the board, on which not more than one industry and one labor member serve. The chairman may be a member of any panel. The decision and order of any such panel shall be the decision and order of the board. Every final decision and order rendered by the board shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the board's order based thereon. The board shall, in all cases, render a final decision and order within one hundred and eighty days from the date a petition for review is filed. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal and to his attorney of record. [1975 1st ex.s. c 58 § 4; 1971 ex.s. c 289 § 23; 1965 ex.s. c 165 § 4; 1963 c 148 § 7; 1961 c 23 § 51.52.106. Prior: 1951 c 225 § 13.]

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51-98.060 and 51.98.070.

**Title 52
FIRE PROTECTION DISTRICTS**

Chapters

- 52.08 Powers.**
- 52.16 Finances.**
- 52.20 Local improvement districts.**
- 52.36 Miscellaneous provisions.**

**Chapter 52.08
POWERS**

- Sections
- 52.08.070 Repealed.
 - 52.08.092 Liability insurance for officers and employees authorized.

52.08.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.092 Liability insurance for officers and employees authorized. See RCW 36.16.138.

**Chapter 52.16
FINANCES**

- Sections
- 52.16.070 Obligations shall not exceed taxes, revenues from contracts, leases, services, cash balances, etc.—
Exceptions.

52.16.070 Obligations shall not exceed taxes, revenues from contracts, leases, services, cash balances, etc.—Exceptions. Except as authorized by virtue of the issuance and sale of district coupon warrants and general obligation bonds, and the creation of local improvement districts and the issuance of local improvement bonds and warrants of the fire protection district, the board of fire commissioners shall have no authority to incur expenses or other financial obligations payable in any year in excess of the aggregate amount of taxes levied for that year, revenues derived from contracts, leases and fire protection services rendered to any other municipal corporation, person, firm or corporation, or state agency, grants, bequests, gifts or donations whether received from governmental or nongovernmental sources, and the cash balances on hand in the expense and reserve funds of the district on the first day of that year. In the event that there are any unpaid warrants drawn on any district fund or funds for expenses and obligations incurred outstanding at the end of any calendar year, the same may be paid from taxes collected in the subsequent year or years, revenues, grants, bequests, gifts or donations. [1975 1st ex.s. c 130 § 1; 1972 ex.s. c 16 § 1; 1959 c 221 § 2; 1955 c 134 § 3; 1951 2nd ex.s. c 24 § 10; 1947 c 254 § 11; 1943 c 106 § 1; 1941 c 70 § 5; 1939 c 34 § 39; Rem. Supp. 1947 § 5654–139.]

Severability—Construction—1975 1st ex.s. c 130: "If any section, clause, or other provision of this 1975 amendatory act, or its application to any person or circumstance, is held invalid, the remainder of such 1975 amendatory act, or the application of such section, clause, or provision to other persons or circumstances, shall not be affected. The rule of strict construction shall have no application to this 1975 amendatory act, but the same shall be liberally construed, in order to carry out the purposes and objects for which this 1975 amendatory act is intended. When this 1975 amendatory act comes in conflict with any provision, limitation, or restriction in any other law,

this 1975 amendatory act shall govern and control." [1975 1st ex.s. c 130 § 6.]

Chapter 52.20
LOCAL IMPROVEMENT DISTRICTS

Sections

- 52.20.010 L.I.D.'s authorized—Petition or resolution method.
52.20.020 Dismissal, approval of petition or resolution of intention—Notice of hearing.
52.20.025 Hearing and subsequent proceedings to be in accordance with laws applicable to cities and town—Definitions.
52.20.050 Repealed.

52.20.010 L.I.D.'s authorized—Petition or resolution method. In any instance where for fire protection purposes the acquisition, maintenance and operation of real property, buildings, fire fighting equipment, apparatus and instrumentalities necessary therefor are of special benefit to part or all of the lands in the fire protection district, the board of fire commissioners shall have authority to include such lands in a local improvement district, and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement, on the basis of the special benefits to pay in whole or in part the damages or costs of any improvements ordered in such local improvement district. Such local improvement districts may be initiated either by resolution of the board of fire commissioners or by petition signed by the owners of a majority of the acreage of lands to be included within the local improvement district.

If the petition procedure is followed, said petition shall set forth generally the necessity for the creation of a local improvement district, outline the plan of fire protection to be accomplished, and the means by which the cost of the same shall be financed. Upon receipt of said petition, the board of fire commissioners of said district shall at its next regular meeting examine the same. The assessed owners of said lands as shown on the general tax roll in the county treasurer's office, last equalized, shall be prima facie evidence of the ownership of the lands to be included in said local improvement district. If said petition is found sufficient, said district board shall proceed to consider the same and to determine whether such local improvement appears feasible and of special benefit to the lands concerned.

In case the board of fire commissioners shall desire to initiate the formation of a local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed district, describing the boundaries thereof, stating the estimated cost and expenses of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed district. [1975 1st ex.s. c 130 § 2; 1961 c 161 § 1; 1939 c 34 § 40; RRS § 5654-140.]

Severability—Construction—1975 1st ex.s. c 130: See note following RCW 52.16.070.

52.20.020 Dismissal, approval of petition or resolution of intention—Notice of hearing. If said petition is found insufficient or if said district board shall determine that such a local improvement district is unfeasible or of no special benefit to the lands concerned, it shall dismiss said petition. If said district board shall approve said petition or adopts a resolution of intention to order an improvement, it shall fix a day, hour and place for hearing the same and shall (1) mail notice of said hearing at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of each lot, tract or parcel of land within the proposed local improvement district as shown on the tax rolls of the county treasurer at the address shown thereon, and (2) publish notice of said hearing in a newspaper of general circulation in the county, to be selected by said board, for three consecutive weekly issues thereof published prior to the day of said hearing. The cost of said publication shall be advanced or paid in advance by the petitioners or, in the case of initiation by the board of fire commissioners, such costs shall be paid by the fire protection district. Such notices shall describe the boundaries of the proposed local improvement district and the plan of fire protection proposed or may refer to the resolution of intention describing the nature and territorial extent of the proposed improvement. Such notices shall state the means by which the cost of the same shall be financed, shall state the day, hour and place of hearing on said petition and shall be signed by the secretary of the fire protection district. In addition, the notice given each owner or reputed owner by mail shall state the estimated cost and expense of such improvement to be borne by the particular lot, tract or parcel. [1975 1st ex.s. c 130 § 3; 1961 c 161 § 2; 1939 c 34 § 41; RRS § 5654-141.]

Severability—Construction—1975 1st ex.s. c 130: See note following RCW 52.16.070.

52.20.025 Hearing and subsequent proceedings to be in accordance with laws applicable to cities and town—Definitions. The hearing for which notice is prescribed in RCW 52.20.020, as now or hereafter amended, and all subsequent proceedings in connection with the local improvement, including but not limited to the levying, collection and enforcement of local improvement assessments, and the authorization, issuance, and payment of local improvement bonds and warrants shall be in accordance with the provisions of law applicable to cities and towns set forth in chapters 35.43, 35.44, 35.45, 35.49, 35.50, and 35.53 RCW as now or hereafter amended, and fire protection districts shall have and may exercise the powers set forth in such chapters: *Provided*, That no local improvement guaranty fund shall be created: *And provided, further*, That for the purposes of RCW 52.16.070, 52.20.010, 52.20.020, and 52.20.025, as now or hereafter amended, with respect to the powers granted and the duties imposed in chapters 35.43, 35.44, 35.45, 35.49, 35.50, and 35.53 RCW:

(1) The words "city or town" shall be deemed to mean fire protection district.

(2) The secretary of a fire protection district shall perform the duties of the "clerk" or "city or town clerk".

(3) The board of fire commissioners of a fire protection district shall perform the duties of the "council" or "city or town council" or "legislative authority of a city or town".

(4) The board of fire commissioners of a fire protection district shall perform the duties of the "mayor".

(5) The word "ordinance" shall be deemed to mean a resolution of the board of fire commissioners of a fire protection district.

(6) The treasurer of the county in which a fire protection district is situated shall perform the duties of the "treasurer" or "city or town treasurer". [1975 1st ex.s. c 130 § 4; 1961 c 161 § 3.]

Severability—Construction—1975 1st ex.s. c 130: See note following RCW 52.16.070.

52.20.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 52.36
MISCELLANEOUS PROVISIONS**

Sections
52.36.090 First aid vehicle service—Establishment and collection of charges.
52.36.095 Ambulance service—Establishment and collection of charges.

52.36.090 First aid vehicle service—Establishment and collection of charges. Any fire protection district which provides first aid vehicle service pursuant to RCW 52.08.030, may pursuant to a resolution establish and collect reasonable charges for such services in order to reimburse the district for its costs of providing such services. [1975 c 64 § 1.]

52.36.095 Ambulance service—Establishment and collection of charges. Any fire protection district which provides ambulance service pursuant to RCW 52.08.030, may pursuant to a resolution establish and collect charges for such services in order to reimburse the district for all costs of providing such service: *Provided*, That any fire protection district which provides such ambulance service supported by an excess levy may waive such charges for service. [1975 1st ex.s. c 147 § 2.]

**Title 53
PORT DISTRICTS**

Chapters
53.08 Powers.
53.12 Commissioners—Elections.
53.18 Employment relations—Collective bargaining and arbitration.

**Chapter 53.08
POWERS**

Sections
53.08.041 Pollution control facilities or other industrial development actions—Validation—Implementation of Article 8, section 8 of the Constitution.
53.08.120 Contracts for labor and material—Small works roster.
53.08.207 Liability insurance for officers and employees authorized.
53.08.208 Actions against officer, employee, or agent—Defense and costs provided by port district—Exception.

53.08.041 Pollution control facilities or other industrial development actions—Validation—Implementation of Article 8, section 8 of the Constitution. All actions heretofore taken by port districts in conformity with the provisions of this chapter, and the provisions of *this 1975 amendatory act hereby made applicable thereto, relating to pollution control facilities or other industrial development, including, but not limited to, all bonds issued for such purposes, shall be deemed to have been taken pursuant to Article 8, section 8 of the Washington state Constitution and are hereby declared to be valid, legal and binding in all respects. All provisions of Title 53 RCW directly or indirectly relating to pollution control facilities or other industrial development are hereby found and declared to be legislation implementing the provisions of Article 8, section 8 of the Washington state Constitution. [1975 c 6 § 5.]

***Reviser's note:** "this 1975 amendatory act" [1975 c 6] see note following RCW 70.95A.035.
Severability—1975 c 6: See RCW 70.95A.940.
Construction—1975 c 6: See RCW 70.95A.912.

53.08.120 Contracts for labor and material—Small works roster. All material required by a port district may be procured in the open market or by contract and all work ordered may be done by contract or day labor. All such contracts for work, the estimated cost of which exceeds thirty thousand dollars, shall be let at public bidding upon notice published in a newspaper in the district at least ten days before the letting, calling for sealed bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder.

Each port district shall maintain a small works roster which shall be comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in the state of Washington.

Whenever work is done by contract, the estimated cost of which is thirty thousand dollars or less, the managing official of the port district shall invite proposals from all appropriate contractors on the small works roster: *Provided*, That whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

When awarding such a contract for work, the estimated cost of which is thirty thousand dollars or less, the managing official shall give weight to the contractor submitting the lowest and best proposal, and whenever it would not violate the public interest, such contracts shall be distributed equally among contractors, including minority contractors, on the small works roster. [1975 1st ex.s. c 47 § 1; 1955 c 348 § 2. Prior: 1921 c 179 § 1, part; 1911 c 92 § 5, part; RRS § 9693, part.]

Severability—1955 c 348: "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." [1955 c 348 § 7.] This applies to RCW 53.08.120, 53.08.130, 53.12.245, 53.12.250 and 53.36.010.

53.08.207 Liability insurance for officers and employees authorized. See RCW 36.16.138.

53.08.208 Actions against officer, employee, or agent—Defense and costs provided by port district—Exception. Whenever any action, claim or proceeding is instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds: *Provided*, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his employment with or duties for the district. [1975 c 60 § 1.]

Chapter 53.12 COMMISSIONERS—ELECTIONS

Sections	
53.12.250	Repealed.
53.12.260	Compensation.
53.12.265	Waiver of compensation.
53.12.270	Delegation of powers to managing official of port district.

53.12.250 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

53.12.260 Compensation. Commissioners of a port district shall receive up to forty dollars per day for each day or portion thereof spent (a) in actual attendance at official meetings of the port district commission, or (b) in performance of other service in behalf of the district: *Provided*, That no commissioner shall receive compensation for more than seventy-two days for any calendar year: *Provided further*, That no commissioner of a port district having a population of less than one hundred thousand persons according to the most recent United States census shall receive compensation for more than forty-eight days for any calendar year. For any commissioner who has not elected to become a member of public employees retirement system before May 1, 1975,

the compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state nor shall attendance at such meetings or other service on behalf of the district constitute service as defined in RCW 41.40.010(9): *Provided*, That in the case of a port district when commissioners are receiving compensation and contributing to the public employees retirement system, these benefits shall continue in full force and effect notwithstanding the provisions of RCW 53.12.260 and 53.12.265. [1975 1st ex.s. c 187 § 1.]

53.12.265 Waiver of compensation. A commissioner of any port district may waive all or any portion of his compensation payable under RCW 53.12.260 as to any month or months during his term of office, by a written waiver filed with the secretary of the commission. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which said compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made. [1975 1st ex.s. c 187 § 2.]

53.12.270 Delegation of powers to managing official of port district. The commission may delegate to the managing official of a port district such administrative powers and duties of the commission as it may deem proper for the efficient and proper management of port district operations. Any such delegation shall be authorized by appropriate resolution of the commission, which resolution must also establish guidelines and procedures for the managing official to follow. [1975 1st ex.s. c 12 § 1.]

Chapter 53.18 EMPLOYMENT RELATIONS—COLLECTIVE BARGAINING AND ARBITRATION

Sections	
53.18.030	Criteria for choice of employee organization—Procedures for resolution of controversy.

53.18.030 Criteria for choice of employee organization—Procedures for resolution of controversy. In determining which employee organization will represent them, employees shall have maximum freedom in exercising their right of self-organization.

Controversies as to the choice of employee organization within a port shall be submitted to the public employment relations commission. Employee organizations may agree with the port district to independently resolve jurisdictional disputes: *Provided*, That when no other procedure is available the procedures of RCW 49.08.010 shall be followed in resolving such disputes. In such case the chairman of the public employment relations commission shall, at the request of any employee organization, arbitrate any dispute between employee organizations and enter a binding award in such dispute. [1975 1st ex.s. c 296 § 38; 1967 c 101 § 3.]

Effective date—1975 2nd ex.s. c 5: See RCW 41.58.901.

*Powers and duties of public employment relations commission:
Chapter 41.58 RCW.*

employment with or duties for the district. [1975 c 60 § 2.]

Title 54 PUBLIC UTILITY DISTRICTS

Chapters

- 54.16 Powers.**
- 54.28 Privilege taxes.**
- 54.36 Liability to other taxing districts.**

Chapter 54.16 POWERS

Sections

- 54.16.092 Employment interview expenses.
- 54.16.096 Liability insurance for officers and employees authorized.
- 54.16.097 Actions against officer, employee, or agent—Defense and costs provided by public utility district—Exception.
- 54.16.120 Local utility districts authorized.
- 54.16.230 Sewage system works—Acquire, construct, operate, etc.—Authorizing election—Procedure.
- 54.16.240 Sewage system works—Resolution or petition—Voter approval or rejection.
- 54.16.250 Sewage system works—Ballot proposition—Canvass.
- 54.16.260 Sewage system works—Accounts and funding.
- 54.16.270 Sewage system works—Existing authority not affected.

54.16.092 Employment interview expenses. When a district commission finds that a vacancy for a technical or managerial position requires special qualifications or entails responsibilities and duties of such a nature that substantial benefits will accrue to the district from personal interviews of candidates for such a vacancy to be held in the district, the district commission, by resolution adopted at a regular meeting, may authorize the payment of actual necessary travel and living expenses of such candidates incurred while in travel status. [1975 1st ex.s. c 140 § 1.]

54.16.096 Liability insurance for officers and employees authorized. See RCW 36.16.138.

54.16.097 Actions against officer, employee, or agent—Defense and costs provided by public utility district—Exception. Whenever any action, claim or proceeding is instituted against any person who is or was an officer, employee, or agent of a public utility district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds: *Provided*, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his

54.16.120 Local utility districts authorized. A district may, by resolution, establish and define the boundaries of local assessment districts to be known as local utility district No. -----, for distribution, under the general supervision and control of the commission, of water for domestic use, irrigation, and electric energy, and for providing street lighting, or any of them, and in like manner provide for the purchasing, or otherwise acquiring, or constructing and equipping and maintaining and operating distribution systems for such purposes, and for extensions and betterments thereof, and may levy and collect in accordance with the special benefits conferred thereon, special assessments and reassessments on property specially benefited thereby, for paying the cost and expense thereof, or any portions thereof, as herein provided, and issue local improvement bonds or warrants or both to be repaid wholly or in part by collection of local improvement assessments. [1975 c 46 § 1; 1955 c 390 § 13. Prior: 1951 c 209 § 1; 1945 c 143 § 1(l), part; 1931 c 1 § 6(l), part; Rem. Supp. 1945 § 11610(l), part.]

54.16.230 Sewage system works—Acquire, construct, operate, etc.—Authorizing election—Procedure. A public utility district may acquire, construct, operate, maintain, and add to sewage systems, subject to and in compliance with the county comprehensive plan, under the general powers of Title 54 RCW or through the formation of local utility districts as provided in RCW 54.16.120 through 54.16.170: *Provided*, That prior to engaging in any sewage system works as authorized by this section, the voters of the public utility district shall first approve by majority vote a referendum proposition authorizing such district to exercise the powers set forth in this section, which proposition shall be presented at a general election. [1975 1st ex.s. c 57 § 1.]

54.16.240 Sewage system works—Resolution or petition—Voter approval or rejection. The commission of a public utility district, by resolution may, or on petition in the same manner as provided for the creation of a district under RCW 54.08.010 shall, submit to the voters for their approval or rejection the proposal that said public utility district be authorized to exercise the powers set forth in RCW 54.16.230. [1975 1st ex.s. c 57 § 2.]

54.16.250 Sewage system works—Ballot proposition—Canvass. The legislative authority of the county in which the public utility district is located, upon receipt of the resolution of the public utility district commission or petition as provided for in RCW 54.08.010, shall submit such proposal to the voters of the district at the next general election in substantially the following terms:

Shall Public Utility District No. _____ of _____ County be authorized to acquire, construct, operate, maintain, and add to sewage systems?

Yes

No

Within ten days after such election, the election board of the county shall canvass the returns, and if at such election a majority of voters voting on the proposition shall vote in favor of such authority, the district shall have the powers set forth in RCW 54.16.230. [1975 1st ex.s. c 57 § 3.]

54.16.260 Sewage system works—Accounts and funding. Accounts and funding for any sewage system or systems shall be kept as provided in RCW 43.09.210. [1975 1st ex.s. c 57 § 4.]

54.16.270 Sewage system works—Existing authority not affected. Nothing contained in RCW 54.16.230 through 54.16.260 shall change or alter the present authority of certain public utility districts as regards sewage systems and as provided in RCW 54.16.180. [1975 1st ex.s. c 57 § 5.]

**Chapter 54.28
PRIVILEGE TAXES**

Sections

- 54.28.030 Districts' report to department of revenue.
- 54.28.040 Tax computed—Payment—Disposition.
- 54.28.050 Distribution of tax.

54.28.030 Districts' report to department of revenue. On or before the fifteenth day of March of each year, each district subject to this tax shall file with the department of revenue a report verified by the affidavit of its manager or secretary on forms prescribed by the department of revenue. Such report shall state (1) the gross revenues derived by the district from the sale of all distributed energy to consumers and the respective amounts derived from such sales within each county; (2) the gross revenues derived by the district from the sale of self-generated energy for resale; (3) the amount of all generated energy distributed by a district from its own generating facilities, the wholesale value thereof, and the basis on which the value is computed; (4) the total cost of all generating facilities and the cost of acquisition of land and land rights for reservoir purposes in each county, and (5) such other and further information as the department of revenue reasonably may require in order to administer the provisions of this chapter. In case of failure by a district to file such report, the department may proceed to determine the information, which determination shall be contestable by the district only for actual fraud. [1975 1st ex.s. c 278 § 30; 1959 c 274 § 3; 1957 c 278 § 3. Prior: 1949 c 227 § 1(b); 1947 c 259 § 1(b); 1941 c 245 § 2(b); Rem. Supp. 1949 § 11616-2(b).]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

54.28.040 Tax computed—Payment—Disposition. Prior to May 1st, the department of revenue shall compute the tax imposed by this chapter for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or before the following June 1st. Upon receipt of the amount of each tax imposed the department of revenue shall deposit the same with the state treasurer, who shall deposit four percent thereof in the general fund of the state and shall distribute the remainder in the manner hereinafter set forth. The state treasurer shall send a duplicate copy of each such letter of transmittal to the department of revenue. [1975 1st ex.s. c 278 § 31; 1957 c 278 § 4. Prior: 1949 c 227 § 1(c); 1947 c 259 § 1(c); 1941 c 245 § 2(c); Rem. Supp. 1949 § 11616-2(c).]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

54.28.050 Distribution of tax. After computing the tax imposed by this chapter, the department of revenue shall instruct the state treasurer, after placing four percent in the state general fund, to distribute the balance collected under RCW 54.28.020 subsection (1) to each county in proportion to the gross revenue from sales made within each county; and to distribute the balance collected under RCW 54.28.020 subsections (2) and (3) as follows: If the entire generating facility, including reservoir, if any, is in a single county then all of the balance to the county where such generating facility is located. If any reservoir is in more than one county, then to each county in which the reservoir or any portion thereof is located a percentage equal to the percentage determined by dividing the total cost of the generating facilities, including adjacent switching facilities, into twice the cost of land and land rights acquired for any reservoir within each county, land and land rights to be defined the same as used by the federal power commission. If the powerhouse and dam, if any, in connection with such reservoir are in more than one county, the balance shall be divided sixty percent to the county in which the owning district is located and forty percent to the other county or counties or if said powerhouse and dam, if any, are owned by a joint operating agency organized under chapter 43.52 RCW, or by more than one district or are outside the county of the owning district, then to be divided equally between the counties in which such facilities are located. If all of the powerhouse and dam, if any, are in one county, then the balance shall be distributed to the county in which the facilities are located. [1975 1st ex.s. c 278 § 32; 1959 c 274 § 4; 1957 c 278 § 5. Prior: 1949 c 227 § 1(d); 1947 c 259 § 1(d); 1941 c 245 § 2(d); Rem. Supp. 1949 § 11616-2(d).]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective date—1959 c 274: "The effective date of section 4 of this 1959 amendatory act shall be January 1, 1960." [1959 c 274 § 6.] This applies to RCW 54.28.050.

Chapter 54.36

LIABILITY TO OTHER TAXING DISTRICTS

Sections

54.36.010 Definitions.

54.36.010 Definitions. As used in this chapter:

"Public utility district" means public utility district or districts or a joint operating agency or agencies.

"Construction project" means the construction of generating facilities by a public utility district. It includes the relocation of highways and railroads, by whomever done, to the extent that it is occasioned by the overflowing of their former locations, or by destruction or burying incident to the construction.

"Base-year enrollment" means the number of pupils enrolled in a school district on the first of May next preceding the date construction was commenced.

"Subsequent-year enrollment" means the number of pupils enrolled in a school district on any first of May after construction was commenced.

"Construction pupils" means pupils who have a parent who is a full time employee on the construction project and who moved into the school district subsequent to the first day of May next preceding the day the construction was commenced.

"Nonconstruction pupils" means other pupils. [1975 1st ex.s. c 10 § 1; 1973 1st ex.s. c 154 § 99; 1957 c 137 § 1.]

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

Operating agencies: Chapter 43.52 RCW.

Title 56

SEWER DISTRICTS

Chapters

56.08 Powers—Comprehensive plan.

56.16 Finances.

56.32 Consolidation of districts—Merger.

Chapter 56.08

POWERS—COMPREHENSIVE PLAN

Sections

56.08.070 Contracts for labor and materials—Call for bids—Small works roster—Award of contract—Emergency, requirements waived.

56.08.107 Liability insurance for officers and employees authorized.

56.08.070 Contracts for labor and materials—Call for bids—Small works roster—Award of contract—Emergency, requirements waived. All materials purchased and work ordered, the estimated cost of which is in excess of two thousand five hundred dollars shall be let by contract. All contract projects, the estimated cost of which is less than five thousand dollars, may be awarded without bid to a contractor on the small works roster. The small works roster shall be comprised of at least five responsible contractors who have requested to be on the list. The board of sewer

commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. The board of sewer commissioners shall distribute the number of project offers as equally as possible among the contractors on the small works roster. The small works roster shall be revised every six months. All contract projects in excess of five thousand dollars shall be let by competitive bidding. Before awarding any competitive contract the board of sewer commissioners shall cause to be published in the newspapers in general circulation where the district is located at least once, ten days before the letting of such contract, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of sewer commissioners subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of sewer commissioners on or before the day and hour named therein. Each bid shall be accompanied by a bid proposal deposit in the form of a certified check, cashier's check, postal money order, or surety bond payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid and no bid shall be considered unless accompanied by such bid proposal deposit. At the time and place named such bids shall be publicly opened and read and the board of sewer commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications: *Provided*, That no contract shall be let in excess of the cost of said materials or work, or if in the opinion of the board of sewer commissioners all bids are unsatisfactory they may reject all of them and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If such contract be let, then and in such case all checks, cash or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials or doing such work, and a bond to perform such work furnished with sureties satisfactory to the board of sewer commissioners in the full amount of the contract price between the bidder and the commission in accordance with bid. If said bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the said check, cash or bid bonds and the amount thereof shall be forfeited to the sewer district. In the event of an emergency when the public interest or property of the sewer district would suffer material injury or damage by delay, upon resolution of the board of sewer commissioners declaring the existence of such emergency and reciting the facts constituting the same, the board may waive the requirements of this chapter with reference to any purchase or contract. [1975 1st ex.s. c 64 § 1; 1971 ex.s. c 272 § 3; 1965 c 71 § 1; 1941 c 210 § 44; Rem. Supp. 1941 § 9425–53.]

56.08.107 Liability insurance for officers and employees authorized. See RCW 36.16.138.

Chapter 56.16 FINANCES

Sections

- 56.16.060 Revenue bonds—Issuance, form, payment, etc.
56.16.065 Revenue warrants and revenue bond anticipation warrants.
56.16.080 Special fund, considerations in creating—Rights of bondholder.

56.16.060 Revenue bonds—Issuance, form, payment, etc. When sewer revenue bonds are issued for authorized purposes, said bonds shall be in bearer form or registered as to principal or interest or both, and may provide for conversion between registered and coupon bonds; shall be in such denominations, shall be numbered, shall bear such date, shall be payable at such time or times up to a maximum period of not to exceed thirty years and at such place or places one of which must be the office of the treasurer of the county in which the district is located, or of the county in which fifty-one percent or more of the area of the district is located such place or places to be determined by the board of commissioners of the district; shall bear interest at such rate or rates payable at such time or times as authorized by the board of sewer commissioners; shall be executed by the president of the board of commissioners and attested 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 have the seal of the district impressed thereon; and may have facsimile signatures of the president and secretary imprinted on the interest coupons in lieu of original signatures. [1975 1st ex.s. c 25 § 1; 1971 ex.s. c 272 § 4; 1970 ex.s. c 56 § 81; 1969 ex.s. c 232 § 86; 1959 c 103 § 8; 1941 c 210 § 19; Rem. Supp. 1941 § 9425–28.]

Facsimile signature on bonds and coupons: RCW 39.44.100 through 39.44.102.

56.16.065 Revenue warrants and revenue bond anticipation warrants. Sewer 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. Sewer 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. [1975 1st ex.s. c 25 § 4.]

56.16.080 Special fund, considerations in creating—Rights of bondholder. In creating any special fund or funds the sewer commissioners of such sewer 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 the interest thereon, issued against any such fund as herein provided, shall be a valid claim of the holder 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 sewer district within the meaning of the constitutional provisions and limitations. Each such bond or warrant shall state upon its face that it is payable from a special fund, naming the said fund and the resolution creating it. Said bonds shall be sold in such manner, at such prices and at such rate or rates of interest as the sewer commissioners shall deem for the best interests of the sewer 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 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 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 without regard to any fixed proportion, of revenue shall be set aside and paid into said special fund as provided in the resolution creating such fund or authorizing such bonds. In case any sewer district shall fail thus to set aside and pay said fixed proportion or amount as aforesaid, the holder of any bond payable from such special fund may bring suit or action against the sewer district and compel such setting aside and payment. [1975 1st ex.s. c 25 § 2; 1970 ex.s. c 56 § 82; 1941 c 210 § 21; Rem. Supp. 1941 § 9425–30.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Chapter 56.32 CONSOLIDATION OF DISTRICTS—MERGER

Sections

- 56.32.010 Consolidation authorized—Methods.
56.32.020 Petition method—Signers—Filing—Certificate of sufficiency.
56.32.030 Agreements by consolidating districts—Contents—Comprehensive plan.
56.32.040 Election—Proposition—Notice.
56.32.050 Consolidation effected—Rights and powers of new district.
56.32.080 Merger of districts—Authorized.
56.32.100 Election on merging of districts.
56.32.110 Return of election—When merger effective—Cessation of merging district.
56.32.115 County auditor defined.

56.32.010 Consolidation authorized—Methods.

Two or more sewer districts, adjoining or in close proximity to each other, may be joined into one consolidated sewer district. The consolidation may be initiated in either of the following ways: Ten percent of the legal electors residing within each of the sewer districts proposed to be consolidated may petition the board of sewer commissioners of each of their respective sewer districts to cause the question to be submitted to the legal electors of the sewer districts proposed to be consolidated; or, the boards of sewer commissioners of each of the sewer districts proposed to be consolidated may by resolution determine that the consolidation 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. [1975 1st ex.s. c 86 § 1; 1967 c 197 § 2.]

56.32.020 Petition method—Signers—Filing—Certificate of sufficiency.

If consolidation proceedings are initiated by petition, upon the filing of such petitions with the boards of sewer commissioners of the sewer districts, the boards of sewer commissioners of all of the districts shall file such petitions with the county auditor of each county in which any of the affected districts is located, who shall within ten days examine the signatures thereon and certify to the sufficiency or insufficiency thereof. If all of the petitions shall be found to contain a sufficient number of signatures, the respective county auditor shall transmit them, together with his certificate of sufficiency attached thereto, to the boards of sewer commissioners of each of the districts proposed for consolidation. In the event that there are no legal electors residing in one or more of the sewer districts proposed to be consolidated, the petitions may be signed by such a number as appear of record to own at least a majority of the acreage in the pertinent sewer district, and the petitions shall disclose the total number of acres of land in the sewer district and shall also contain the names of all record owners of land therein. [1975 1st ex.s. c 86 § 2; 1967 c 197 § 3.]

56.32.030 Agreements by consolidating districts—Contents—Comprehensive plan.

Upon the receipt of each county auditor's certificate of sufficiency of the petitions by the boards of sewer commissioners of the districts proposed for consolidation, hereinafter referred to as the "consolidating districts", or upon adoption by the boards of sewer commissioners of the consolidating districts of their resolutions for consolidation, the boards 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 sewer supply for the consolidated district and, if such comprehensive plan or scheme of sewer supply provides that one or more of the consolidating districts or the proposed consolidated district issue revenue bonds for the construction and/or other costs of any part or all of the comprehensive plan, then the details thereof shall be set forth.

The requirement that a comprehensive plan or scheme of sewer supply 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. [1975 1st ex.s. c 86 § 3; 1967 c 197 § 4.]

56.32.040 Election—Proposition—Notice.

The respective boards of sewer commissioners of the consolidating districts shall certify such agreement to the county auditors of the counties in which the districts are located. Thereupon, the county auditor of the county in which the largest amount of territory of the proposed consolidated sewer is located shall call a special election 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 sewer 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. [1975 1st ex.s. c 86 § 4; 1967 c 197 § 5.]

56.32.050 Consolidation effected—Rights and powers of new district.

If at the election a majority of the voters in each of the consolidating districts shall vote in favor of the consolidation, the county canvassing board of the county the auditor of which conducted the election shall so declare in its canvass and the return of the 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 sewer district and municipal corporation of the state of Washington.

The name of such new sewer district shall be "----- (name)----- Sewer District of ----- County", which shall be the name appearing on the ballot.

The district shall have all and every power, right and privilege possessed by other sewer 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 scheme and plan of sewer supply contained in the agreement for consolidation and any future additions and betterments to the comprehensive scheme and plan of sewer supply, as its board of sewer commissioners shall by resolution adopt, without submitting a proposition therefor to the voters of the district. [1975 1st ex.s. c 86 § 5; 1967 c 197 § 6.]

56.32.080 Merger of districts—Authorized.

When there are two sewer districts, the territories of which are adjoining or in close proximity to each other, either district hereinafter referred to as the "merging district", may merge into the other districts, hereinafter referred to as the "merger district", and the merger district will survive under its original name or number. [1975 1st ex.s. c 86 § 6; 1967 c 197 § 9.]

56.32.100 Election on merging of districts. The respective boards of sewer commissioners of the districts shall certify the agreement to the county auditor of the county in which the largest amount of territory of the merging district is located. Thereupon, the county auditor shall call a special election for the purpose of submitting to the voters of the merging district the proposition of whether the merging district shall be merged into the merger district. Notice of the election shall be given and the election conducted in accordance with the general election laws. [1975 1st ex.s. c 86 § 7; 1967 c 197 § 11.]

56.32.110 Return of election—When merger effective—Cessation of merging district. If at the election a majority of the voters of the merging sewer district shall vote in favor of the merger, the county canvassing board of the county the auditor of which conducted the election shall so declare in its canvass and the return of the election shall be made within ten days after the date thereof. Upon the return the merger shall be effective and the merging sewer district shall cease to exist and shall become a part of the merger sewer district. The sewer commissioners of the merging district shall cease to hold office and the affairs of the merged districts shall be managed by the sewer commissioners of the merger district. [1975 1st ex.s. c 86 § 8; 1967 c 197 § 12.]

56.32.115 County auditor defined. For the purposes of *this 1975 amendatory act, county auditor of a county shall mean the election officer of that county. [1975 1st ex.s. c 86 § 9.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 86] consists of RCW 56.32.115 and amendments to RCW 56.32.010-56.32.050, 56.32.080, 56.32.100, and 56.32.110.

Title 57 WATER DISTRICTS

Chapters

- 57.06 Validation and construction.**
- 57.08 Powers.**
- 57.12 Officers and elections.**
- 57.20 Finances.**

Chapter 57.06 VALIDATION AND CONSTRUCTION

Sections

- 57.06.140 1975 validation.
- 57.06.150 1975 validation.
- 57.06.160 1975 validation.
- 57.06.170 1975 validation.

57.06.140 1975 validation. Each and all of the respective areas of land heretofore attempted to be organized into water districts under the provisions of chapter 114, Laws of 1929, and amendments thereto, are hereby validated and declared to be duly existing water districts, having the respective boundaries set forth in their organization proceedings as shown by the

files in the office of the board of county commissioners of the county in question and of such water districts. [1975 1st ex.s. c 188 § 15.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

57.06.150 1975 validation. All debts, contracts, and obligations heretofore made or incurred by or in favor of any such water district, and all bonds or other obligations executed by such districts in connection with or in pursuance of such attempted organization, and any and all assessments or levies, and all other things and proceedings done or taken by such districts or by their respective officers, including by persons acting as commissioners nominated by petition of at least twenty-five percent of the qualified electors of the district, and elected and qualified as otherwise provided by law, acting under or in pursuance of such attempted organization, are hereby declared legal and valid and of full force and effect. [1975 1st ex.s. c 188 § 16.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

57.06.160 1975 validation. The holding and exercise of the office of commissioner by persons now serving as members of the first board of commissioners under or in pursuance of such attempted organization, nominated by petition of at least twenty-five percent of the qualified electors of the district, and elected and qualified as otherwise provided by law, is hereby declared legal and valid and of full force and effect. [1975 1st ex.s. c 188 § 17.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

57.06.170 1975 validation. RCW 57.06.140 through 57.06.160 shall apply only to such districts attempted to be organized under chapter 114, Laws of 1929, and amendments thereto, which have maintained their organization as such since the date of such attempted organization, establishment, or creation, or which have been merged into another municipal corporation. [1975 1st ex.s. c 188 § 18.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Chapter 57.08 POWERS

Sections

- 57.08.050 Board may create positions—Contracts for materials and work—Small works roster—Notice—Bids—Emergency, requirements waived.
- 57.08.107 Liability insurance for officers and employees authorized.

57.08.050 Board may create positions—Contracts for materials and work—Small works roster—Notice—Bids—Emergency, requirements waived. 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. All materials purchased and work ordered, the estimated cost of which is in excess of two thousand five hundred dollars shall be let by contract. All contract projects, the estimated cost of which is less than five thousand dollars,

may be awarded without bid to a contractor on the small works roster. The small works roster shall be comprised of at least five responsible contractors who have requested to be on the list. The board of water commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. The board of water commissioners shall distribute the number of project offers as equally as possible among the contractors on the small works roster. The small works roster shall be revised every six months. All contract projects in excess of five thousand dollars shall be let by competitive bidding. Before awarding any such contract the board of water commissioners shall cause to be published in the newspapers in general circulation throughout the county where the district is located at least once ten days before the letting of such contract, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of water commissioners subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of water commissioners on or before the day and hour named therein. Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless he enters into a contract in accordance with his bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of water commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting his own plans and specifications: *Provided*, That no contract shall be let in excess of the cost of said materials or work, or if in the opinion of the board of water commissioners all bids are unsatisfactory they may reject all of them and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders; but if such contract be let, then and in such case all checks, cash or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials or doing such work, and a bond to perform such work furnished with sureties satisfactory to the board of water commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If said bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the said check, cash or bid bonds and the amount thereof shall be forfeited to the water district: *Provided*, That if the bidder fails to enter into a contract in accordance with his bid,

and the board of water commissioners deems it necessary to take legal action to collect on any bid bond required herein, then, in such event, the water district shall be entitled to collect from said bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. 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 declaring the existence of such emergency and reciting the facts constituting the same, the board may waive the requirements of this chapter with reference to any purchase or contract. [1975 1st ex.s. c 64 § 2; 1965 c 72 § 1; 1947 c 216 § 2; 1929 c 114 § 21; Rem. Supp. 1947 § 11598. Cf. 1913 c 161 § 20.]

57.08.107 Liability insurance for officers and employees authorized. See RCW 36.16.138.

Chapter 57.12 OFFICERS AND ELECTIONS

Sections

57.12.010	Commissioners—President and secretary— Compensation.
57.12.020	Commissioners, nomination, declaration of candidacy, election law, vacancy—Qualification of voters.

57.12.010 Commissioners—President and secretary—Compensation. The officers of a district shall be a board of water commissioners consisting of three members. The board shall annually elect one of its members as president and another as secretary.

The secretary may be paid a reasonable sum for the clerical services performed by him. The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose which shall be a public record.

A district shall provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding twenty-five dollars for each day or major part thereof devoted to the business of the district: *Provided*, That the per diem for each commissioner shall not exceed twelve hundred dollars per year. No commissioner shall be employed full time by the district. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business, including his subsistence and lodging while away from his place of residence and mileage for use of personal automobile 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. [1975 1st ex.s. c 116 § 1; 1969 ex.s. c 148 § 8; 1959 c 108 § 5; 1959 c 18 § 1; 1945 c 50 § 2; 1929 c 114 § 7; Rem. Supp. 1945 § 11585. Cf. 1913 c 161 § 7.]

57.12.020 Commissioners, nomination, declaration of candidacy, election law, vacancy—Qualification of voters. Nominations for the first board of commissioners to

be elected at the election for the formation of the water district shall be by petition of at least twenty-five per cent of the qualified electors of the district, or twenty-five of the qualified electors of the district, whichever is lesser, filed in the auditor's office of the county in which the district is located, at least thirty days prior to the election. Thereafter, candidates for the office of water commissioners shall file declarations of candidacy and their election shall be conducted as provided by the general election laws. A vacancy on the board shall be filled by appointment by the remaining commissioners until the next regular election for commissioners: *Provided*, That if there is a vacancy of the entire board a new board may be appointed by the board of county commissioners.

Any person residing in the district who is a qualified voter under the laws of the state may vote at any district election. [1975 1st ex.s. c 188 § 14; 1959 c 18 § 3. Prior: 1953 c 251 § 4; 1947 c 216 § 1, part; 1945 c 50 § 1, part; 1931 c 72 § 1, part; 1929 c 114 § 6, part; Rem. Supp. 1947 § 11584, part. Cf. 1913 c 161 § 7, part.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Elections: Title 29 RCW.

Chapter 57.20 FINANCES

Sections

- 57.20.020 Revenue bonds—Special fund—Classification of service—Adequate rates and charges to be fixed.
57.20.027 Revenue warrants and revenue bond anticipation warrants.

57.20.020 Revenue bonds—Special fund—Classification of service—Adequate rates and charges to be fixed. 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, 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 the 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 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 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 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 shall be a valid claim of the holder 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 district within the meaning of the constitutional provisions and limitations. Each such bond or warrant shall state upon its face that it is payable from a special fund, naming the said fund and the resolution creating it. Said 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 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 fixed proportion or amount as aforesaid, the holder of any bond payable from such special fund may bring suit or action against the water district and compel such setting aside and payment.

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; 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. [1975 1st ex.s. c 25 § 3; 1970 ex.s. c 56 § 84; 1969 ex.s. c 232 § 88; 1959 c 108 § 11; 1939 c 128 § 3; RRS § 11588-1.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

57.20.027 Revenue warrants and revenue bonds anticipation warrants. 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. [1975 1st ex.s. c 25 § 5.]

**Title 59
LANDLORD AND TENANT**

Chapters

59.18 Residential Landlord-Tenant Act.

**Chapter 59.18
RESIDENTIAL LANDLORD-TENANT ACT**

Sections

59.18.270 Moneys paid as deposit or security for performance by tenant—Deposit by landlord in trust account—Receipt—Claims.

59.18.270 Moneys paid as deposit or security for performance by tenant—Deposit by landlord in trust account—Receipt—Claims. All moneys paid to the landlord by the tenant as a deposit as security for performance of the tenant's obligations in a lease or rental agreement shall promptly be deposited by the landlord in a trust account, maintained by the landlord for the purpose of holding such security deposits for tenants of the landlord, in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in Washington. Unless otherwise agreed in writing, the landlord shall be entitled to receipt of interest paid on such trust account deposits. The landlord shall provide the tenant with a written receipt for the deposit and shall provide written notice of the name and address and location of the depository and any subsequent change thereof. If during a tenancy the status of landlord is transferred to another, any sums in the deposit trust account affected by such transfer shall simultaneously be transferred to an equivalent trust account of the successor landlord, and the successor landlord shall promptly notify the tenant of the transfer and of the name, address and location of the new depository. The tenant's claim to any moneys paid under this section shall be prior to that of any creditor of the landlord, including a trustee in bankruptcy or receiver, even if such moneys are commingled. [1975 1st ex.s. c 233 § 1; 1973 1st ex.s. c 207 § 27.]

**Title 60
LIENS**

Chapters

- 60.04 Mechanics' and materialmen's liens.**
- 60.28 Lien for labor, materials, taxes on public works.**
- 60.44 Lien of doctors, nurses, hospitals, ambulance services.**

**Chapter 60.04
MECHANICS' AND MATERIALMEN'S LIENS**

Sections

- 60.04.010** Lien authorized—Bond by railroad company.
- 60.04.040** Lien for improving real property.
- 60.04.050** Priority of lien.
- 60.04.060** Claim—Contents—Form—Filing—Joinder.
- 60.04.067** Separate residential units—When time for filing lien claims commences to run—Definition.
- 60.04.100** Duration of lien—Limitation of action—When action commenced.
- 60.04.110** Extent of contractor's right to recover—Settlements—Rights of owner.
- 60.04.130** Rank of lien—Application of proceeds—Attorney's fees.
- 60.04.210** Interim or construction financing—Notice of lien—Duty of lender to withhold from disbursements—Liabilities of lender and lien claimant.

60.04.010 Lien authorized—Bond by railroad company. Every person performing labor upon, furnishing material, or renting, leasing or otherwise supplying equipment, to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge,

ditch, dyke, flume, tunnel, well, fence, machinery, railroad, street railway, wagon road, aqueduct to create hydraulic power or any other structure or who performs labor in any mine or mining claim or stone quarry, or trustees of any type of employee benefit plan, has a lien upon the same for the labor performed, contributions owed to the employee benefit plan on account of such labor performed, material furnished, or equipment supplied by each, respectively, whether performed, furnished, or supplied at the instance of the owner of the property subject to the lien or his agent; and every registered or licensed contractor, registered or licensed subcontractor, architect, or person having charge, of the construction, alteration or repair of any property subject to the lien as aforesaid, shall be held to be the agent of the owner for the purposes of the establishment of the lien created by this chapter: *Provided*, That whenever any railroad company shall contract with any person for the construction of its road, or any part thereof, such railroad company shall take from the person with whom such contract is made a good and sufficient bond, conditioned that such person shall pay all laborers, mechanics, materialmen, and equipment suppliers, and persons who supply such contractors with provisions, all just dues to such person or to any person to whom any part of such work is given, incurred in carrying on such work, which bond shall be filed by such railroad company in the office of the county auditor in each county in which any part of such work is situated. And if any such railroad company shall fail to take such bond, such railroad company shall be liable to the persons herein mentioned to the full extent of all such debts so contracted by such contractor. Contractors or subcontractors required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW shall be deemed the agents of the owner for the purposes of establishing the lien created by this chapter only if so registered or licensed. Persons dealing with contractors or subcontractors may rely, for the purposes of this section, upon a certificate of registration issued pursuant to chapter 18.27 RCW or license issued pursuant to chapter 19.28 RCW covering the period when the work or material shall be furnished, and lien rights shall not be lost by suspension or revocation of registration or license without their knowledge. [1975 c 34 § 3; 1971 ex.s. c 94 § 2; 1959 c 279 § 1; 1905 c 116 § 1; 1893 c 24 § 1; RRS § 1129. Prior: Code 1881 § 1957; 1877 p 219 § 19; 1873 p 441 § 2; 1863 p 419 § 1; 1860 p 286 § 1; 1854 p 392 § 1.]

Effective date—1971 ex.s. c 94: See note following RCW 60.04.060.

Construction—1893 c 24: "The provisions of law relating to liens created by this act, and all proceedings thereunder, shall be liberally construed with a view to effect their objects." [1893 c 24 § 18.]

Repeal and saving—1893 c 24: "All rights acquired under any existing law of this state are hereby preserved, and all actions now pending shall be proceeded with under the law as it exists at the time this act shall take effect. All acts or parts of acts in conflict with this act are hereby repealed." [1893 c 24 § 19.]

The two foregoing annotations apply to RCW 60.04.010, 60.04.030–60.04.180.

[1975 RCW Supp—p 546]

60.04.040 Lien for improving real property. Any person who, at the request of the owner of any real property, or his agent, clears, grades, fills in or otherwise improves the same, or any street or road in front of, or adjoining the same, and every person who, at the request of the owner of any real property, or his agents, rents, leases, or otherwise supplies equipment, or furnishes materials, including blasting powder, dynamite, caps and fuses, for clearing, grading, filling in, or otherwise improving any real property or any street or road in front of or adjoining the same, and every trustee of any type of employee benefit plan, has a lien upon such real property for the labor performed, contributions owed to the employee benefit plan on account of the labor performed, the materials furnished, or the equipment supplied for such purposes. [1975 c 34 § 4; 1971 ex.s. c 94 § 3; 1959 c 279 § 3; 1929 c 230 § 1; 1893 c 24 § 3; RRS § 1131. Prior: Code 1881 § 1958; 1877 p 220 § 20.]

Effective date—1971 ex.s. c 94: See note following RCW 60.04.060.

60.04.050 Priority of lien. The liens created by this chapter are preferred to any lien, mortgage or other incumbrance which may attach subsequently to the time of the commencement of the performance of the labor, the obligation to pay contributions to any type of employee benefit plan, the furnishing of the materials, or the supplying of the equipment for which the right of lien is given by this chapter, and are also preferred to any lien, mortgage or other incumbrance which may have attached previously to that time, and which was not filed or recorded so as to create constructive notice of the same prior to that time, and of which the lien claimant had no notice. [1975 c 34 § 5; 1959 c 279 § 4; 1893 c 24 § 4; RRS § 1132. Prior: Code 1881 § 1960; 1877 p 220 § 22.]

60.04.060 Claim—Contents—Form—Filing—Joinder. No lien created by this chapter shall exist, and no action to enforce the same shall be maintained, unless within ninety days from the date the contributions to any type of employee benefit plan are due, of the cessation of the performance of such labor, the furnishing of such materials, or the supplying of such equipment, a claim for such lien shall be filed for record as hereinafter provided, in the office of the county auditor of the county in which the property, or some part thereof to be affected thereby, is situated. Such claim shall state, as nearly as may be, the date contributions to any type of employee benefit plan became due, the time of the commencement and cessation of performing the labor, furnishing the material, or supplying the equipment, the names of the trustees of the employee benefit plan, the name of the person who performed the labor, furnished the material, or supplied the equipment, the name of the person by whom the laborer was employed (if known), the name of the person required by agreement or otherwise to pay contributions to any type of employee benefit plan, or to whom the material was furnished, or equipment supplied, a description of the property to be charged with

the lien sufficient for identification, the name of the owner, or reputed owner if known, and if not known, that fact shall be mentioned, the amount for which the lien is claimed, and shall be signed by the claimant, or by some person in his behalf, and be verified by the oath of the claimant, or some person in his behalf, to the effect that the affiant believes the claim to be just; in case the claim shall have been assigned the name of the assignee shall be stated; and such claim of lien may be amended in case of action brought to foreclose the same, by order of the court, as pleadings may be, insofar as the interests of third parties shall not be affected by such amendment. A claim of lien shall also state the address of the claimant. A claim of lien by trustees of any type of employee benefit plan shall state, as nearly as is known to the trustees, the names of all employees on whose behalf contributions are claimed. A claim for lien substantially in the following form shall be sufficient:

-----, claimant, vs. -----

Notice is hereby given that on the ---- day (date of commencement of performing labor or contributions to any type of employee benefit plan became due or furnishing material or supplying equipment) ----- at the request of ----- commenced to perform labor (or to furnish material or supply equipment to be used) upon ----- (here describe property subject to the lien) of which property the owner, or reputed owner, is ----- (or if the owner or reputed owner is not known, insert the word "unknown"), the performance of which labor (or the furnishing of which material or supply of which equipment) ceased on the ---- day of -----; that said labor performed (the amount of contributions owed or material furnished or equipment supplied) was of the value of ----- dollars, for which labor (or contributions) (or material) (or equipment) the undersigned claims a lien upon the property herein described for the sum of ----- dollars. (In case the claim has been assigned, add the words "and ----- is assignee of said claim", or claims, if several are united.)

-----, Claimant.

(Address, city, and state of claimant)

STATE OF WASHINGTON, COUNTY OF -----, ss.

-----, being sworn, says: I am the claimant (or attorney of the claimant, or administrator, representative or agent of trustees of an employee benefit plan) above named; I have heard the foregoing claim read and know the contents thereof, and believe the same to be just.

Subscribed and sworn to before me this ---- day of -----

Any number of claimants may join in the same claim for the purpose of filing the same and enforcing their

liens, but in such case the amount claimed by each original lienor, respectively, shall be stated: *Provided*, It shall not be necessary to insert in the notice of claim of lien provided for by this chapter any itemized statement or bill of particulars of such claim. [1975 c 34 § 6; 1971 ex.s. c 94 § 1; 1959 c 279 § 5; 1949 c 217 § 1(5a); 1893 c 24 § 5; Rem. Supp. 1949 § 1134. FORMER PARTS OF SECTION: (i) 1949 c 217 § 1(5b) now codified as RCW 60.04.064. (ii) 1949 c 217 § 1(5c) now codified as RCW 60.04.067.]

Effective date—1971 ex.s. c 94: "This 1971 amendatory act shall take effect on January 1, 1972." [1971 ex.s. c 94 § 4.]

60.04.067 Separate residential units—When time for filing lien claims commences to run—Definition. Where such labor is performed, such contributions owed to any type of employee benefit plan, such materials are furnished, or such equipment is supplied in the construction of two or more separate residential units the time for filing claims of lien against each separate residential unit shall commence to run upon the cessation of the performance of such labor, the date contributions to any type of employee benefit plan became due, the furnishing of such materials, or the supplying of such equipment on each such residential unit as provided in this chapter. A separate residential unit is defined as consisting of one residential structure together with any garages or other outbuildings appurtenant thereto. [1975 c 34 § 7; 1959 c 279 § 7; 1949 c 217 § 1(5c); Rem. Supp. 1949 § 1134–2. Formerly RCW 60.04.060, part.]

Separate properties, claim: RCW 60.04.090.

60.04.100 Duration of lien—Limitation of action—When action commenced. No lien created by this chapter binds the property subject to the lien for a longer period than eight calendar months after the claim has been filed unless an action be commenced in the proper court within that time to enforce such lien; or, if credit be given and the terms thereof be stated in the claim of lien, then eight calendar months after the expiration of such credit; and in case such action be not prosecuted to judgment within two years after the commencement thereof, the court, in its discretion, may dismiss the same for want of prosecution, and the dismissal of such action or a judgment rendered therein, that no lien exists, shall constitute a cancellation of the lien: *Provided*, That, for the purposes of this chapter, an action to enforce such lien shall not be timely commenced unless the filing of summons and complaint in a court of competent jurisdiction shall be made prior to the expiration of the eight month period, and service of the summons and complaint shall be made upon all necessary parties personally, or by commencement of service by publication, not later than ninety days after the filing of the summons and complaint. [1975 1st ex.s. c 231 § 1; 1943 c 209 § 1; 1893 c 24 § 9; RRS § 1138. Prior: 1881 § 1964; 1877 p 221 § 26; 1873 p 443 § 6; 1863 p 410 § 4; 1860 p 286 § 4; 1854 p 392 § 4.]

60.04.110 Extent of contractor's right to recover—Settlements—Rights of owner. The contractor shall be entitled to recover upon the claim filed by him only such amount as may be due him according to the terms of his contract, after deducting all claims of other parties for labor performed, for contributions owed to any type of employee benefit plan, materials furnished, and equipment supplied; and in all cases where a claim shall be filed under this chapter for labor performed, contributions owed to any type of employee benefit plan, materials furnished, or equipment supplied to any contractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action, the owner may withhold from the contractor the amount of money for which the claim is filed; and in case of judgment against the owner or his property, upon the lien, the owner shall be entitled to deduct from any amount due or to become due by him to the contractor, the amount of the judgment and costs, and if the amount of such judgment and costs shall exceed the amount due by him to the contractor or if the owner shall have settled with the contractors in full, he shall be entitled to recover back from the contractor the amount, including costs for which the lien is established in excess of any sum that may remain due from him to the contractor. [1975 c 34 § 8; 1959 c 279 § 9; 1893 c 24 § 10; RRS § 1139. Prior: Code 1881 § 1966 ; 1877 p 221 § 28.]

60.04.130 Rank of lien—Application of proceeds—Attorney's fees. In every case in which different liens are claimed against the same property, the court, in the judgment, must declare the rank of such lien or class of liens, which shall be in the following order:

- (1) All persons performing labor.
- (2) Contributions owed to employee benefit plans.
- (3) All persons furnishing material or supplying equipment.
- (4) The subcontractors.
- (5) The original contractors.

The proceeds of the sale of the property must be applied to each lien or class of liens in the order of its rank; and personal judgment may be rendered in an action brought to foreclose a lien, against any party personally liable for any debt for which the lien is claimed, and if the lien be established, the judgment shall provide for the enforcement thereof upon the property liable as in case of foreclosure of mortgages; and the amount realized by such enforcement of the lien shall be credited upon the proper personal judgment, and the deficiency, if any remaining unsatisfied, shall stand as a personal judgment, and may be collected by execution against the party liable therefor. The court may allow to the prevailing party in the action, whether plaintiff or defendant, as part of the costs of the action, the moneys paid for filing or recording the claim, and a reasonable attorney's fee in the superior court, court of appeals, and supreme court. [1975 c 34 § 9; 1971 c 81 § 129; 1969 c 38 § 1; 1959 c 279 § 10; 1893 c 24 § 12; RRS § 1141. Prior: Code 1881 § 1967; 1877 p

222 § 29; 1873 p 443 § 8; 1863 p 420 § 6; 1860 p 287 § 6; 1854 p 393 § 6.]

60.04.210 Interim or construction financing—Notice of lien—Duty of lender to withhold from disbursements—Liabilities of lender and lien claimant. Any lender providing interim or construction financing where there is not a payment bond of at least fifty percent of the amount of construction financing shall observe the following procedures:

(1) Draws against construction financing shall be made only after certification of job progress by the general contractor and the owner or his agent in such form as may be prescribed by the lender.

(2) Any potential lien claimant who has not received a payment within twenty days after the date required by his contract, employee benefit plan agreement, or purchase order may within twenty days thereafter file a notice as provided herein of the sums due and to become due, for which a potential lien claimant may claim a lien under chapter 60.04 RCW.

(3) The notice must be filed in writing with the lender at the office administering the interim or construction financing, with a copy furnished to the owner and appropriate general contractor. The notice shall state in substance and effect that such person, firm, trustee, or corporation is entitled to receive contributions to any type of employee benefit plan, has furnished labor, materials and supplies, or supplied equipment for which right of lien is given by this chapter, with the name of the general contractor, agent or person ordering the same, a common or street address of the real property being improved or developed, or if there be none the legal description of said real property, description of the labor, or material furnished, or equipment leased, or a brief statement describing the nature of the contributions owed to any type of employee benefit plan, the name, business address and telephone number of said lien claimant which notice shall be given by mailing the same by registered or certified mail, return receipt requested.

(4) After the receipt of such notice, the lender shall withhold from the next and subsequent draws such percentage thereof as is equal to that percentage of completion as certified in subsection (1) of this section, which is attributable to the potential lien claimant as of the date of the certification of job progress for the draw in question less contracted retainage. The percentage of completion attributable to the lien claimant shall be calculated from said certification of job progress, and shall be reduced to reflect any sums paid to or withheld for the potential lien claimant. Alternatively, the lender may obtain from the general contractor or borrower a payment bond for the benefit of the potential lien claimant in such sum.

(5) Sums so withheld shall not be disbursed by the lender except by the written agreement of the potential lien claimant, owner and general contractor in such form as may be prescribed by the lender, or the order of a court of competent jurisdiction.

(6) In the event a lender fails to abide by the provisions of subsections (4) or (5) of this section, then the

mortgage, deed of trust or other encumbrance securing the lender will be subordinated to the lien of the potential lien claimant to the extent of the interim or construction financing wrongfully disbursed, but in no event in an amount greater than the sums ultimately determined to be due the potential lien claimant by a court of competent jurisdiction, or more than the sum stated in the notice, whichever is less.

(7) Any potential lien claimant shall be liable for any loss, cost or expense, including reasonable attorney fees, to the party injured thereby arising out of any unjust, excessive or premature notice of claim. [1975 c 34 § 10; 1973 1st ex.s. c 47 § 2.]

Chapter 60.28
LIEN FOR LABOR, MATERIALS, TAXES ON
PUBLIC WORKS

Sections

60.28.010	Retained percentage—Labor and material lien created—Termination before completion—Chapter deemed exclusive.
60.28.020	Excess over lien claims to contractor.

60.28.010 Retained percentage—Labor and material lien created—Termination before completion—Chapter deemed exclusive. (1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to ten percent of the first one hundred thousand dollars and five percent for all amounts over one hundred thousand dollars of such estimates, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said moneys so reserved: *Provided*, That such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 through 39.08.060 as now existing and in accordance with any amendments that may hereafter be made thereto: *Provided further*, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body, at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the moneys earned by the contractor.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed; or

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: *Provided*, That interest on such account shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed.

When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

(3) If the public body administering a contract, other than a contract governed by the provisions of RCW 60.28.070, as amended, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work shall have been terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 RCW shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith. [1975 1st ex.s. c 104 § 1; 1970 ex.s. c 38 § 1; 1969 ex.s. c 151 § 1; 1963 c 238 § 1; 1955 c 236 § 1; 1921 c 166 § 1; RRS § 10320.]

60.28.020 Excess over lien claims to contractor. After the expiration of the thirty day period, and after receipt of the department of revenue's certificate, and the public body is satisfied that the taxes certified as due or to become due by the department of revenue are discharged, and the claims of materialmen and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, have been paid, the

public body shall pay to the contractor the fund retained by it or release to the contractor the securities and bonds held in escrow.

If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the public body shall either retain in its fund, or in an interest bearing account, or retain in escrow, at the option of the contractor, an amount equal to such unpaid taxes and unpaid claims together with a sum sufficient to defray the costs and attorney fees incurred in foreclosing the lien of such claims, and shall pay, or release from escrow, the remainder to the contractor. [1975 1st ex.s. c 104 § 2; 1970 ex.s. c 38 § 2; 1967 ex.s. c 26 § 23; 1955 c 236 § 2; 1921 c 166 § 2; RRS § 10321.]

Effective date—Purpose—Savings—1967 ex.s. c 26: See notes following RCW 82.01.050.

Chapter 60.44 LIEN OF DOCTORS, NURSES, HOSPITALS, AMBULANCE SERVICES

Sections

- 60.44.010 Liens authorized.
60.44.020 Notice of lien—Contents—Filing.

60.44.010 Liens authorized. Every operator, whether private or public, of an ambulance service or of a hospital, and every duly licensed nurse, practitioner, physician, and surgeon rendering service, or transportation and care, for any person who has received a traumatic injury and which is rendered by reason thereof shall have a lien upon any claim, right of action, and/or money to which such person is entitled against any tort-feasor and/or insurer of such tort-feasor for the value of such service, together with costs and such reasonable attorney's fees as the court may allow, incurred in enforcing such lien: *Provided, however,* That nothing in this chapter shall apply to any claim, right of action, or money accruing under the workmen's compensation act of the state of Washington, and: *Provided, further,* That all the said liens for service rendered to any one person as a result of any one accident or event shall not exceed twenty-five percent of the amount of an award, verdict, report, decision, decree, judgment, or settlement. [1975 1st ex.s. c 250 § 1; 1937 c 69 § 1; RRS § 1209-1.]

60.44.020 Notice of lien—Contents—Filing. No person shall be entitled to the lien given by RCW 60.44.010 unless such person shall, within twenty days after the date of such injury or receipt of transportation or care, or, if settlement has not been accomplished and payment made to such injured person, then at any time before such settlement and payment, file for record with the county auditor of the county in which said service was performed, a notice of claim stating the name and address of the person claiming the lien and whether such person claims as a practitioner, physician, nurse, ambulance service, or hospital, the name and address of the patient and place of domicile or residence, the time when and place where the alleged fault or negligence of the tort-feasor occurred, and the nature of the injury if

any, the name and address of the tort-feasor, if same or any thereof are known, which claim shall be subscribed by the claimant and verified before a person authorized to administer oaths. [1975 1st ex.s. c 250 § 2; 1937 c 69 § 2; RRS § 1209-2.]

Title 61 MORTGAGES, DEEDS OF TRUST, AND TRUST RECEIPTS

Chapters

61.24 Deeds of trust.

Chapter 61.24 DEEDS OF TRUST

Sections

- 61.24.010 "Record", "recorded" defined—Trustee, qualifications—Successor trustee.
61.24.020 Deed may be foreclosed as provided in this chapter—Recording and indexing—Trustee and beneficiary, separate entities, exception.
61.24.030 Requisites to foreclosure.
61.24.040 Foreclosure and sale—Notice of sale.
61.24.090 Curing defaults before sale—Discontinuance of proceedings—Notice of discontinuance—Execution and acknowledgment.
61.24.130 Restraint of threatened sale by trustee.

61.24.010 "Record", "recorded" defined—Trustee, qualifications—Successor trustee. (1) The terms "record" and "recorded" as used in this chapter, shall include the appropriate registration proceedings, in the instance of registered land.

(2) The trustee of a deed of trust under this chapter shall be:

(a) Any corporation or association authorized to engage in a trust business in this state; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or its agents; or

(c) Any attorney who is an active member of the Washington state bar association at the time he is named trustee.

(d) Any agency of the United States government.

(3) In the event of the death, incapacity or disability, or resignation of the trustee, the beneficiary may nominate in writing a successor trustee. Upon recording in the mortgage records of the county or counties in which the trust deed is recorded, of the appointment of a successor trustee, the successor trustee shall be vested with all powers of the original trustee. [1975 1st ex.s. c 129 § 1; 1965 c 74 § 1.]

61.24.020 Deed may be foreclosed as provided in this chapter—Recording and indexing—Trustee and beneficiary, separate entities, exception. A deed conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or another to the beneficiary may be foreclosed as in this chapter provided. The county auditor shall record such deed as a mortgage and shall index the name of the grantor as

mortgagor and the names of the trustee and beneficiary as mortgagee. No person, corporation or association may be both trustee and beneficiary under the same deed of trust: *Provided*, That any agency of the United States government may be both trustee and beneficiary under the same deed of trust. [1975 1st ex.s. c 129 § 2; 1965 c 74 § 2.]

61.24.030 Requisites to foreclosure. It shall be requisite, to foreclosure under this chapter:

(1) That the deed of trust contains a power of sale;
 (2) That the deed of trust provides in its terms that the real property conveyed is not used principally for agricultural or farming purposes;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action is pending on an obligation secured by the deed of trust;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated; and

(6) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the grantor or any successor in interest at his last known address by both first class and certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on said premises, a copy of said notice, or personally served on the grantor or his successor in interest. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) The book and the page of the book of records wherein the deed of trust is recorded;

(c) That the beneficiary has declared the grantor or any successor in interest to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs or fees that the grantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) The total of subparagraphs (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) That failure to cure said alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal and publication of a notice of sale, and that the property described in subparagraph (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) That the effect of the recordation, transmittal and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) That the effect of the sale of the grantor's property by the trustee will be to deprive the grantor or his successor in interest and all those who hold by, through or under him of all their interest in the property described in subsection (a);

(j) That the grantor or any successor in interest has recourse to the courts to contest the alleged default on any proper ground. [1975 1st ex.s. c 129 § 3; 1965 c 74 § 3.]

61.24.040 Foreclosure and sale—Notice of sale. A deed of trust may be foreclosed in the following manner:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form hereinafter specified in RCW 61.24.040(1)(f) in the office of the auditor in each county in which the deed of trust is recorded;

(b) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f), to be transmitted by both first class and certified mail, return receipt requested, to each person who has an interest in or lien or claim of lien against the property or some part thereof, provided such interest, lien or claim is of record at the time the notice is recorded and further provided the address of such person is stated in the recorded instrument recording his interest, lien or claim, or is otherwise known to the trustee;

(c) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f) to be transmitted by both first class and certified mail, return receipt requested, to the plaintiff or his attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is on file on the date the notice is recorded in the office of the auditor;

(d) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f) to be transmitted by both first class and certified mail, return receipt requested, to any person who shall have requested such notice in writing to the trustee at the address specified by the requesting person;

(e) Cause a copy of the notice as hereinafter provided in RCW 61.24.040(1)(f) to be posted in a conspicuous place on said premises, or in lieu of posting, cause a copy of said notice to be served upon any occupant of said real property;

(f) The notice shall be in the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned trustee will on the _____ day of _____, 19__., at the hour of _____ o'clock _____ M. at _____ [street address and location if inside a building] in the City of _____, State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County of _____, State of Washington,

to-wit:

which is subject to that certain deed of trust dated _____, 19__, recorded _____, 19__, in volume _____ of Mortgages, at Page _____, under Auditor's File No. _____, mortgage records of _____ County, Washington, from _____, as Grantor, to _____, as Trustee, to secure an obligation in favor of _____, as Beneficiary, the beneficial interest in which was assigned by _____, under an Assignment dated _____, 19__, and recorded under Auditor's File No. _____.

II.

No action is now pending to seek satisfaction of the obligation in any Court by reason of the Grantor's default on the obligation secured by said deed of trust.

III.

The default for which this foreclosure is made is as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the deed of trust is: Principal \$_____, together with interest as in the note provided from the _____ day of _____, 19__, and such other costs and fees as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by said Deed of Trust as provided by statute. Said sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the _____ day of _____, 19__. The defaults referred to in paragraph III must be cured by the _____ day of _____, 19__, (10 days before the sale) to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time before the _____ day of _____, 19__, (10 days before the sale) the default as set forth in paragraph III is cured and the Trustee's fees and costs are paid. The sale may be terminated by the grantor anytime after the _____ day of _____, 19__, (10 days before the sale) and before the sale by the grantor or his successor in interest paying the principal and interest plus costs and fees.

VI.

A written notice of default was transmitted by the Beneficiary or trustee to the grantor or his successor in interest at the following address:

by both first class and certified mail on the _____ day of _____, 19__, proof of which is in the possession of the trustee; or the grantor or his successor in interest was personally served on the _____ day of _____, 19__, with said written notice of default by the beneficiary or his trustee, and the trustee has in his possession proof of such service.

VII.

The Trustee whose name and address is set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the grantor and all those who hold by, through or under him of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the trustee's sale.

----- } Trustee
----- }
----- } Address
----- }
----- } Phone

STATE OF WASHINGTON

COUNTY OF

} ss.

On this day personally appeared before me _____, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 19__.

NOTARY PUBLIC in and for the
State of Washington, residing at

[SEAL]

(2) In addition to providing the grantor or his successor in interest the notice as provided in RCW 61.24.040(1)(f), the trustee shall include with the notice provided in RCW 61.24.040(1)(f) a statement to the

grantor or his successor in interest in substantially the following form:

NOTICE OF FORECLOSURE
Pursuant to the Revised Code of Washington,
Chapter 61.24, et seq.

The attached Notice of Sale is a consequence of your default in your obligation to _____, the beneficiary of your Deed of Trust and holder of your Note. Unless you cure the default, your property will be sold at auction on the _____ day of _____, 19__.

To cure your default, you must bring your payments current and pay accrued late charges and other costs and attorneys fees as set forth below by the _____ day of _____, 19__ (10 days before sale date). To date, these arrears and costs are as follows:

	Currently due to reinstate ----- [date]	Amount that will be due to reinstate in	
		40 days ----- [date]	80 days ----- [date]
Delinquent payments from the 1st day of _____, 19__, in the amount of:	\$-----	\$-----	\$-----
Late charge for every delinquent dollar owed in the amount of:	\$-----	\$-----	\$-----
Attorneys fees in the amount of:	\$-----	\$-----	\$-----
Trustee's expenses in the amount of: [Itemization]		Estimated Costs	Estimated Costs
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
TOTALS	-----	-----	-----

You may reinstate your Note and Deed of Trust at any time up to the _____ day of _____, 19__ (10 days before the sale date) by paying the amount as set forth above. Of course, each month that passes brings another monthly payment due, and such monthly payment and any late charge must be added to your reinstating payment. **AFTER THE _____ DAY OF _____, 19__, (THE 80TH DAY), YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AS OUTLINED ABOVE.** In such a case, you will only be able to stop the sale by paying the total principal balance (\$_____) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents.

You may contest this default by initiating court action in the Superior Court of _____ County. In such action, you may raise any legitimate defenses you have to this default. You may also contest this sale in court by initiating court action. A copy of your Note and Deed of Trust are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense.

If you do not reinstate your Note and Deed of Trust by paying the amount demanded here, or if you do not succeed in restraining the sale by court action, your property will be sold to satisfy your obligations. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition the trustee shall cause a copy of the notice as provided in RCW 61.24.040(1)(f) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once weekly during the four weeks preceding the time of sale;

(4) On the date and at the time designated in the notice of sale, the trustee shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in either of the counties where the property is located. The sale shall be on the day and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee may for any cause he deems advantageous continue the sale for a period or periods not exceeding a total of thirty days by a public proclamation at the time and place fixed in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in the obligation secured. [1975 1st ex.s. c 129 § 4; 1967 c 30 § 1; 1965 c 74 § 4.]

61.24.090 Curing defaults before sale—Discontinuance of proceedings—Notice of discontinuance—Execution and acknowledgment. (1) At any time prior to the tenth day before the date set by the trustee for the sale in the recorded notice of sale, or in the event the trustee continues the sale pursuant to RCW 61.24.040(6), at any time prior to the tenth day before the actual sale, the grantor or his successor in interest, any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record on the trust property or any part thereof, shall be entitled to cause a discontinuance of the sale proceedings by curing the default or defaults set forth in the notice, which in the case of a default by failure to pay, shall be by paying to the trustee:

(a) The entire amount then due under the terms of the deed of trust and the obligation secured thereby, other than such portion of the principal as would not then be due had no default occurred, and

(b) The expenses actually incurred by the trustee enforcing the terms of the note and deed of trust, including a reasonable trustee's fee, which is not to exceed twenty-five dollars at the time the notice of trustee's sale is given and is not to exceed fifty dollars forty days after the date of notice of trustee's sale is given and is not to exceed seventy-five dollars eighty days after the date of notice of trustee's sale is given, together with the trustee's reasonable attorney's fees, together with costs of recording the notice of discontinuance of notice of trustee's sale. In the event the property secured by the deed of trust is a single family dwelling the total of the trustee's fees and the attorney's fees shall not exceed two hundred fifty dollars without court approval.

(2) Upon receipt of such payment the proceedings shall be discontinued, the deed of trust shall be reinstated and the obligation shall remain as though no acceleration had taken place.

(3) In the case of a default which is occasioned by other than failure to make payments, the person or persons causing the said default shall pay the expenses incurred by the trustee and the trustee's fees as set forth in subsection (1)(b) of this section.

(4) Any person having a subordinate lien of record on the trust property and who has cured the default or defaults pursuant to this section shall thereafter have included in his lien all payments made to cure any defaults, including interest thereon at eight percent per annum, payments made for trustees' costs and fees incurred as authorized herein, and his reasonable attorney's fees and costs incurred resulting from any judicial action commenced to enforce his rights to advances under this section.

(5) If the default is cured and the obligation and the deed of trust reinstated in the manner hereinabove provided, the trustee shall properly execute, acknowledge and cause to be recorded a notice of discontinuance of

trustee's sale under such deed of trust. A notice of discontinuance of trustee's sale when so executed and acknowledged is entitled to be recorded and shall be sufficient if it sets RCW 61.24.040(6), at any time prior to the tenth which the deed of trust is recorded and a reference to the notice of sale and the book and page on which the name is recorded, and a notice that such sale is discontinued. [1975 1st ex.s. c 129 § 5; 1967 c 30 § 4; 1965 c 74 § 9.]

61.24.130 Restraint of threatened sale by trustee. Nothing contained in this chapter shall prejudice the right of the grantor or his successor in interest to restrain, on any proper ground, a threatened sale by the trustee under a deed of trust. In the event that the property secured by the deed of trust is a single family dwelling occupied by the grantor or his successor in interest, and the court finds that there is proper ground to restrain a threatened sale by the trustee under a deed of trust, the court shall require the grantor or his successor in interest to enter into a bond in the amount of two hundred fifty dollars with surety to the satisfaction of the clerk of the superior court to the adverse party affected thereby, conditioned to pay all damages and costs which may accrue by reason of the injunction or restraining order. In addition, the court shall require as a condition of continuing the restraining order that the grantor or his successors in interest shall pay to the clerk of the court every thirty days the monthly payment of principal and interest that would be due on the obligation secured by the deed of trust if the deed of trust was not being foreclosed. [1975 1st ex.s. c 129 § 6; 1965 c 74 § 13.]

Title 62A UNIFORM COMMERCIAL CODE

Articles

6 Bulk transfers.

Article 6 BULK TRANSFERS

Sections

62A.6-104 Schedule of property, list of creditors.

62A.6-107 The notice.

62A.6-104 Schedule of property, list of creditors. (1) Except as provided with respect to auction sales (RCW 62A.6-108), a bulk transfer subject to this Article is ineffective against any creditor of the transferor unless:

(a) The transferee requires the transferor to furnish a list of his existing creditors prepared as stated in this section; and

(b) The parties prepare a schedule of the property transferred sufficient to identify it; and

(c) The transferee preserves the list and schedule for six months next following the transfer and permits inspection of either or both and copying therefrom at all reasonable hours by any creditor of the transferor, and

files the list and schedule in the office of the county auditor of the county in which the property transferred is located and serves it upon the office of the state department of revenue; the list and schedule shall be indexed as chattel mortgages are indexed, the name of the vendor being indexed as mortgagor and the name of the intending purchaser as mortgagee.

(2) The list of creditors and the schedule must be signed and sworn to by the transferor or his agent. It must contain the names and business addresses of all creditors of the transferor, with the amounts when known, and also the names of all persons who are known to the transferor to assert claims against him even though such claims are disputed. If the transferor is the obligor of an outstanding issue of bonds, debentures or the like as to which there is an indenture trustee, the list of creditors need include only the name and address of the indenture trustee and the aggregate outstanding principal amount of the issue.

(3) Responsibility for the completeness and accuracy of the list of creditors rests on the transferor, and the transfer is not rendered ineffective by errors or omissions therein unless the transferee is shown to have had knowledge. [1975 1st ex.s. c 278 § 33; 1965 ex.s. c 157 § 6-104. Cf. former RCW sections: (i) RCW 63.08.020; 1953 c 247 § 1; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part. (ii) RCW 63.08.040; 1953 c 247 § 3; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part. (iii) RCW 63.08.050; 1953 c 247 § 4; 1939 c 122 § 2; 1925 ex.s. c 135 § 3; RRS § 5833; prior: 1901 c 109 § 2. (iv) RCW 63.08.060; 1939 c 122 § 3; 1925 ex.s. c 135 § 4; RRS § 5834; prior: 1901 c 109 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

62A.6-107 The notice. (1) The notice to creditors (RCW 62A.6-105) shall state:

- (a) that a bulk transfer is about to be made; and
- (b) the names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and
- (c) whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(2) If the debts of the transferor are not to be paid in full as they fall due or if the transferee is in doubt on that point then the notice shall state further:

- (a) the location and general description of the property to be transferred and the estimated total of the transferor's debts;
- (b) the address where the schedule of property and list of creditors (RCW 62A.6-104) may be inspected;
- (c) whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;
- (d) whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment; and

(e) if for new consideration the time and place where creditors of the transferor are to file their claims.

(3) The notice in any case shall be delivered personally or sent by registered or certified mail to all the persons shown on the list of creditors furnished by the transferor (RCW 62A.6-104), to all other persons who are known to the transferee to hold or assert claims against the transferor, and to the office of the state department of revenue. A copy of the notice shall be filed in the office of the county auditor of the county in which the property transferred is located and indexed as chattel mortgages are indexed, the name of the vendor being indexed as mortgagor and the name of the intending purchaser as mortgagee. [1975 1st ex.s. c 278 § 34; 1965 ex.s. c 157 § 6-107. Cf. former RCW 63.08.040; 1953 c 247 § 3; 1943 c 98 § 1, part; 1939 c 122 § 1, part; 1925 ex.s. c 135 § 2, part; Rem. Supp. 1943 § 5832, part; prior: 1901 c 109 § 1, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Title 63 PERSONAL PROPERTY

Chapters

- 63.28** Uniform disposition of unclaimed property.
- 63.36** Unclaimed property in hands of city or town.

Chapter 63.28 UNIFORM DISPOSITION OF UNCLAIMED PROPERTY

Sections

- 63.28.360 Chapter not applicable to city, town or port district.

63.28.360 Chapter not applicable to city, town or port district. The provisions of chapter 63.28 RCW shall not apply to unclaimed property or moneys in the possession of any city, town or port district or a department or agency thereof. [1975 1st ex.s. c 28 § 4; 1959 c 289 § 1.]

Unclaimed property in hands of city or town: Chapter 63.36 RCW.

Chapter 63.36 UNCLAIMED PROPERTY IN HANDS OF CITY OR TOWN

Sections

- 63.36.010 Publication and contents of notice of unclaimed personal property or moneys.
- 63.36.020 Sale authorized—Notice.
- 63.36.030 Disposition of proceeds of sale.

63.36.010 Publication and contents of notice of unclaimed personal property or moneys. Whenever any unclaimed personal property or moneys in the possession of the governing authority of any city, town or port district, or department or agency thereof, have not been claimed for a period of sixty days or more from the date the property first came into such possession or

from the date the moneys first became payable or returnable, the governing authority shall cause a notice to be published at least once a week for two successive weeks in a newspaper of general circulation in the county in which such city, town or port district is located. The notice shall set forth the name, if known, and the last known address, if any, of each person appearing from the records of the governing authority to be the owner of any such unclaimed money or personal property; a brief statement concerning the amount of money or a description of the personal property; and the name and address of the governing authority, department or agency possessing the money or personal property and the place where it may be claimed. [1975 1st ex.s. c 28 § 1; 1973 1st ex.s. c 44 § 2; 1959 c 289 § 2.]

63.36.020 Sale authorized—Notice. If the owner of, or other person having a claim to, any such personal property or money does not claim the property or money within ten days after the last date the notice was published, such governing authority shall cause any such personal property to be sold at public auction pursuant to a public notice at least ten days prior thereto published in a newspaper of general circulation within the city or town, if the property is in the possession of a city or town, or if the property is in the possession of a port district, in a newspaper of general circulation within the county in which the port district is located. The notice shall state the day, time, and place of sale and contain a description of the personal property to be sold. [1975 1st ex.s. c 28 § 2; 1973 1st ex.s. c 44 § 3; 1959 c 289 § 3.]

63.36.030 Disposition of proceeds of sale. The proceeds from the sale of any such personal property less the expenses of advertising and sale together with any unclaimed moneys, less the expenses of advertising, shall accrue to the port district, or where the sale is by a city or town, to the city or town fund pertaining to the department or agency from whose functions the unclaimed personal property or moneys was derived unless there is no such fund or the unclaimed personal property or moneys was not derived from any particular department or agency of a city or town, then the proceeds of any such sale or such moneys shall accrue to the current expense fund of the city or town. [1975 1st ex.s. c 28 § 3; 1959 c 289 § 4.]

Title 66

ALCOHOLIC BEVERAGE CONTROL

Chapters

- 66.08** Liquor control board—General provisions.
- 66.12** Exemptions.
- 66.20** Liquor permits.
- 66.24** Licenses—Stamp taxes.
- 66.28** Miscellaneous regulatory provisions.
- 66.44** Enforcement—Penalties.

Chapter 66.08 LIQUOR CONTROL BOARD—GENERAL PROVISIONS

Sections

66.08.050 Powers of board in general.

66.08.050 Powers of board in general. The board, subject to the provisions of this title and the regulations, shall

- (1) determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;
- (2) appoint in cities and towns and other communities, in which no state liquor store is located, liquor vendors. Such liquor vendors shall be agents of the board and be authorized to sell liquor to such persons, firms or corporations as provided for the sale of liquor from a state liquor store, and such vendors shall be subject to such additional rules and regulations consistent with this title as the board may require;
- (3) establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;
- (4) provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;
- (5) determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;
- (6) execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;
- (7) pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;
- (8) require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;
- (9) perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor. [1975 1st ex.s. c 173 § 1; 1969 ex.s. c 178 § 1; 1963 c 239 § 3; 1935 c 174 § 10; 1933 ex.s. c 62 § 69; RRS § 7306-69.]

Severability—1975 1st ex.s. c 173: "If any phrase, clause, subsection, or section of this 1975 amendatory act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this 1975 amendatory act without the phrase, clause, subsection, or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid." [1975 1st ex.s. c 173 § 13.]

Effective date—1975 1st ex.s. c 173: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public

institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 173 § 14.]

Chapter 66.12 EXEMPTIONS

Sections

- 66.12.110 Bringing alcoholic beverages into United States duty free for personal use (as amended by 1975 1st ex.s. c 173).
- 66.12.110 Bringing alcoholic beverages into United States duty free for personal use—Payment of markup and tax on excess amounts—Class H license proximate to border (as amended by 1975 1st ex.s. c 256).
- 66.12.120 Bringing alcoholic beverages into state from another state—Payment of markup and tax.

66.12.110 Bringing alcoholic beverages into United States duty free for personal use (as amended by 1975 1st ex.s. c 173). A person twenty-one years of age or over may bring into the state from without the United States, free of tax and markup, for his personal or household use such alcoholic beverages as have been declared and permitted to enter the United States duty free under federal law.

Such entry of alcoholic beverages in excess of that herein provided may be authorized by the board upon payment of an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a state liquor store. The board shall adopt appropriate regulations pursuant to chapter 34.04 RCW for the purpose of carrying out the provisions of this section. [1975 1st ex.s. c 173 § 2; 1967 c 38 § 1.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

66.12.110 Bringing alcoholic beverages into United States duty free for personal use—Payment of markup and tax on excess amounts—Class H license proximate to border (as amended by 1975 1st ex.s. c 256). A person twenty-one years of age or over may bring into the state from without the United States, free of tax and markup, for his personal or household use such alcoholic beverages as have been declared and permitted to enter the United States duty free under federal law.

Such entry of alcoholic beverages in excess of that herein provided may be authorized by the board upon payment of an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a Washington state liquor store. The board shall adopt appropriate regulations pursuant to chapter 34.04 RCW for the purpose of carrying out the provisions of this section. The board may issue a class H license to a charitable or nonprofit corporation of the state of Washington, the majority of the officers and directors of which are United States citizens and the minority of the officers and directors of which are citizens of the Dominion of Canada, and where the location of the premises for such class H license is not more than ten miles south of the border between the United States and the province of British Columbia. [1975 1st ex.s. c 256 § 1; 1967 c 38 § 1.]

Reviser's note: RCW 66.12.110 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

66.12.120 Bringing alcoholic beverages into state from another state—Payment of markup and tax. Notwithstanding any other provision of Title 66 RCW, a person twenty-one years of age or over may be authorized by the board to bring into the state of Washington from another state a reasonable amount of alcoholic beverages for personal or household use only upon payment of an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a state liquor store. The board shall adopt appropriate regulations pursuant to chapter 34.04 RCW

for the purpose of carrying into effect the provisions of this section. [1975 1st ex.s. c 173 § 3.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Chapter 66.20 LIQUOR PERMITS

Sections

- 66.20.190 Identification card holder may be required to sign certification card—Contents—Procedure—Affidavit.

66.20.190 Identification card holder may be required to sign certification card—Contents—Procedure—Affidavit. In addition to the presentation by the holder and verification by the licensee or store employee of such card of identification, the licensee or store employee who is still in doubt about the true age of the holder shall require the person whose age may be in question to sign a certification card and record an accurate description and serial number of his card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee or store employee at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any peace officer or agent or employee of the board at all times. The certification card shall also contain in bold-face type an affidavit stating that the signer understands that conviction for unlawful purchase of alcoholic beverages or misuse of the certification card may result in criminal penalties including imprisonment or fine or both. [1975 1st ex.s. c 173 § 4; 1973 1st ex.s. c 209 § 7; 1971 ex.s. c 15 § 5; 1959 c 111 § 7; 1949 c 67 § 4; Rem. Supp. 1949 § 7306-19D.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Severability—Effective date—1973 1st ex.s. c 209: See notes following RCW 66.08.070.

Effective date—1971 ex.s. c 15: See note following RCW 66.16.040.

Chapter 66.24 LICENSES—STAMP TAXES

Sections

- 66.24.305 Refunds of taxes on unsalable wine and beer.
- 66.24.390 Repealed.
- 66.24.395 Interstate common carriers' licenses—Class CCI.
- 66.24.420 Liquor by the drink, class H licenses—Schedule of fees—Location—Number of licenses.
- 66.24.510 Nonprofit organization special occasion license—Class K—Fee.

66.24.305 Refunds of taxes on unsalable wine and beer. The board may refund the tax on wine imposed by RCW 66.24.210, and the tax on beer imposed by RCW 66.24.290, when such taxpaid products have been deemed to be unsalable and are destroyed within the state in accordance with procedures established by the board. [1975 1st ex.s. c 173 § 11.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

66.24.390 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

66.24.395 Interstate common carriers' licenses—
Class CCI. (1) (a) There shall be a license that may be issued to corporations, associations, or persons operating as federally licensed commercial common passenger carriers engaged in interstate commerce, in or over territorial limits of the state of Washington on passenger trains, vessels, or airplanes. Such license shall permit the sale of spirituous liquor, wine, and beer at retail for passenger consumption within the state upon one such train passenger car, vessel, or airplane, while in or over the territorial limits of the state. Such license shall include the privilege of transporting into and storing within the state such liquor for subsequent retail sale to passengers in passenger train cars, vessels or airplanes. The fees for such master license shall be six hundred dollars per annum (class CCI-1): *Provided*, That where the sale and/or service of alcoholic beverages by such federally licensed common passenger carrier does not include spirituous liquor, the fee shall be two hundred dollars per annum (class CCI-2): *Provided, further*, That upon payment of an additional sum of five dollars per annum per car, or vessel, or airplane, the privileges authorized by such license classes shall extend to additional cars, or vessels, or airplanes operated by the same licensee within the state, and a duplicate license for each additional car, or vessel, or airplane shall be issued: *Provided, further*, That such licensee may make such sales and/or service upon cars, or vessels, or airplanes in emergency for not more than five consecutive days without such license: *And provided, further*, That such license shall be valid only while such cars, or vessels, or airplanes are actively operated as common carriers for hire in interstate commerce and not while they are out of such common carrier service.

(b) Alcoholic beverages sold and/or served for consumption by such interstate common carriers while within or over the territorial limits of this state shall be subject to such board markup and state liquor taxes in an amount to approximate the revenue that would have been realized from such markup and taxes had the alcoholic beverages been purchased in Washington: *Provided*, That the board's markup shall be applied on spirituous liquor only. Such common carriers shall report such sales and/or service and pay such markup and taxes in accordance with procedures prescribed by the board.

(2) Where such an interstate federally licensed common carrier does not sell spirituous liquor, wine, or beer at retail for passenger consumption while within or over the territorial limits of this state, but the business operation of the interstate common carrier requires the bringing in and storing of liquor within the state the license fee shall be four hundred dollars per annum (class CCI-3): *Provided*, That where such transporting and/or storage of alcoholic beverages by such common carrier does not include spirituous liquor, the license fee shall be one hundred dollars per annum (class CCI-4).

(3) Alcoholic beverages sold and delivered in this state to interstate common carriers for use under the

provisions of this section shall be considered exported from the state, subject to the conditions provided in subsection (1)(b). The storage facilities for liquor within the state by common carriers licensed under this section shall be subject to written approval by the board. [1975 1st ex.s. c 245 § 2.]

66.24.420 Liquor by the drink, class H licenses—
Schedule of fees—Location—Number of licenses. (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 three hundred thirty 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 of less than 10,000 population; fee \$550.00;

Incorporated cities and towns of 10,000 and less than 100,000 population; fee \$825.00;

Incorporated cities and towns of 100,000 population and over; fee \$1,100.00.

(c) The annual fee for said license when issued to any other class H licensee outside of incorporated cities and towns shall be: one thousand one hundred dollars; this fee shall be prorated according to the calendar months, or major 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 publicly owned civic centers with facilities for sports, entertainment, and conventions, 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 owned civic 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.

(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 shall not in the aggregate at any time exceed one license for each fifteen hundred of population in the state, determined according to the last available federal census.

(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. [1975 1st ex.s. c 245 § 1; 1971 ex.s. c 208 § 2; 1970 ex.s. c 13 § 2. Prior: 1969 ex.s. c 178 § 6; 1969 ex.s. c 136 § 1; 1965 ex.s. c 143 § 3; 1949 c 5 § 3 (adding new section 23S-3 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-3.]

66.24.510 Nonprofit organization special occasion license—Class K—Fee. There shall be a spirituous liquor retailer's license to be designated as class K; a special license to a nonprofit organization to sell spirituous liquor as defined in RCW 66.24.410 by the glass, including mixed drinks and cocktails compounded or mixed on the premises only, to their members and invited guests at special occasions at a specified date and place when said special occasion is not open to the general public; fee twenty-five dollars per day. Sale, service, and consumption of spirituous liquor is to be confined to specified premises or designated areas only. Spirituous liquor so sold shall be purchased at a state liquor store or agency without discount at retail prices including all taxes. No more than two such licenses may be issued to any one nonprofit organization during a calendar year. [1975 1st ex.s. c 173 § 12.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Chapter 66.28

MISCELLANEOUS REGULATORY PROVISIONS

Sections	
66.28.010	Manufacturers, importers and wholesalers barred from interest in retail business or location—Advances prohibited—"Financial interest" defined.
66.28.025	Persons interested in business property or location, etc., of wine wholesaler—Advances—Exception.
66.28.030	Responsibility of brewers, vintners, manufacturers holding certificate approval and importers for conduct of wholesaler—Penalties.
66.28.040	Giving away of liquor prohibited—Exceptions.
66.28.045	Furnishing samples to board—Standards for accountability—Regulations.

66.28.010 Manufacturers, importers and wholesalers barred from interest in retail business or location—Advances prohibited—"Financial interest" defined. 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 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 business upon property in which any manufacturer or wholesaler has any interest, nor shall any manufacturer or wholesaler advance moneys or moneys' worth to any such licensed person under any arrangement whatsoever, nor shall any such licensed person receive, under any arrangement whatsoever, any such advance of moneys or moneys' worth. No manufacturer, importer, or wholesaler shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer or wholesaler sell at retail any liquor as herein defined: *Provided*, That nothing in this section shall prohibit a licensed brewer or domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine of its own production at retail on the brewery or 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 34.04 RCW.

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. [1975 1st ex.s. c 173 § 6; 1937 c 217 § 6; 1935 c 174 § 14; 1933 ex.s. c 62 § 90; RRS § 7306-90. Prior: 1909 c 84 § 1.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

66.28.025 Persons interested in business property or location, etc., of wine wholesaler—Advances—Exception. No manufacturer of wine, or person financially interested, directly, in such business, whether resident or nonresident, shall have any financial interest, direct or indirect, in the business of any licensed wine wholesaler, nor shall any manufacturer of wine 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 business upon property in which any manufacturer of wine has any interest, nor shall any manufacturer of wine advance money or moneys' worth other than such credit allowances customarily extended in the ordinary course of such business between wholesalers and manufacturers on purchases of inventories to any such licensed person under any arrangement whatsoever, nor shall any such licensed person receive, under any arrangement whatsoever, any such advance of money or moneys' worth other than such credit allowances: *Provided*, That the provisions of this section shall not require the divesting of any such financial interest or arrangement which was held by any licensed liquor importer, beer importer, beer wholesaler, wine wholesaler, domestic winery or domestic brewery as of July 1, 1969: *Provided further*, That in the event of the sale of such business licensed as a liquor importer, beer importer, beer wholesaler, wine wholesaler, domestic winery or domestic brewery the exclusion of the foregoing proviso shall not apply. [1975 1st ex.s. c 173 § 7; 1969 ex.s. c 275 § 3; 1969 ex.s. c 21 § 14.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

66.28.030 Responsibility of brewers, vintners, manufacturers holding certificate approval and importers for conduct of wholesaler—Penalties. Every licensed brewer, domestic winery, manufacturer holding a certificate of approval, licensed wine importer and licensed beer importer shall be responsible for the conduct of any licensed beer or wine wholesaler in selling, or contracting to sell, to retail licensees, beer or wine manufactured by such brewer, domestic winery, manufacturer holding a certificate of approval or imported by such beer or wine importer. Where the board finds that any licensed beer or wine wholesaler has violated any of the provisions of this title or of the regulations of the board in selling or contracting to sell beer or wine to retail licensees, the board may, in addition to any punishment inflicted or imposed upon such wholesaler, prohibit the sale of the brand or brands of beer or wine involved in such violation to any or all retail licensees within the trade territory usually served by such wholesaler for such period of time as the board may fix, irrespective of whether the brewer manufacturing such beer or the beer importer importing such beer or the domestic winery manufacturing such wine or the wine importer importing such wine or the certificate of approval holder manufacturing such beer or wine actually participated in such violation. [1975 1st ex.s. c 173 § 8; 1969 ex.s. c 21 § 6; 1939 c 172 § 8 (adding new section 27-D to 1933 ex.s. c 62); RRS § 7306-27D.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Effective date—1969 ex.s. c 21: The effective date of the 1969 amendment to this section is July 1, 1969, see note following RCW 66.04.010.

66.28.040 Giving away of liquor prohibited—Exceptions. No brewer, wholesaler, distiller, winery, importer, rectifier, or other manufacturer of liquor shall,

within the state, by himself, his clerk, servant, or agent, give to any person any liquor; but nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board, and nothing in this section shall prevent a brewer from serving beer without charge, on the brewery premises, and nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises. [1975 1st ex.s. c 173 § 10; 1969 ex.s. c 21 § 7; 1935 c 174 § 4; 1933 ex.s. c 62 § 30; RRS § 7306-30.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Effective date—1969 ex.s. c 21: The effective date of the 1969 amendment to this section is July 1, 1969, see note following RCW 66.04.010.

66.28.045 Furnishing samples to board—Standards for accountability—Regulations. The legislature finds the furnishing of samples of liquor to the state liquor control board is an integral and essential part of the operation of the state liquor business. The legislature further finds that it is necessary to establish adequate standards for the accountability of the receipt, use and disposition of liquor samples. The board shall adopt appropriate regulations pursuant to chapter 34.04 RCW for the purpose of carrying out the provisions of this section. [1975 1st ex.s. c 173 § 9.]

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Chapter 66.44

ENFORCEMENT—PENALTIES

Sections

66.44.190	Sales on university grounds prohibited.
66.44.191	Repealed.
66.44.350	Employees eighteen years and over allowed to serve and carry liquor, clean up, etc., for class A, C, D and/or H licensed employers.

66.44.190 Sales on university grounds prohibited. It shall be unlawful to sell any intoxicating liquors, with or without a license on the grounds of the University of Washington, otherwise known and described as follows: Fractional section 16, township 25 north, range 4 east of Willamette Meridian except to the extent allowed under banquet permits issued pursuant to RCW 66.24-.490. [1975 1st ex.s. c 68 § 1; 1967 c 21 § 1; 1951 c 120 § 1; 1933 ex.s. c 49 § 1; 1895 c 75 § 1; RRS § 5100.]

Application of Title 66 RCW to deleted territory: "All of the provisions of Title 66 RCW and the rules and regulations promulgated thereunder shall fully apply to the territory deleted from RCW 66.44-.190 by section 1 of this 1967 amendatory act." [1967 c 21 § 2.]

66.44.191 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

66.44.350 Employees eighteen years and over allowed to serve and carry liquor, clean up, etc., for class A, C, D and/or H licensed employers. Notwithstanding provisions of RCW 66.44.310, employees of class A, C, D and/or H licensees eighteen years of age and over may take orders for, serve and sell liquor in any part of the

licensed premises except cocktail lounges, bars, or other areas classified by the Washington state liquor control board as off-limits to persons under twenty-one years of age: *Provided*, That such employees may enter such restricted areas for the following purposes: To pick up liquor for service in other parts of the licensed premises, to perform clean up work, to set up and arrange tables, and to deliver supplies: *Provided further*, That such employees shall remain in the areas off-limits to minors no longer than is necessary to carry out their aforementioned duties: *Provided further*, That such employees shall not be permitted to perform activities or functions of a bartender. [1975 1st ex.s. c 204 § 1.]

Title 67 ATHLETICS, SPORTS AND ENTERTAINMENT

Chapters

- 67.08** Boxing and wrestling.
67.28 Public stadium and convention facilities.

Chapter 67.08 BOXING AND WRESTLING

Sections

- 67.08.015 Duties of commission—Licensing—Exemption as to scholastic organizations—Examination of contestants—Weight classifications—Compliance required.

67.08.015 Duties of commission—Licensing—Exemption as to scholastic organizations—Examination of contestants—Weight classifications—Compliance required. The commission shall have power and it shall be its duty to direct, supervise, and control all boxing contests or sparring and wrestling matches or exhibitions conducted within the state and no such boxing contest, sparring or wrestling match or exhibition shall be held or given within this state except in accordance with the provisions of this chapter. The commission may, in its discretion, issue and for cause revoke a license to conduct, hold or give boxing, sparring and/or wrestling contests, matches, and exhibitions where an admission fee is charged by any club, corporation, organization, association, or fraternal society: *Provided, however*, That all boxing contests, sparring or wrestling matches or exhibitions which:

(1) Are conducted by any common school, college, or university, whether public or private, or by the official student association thereof, whether on or off the school, college, or university grounds, where all the participating contestants are bona fide students enrolled in any common school, college, or university, within or without this state; or

(2) Are entirely amateur events promoted on a non-profit basis or for charitable purposes and where the gross admissions receipts are five hundred dollars or less; shall not be subject to the provisions of this chapter: *Provided, further*, That every contestant in any boxing

contest, sparring or wrestling match not conducted under the provisions of this chapter, prior to engaging in any such contest or match, shall be examined by a practicing physician at least once in each calendar year or, where such contest is conducted by a common school, college or university as further described in this section, once in each academic year in which instance such physician shall also designate the maximum and minimum weights at which such contestant shall be medically certified to participate: *Provided further*, That no contestant shall be permitted to participate in any such boxing contest, sparring or wrestling match or exhibition in any weight classification other than that or those for which he is certificated: *Provided further*, That the organizations exempted by this section from the provisions of this chapter shall be governed by RCW 67.08.080 as said section applies to boxing contests, sparring or wrestling matches or exhibitions conducted by organizations exempted by this section from the general provisions of this chapter. No boxing contest or sparring or wrestling match or exhibition shall be conducted within the state except pursuant to a license issued in accordance with the provisions of this chapter and the rules and regulations of the commission except as hereinabove provided. [1975 c 1 § 1; 1973 c 53 § 1; 1951 c 48 § 2.]

Chapter 67.28 PUBLIC STADIUM AND CONVENTION FACILITIES

Sections

- 67.28.180 Special excise tax authorized—Hotel, motel, rooming house, trailer camp, etc., charges—Conditions imposed upon levies.
67.28.185 Prior resolutions or ordinances in conflict with RCW 67.28.180(2) declared invalid.
67.28.912 Severability—1975 1st ex.s. c 225.

67.28.180 Special excise tax authorized—Hotel, motel, rooming house, trailer camp, etc., charges—Conditions imposed upon levies. (1) Subject to the conditions set forth in subsection (2) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property: *Provided*, That it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this chapter shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this chapter upon the same taxable event;

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of subsection (a), so long as, and to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued pursuant to the provisions of RCW 67.28.150 through 67.28.160. No city within such county may levy the tax authorized by this section so long as said county is so exempt: *Provided*, That in the event that any city in such county has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as and to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued pursuant to the provisions of RCW 67.28.150 through 67.28.160. [1975 1st ex.s. c 225 § 1; 1973 2nd ex.s. c 34 § 5; 1970 ex.s. c 89 § 1; 1967 c 236 § 11.]

67.28.185 Prior resolutions or ordinances in conflict with RCW 67.28.180(2) declared invalid. Any resolution or ordinance, enacted prior to June 26, 1975, shall be deemed to be invalid from and after June 26, 1975 to the extent said resolution or ordinance is in conflict with subsection (2) of RCW 67.28.180, as now or hereafter amended. [1975 1st ex.s. c 225 § 2.]

67.28.912 Severability—1975 1st ex.s. c 225. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 225 § 3.]

Title 68 CEMETERIES, MORGUES AND HUMAN REMAINS

Chapters

68.08 Human remains.

68.46 Prearrangement contracts.

Chapter 68.08 HUMAN REMAINS

Sections

UNIFORM ANATOMICAL GIFT ACT

**68.08.530 Gift by will, card, document, or driver's license—
Procedures.**

[1975 RCW Supp—p 562]

UNIFORM ANATOMICAL GIFT ACT

68.08.530 Gift by will, card, document, or driver's license—Procedures. (1) A gift of all or part of the body under RCW 68.08.510(1), may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under RCW 68.08.510(1), may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(3) A gift of all or part of the body under RCW 68.08.510(1) may also be made by a statement provided for on Washington state driver's licenses. The gift becomes effective upon the death of the licensee. The statement must be signed by the licensee in the presence of two witnesses, who must sign the statement in the presence of the donor. Delivery of the license during the donor's lifetime is not necessary to make the gift valid. The gift shall become invalidated upon expiration, cancellation, revocation, or suspension of the license, and the gift must be renewed upon renewal of each license: *Provided*, That the statement of gift herein provided for shall contain a provision, including a clear instruction to the donor, providing for a means by which the donor may at his will revoke such gift: *Provided further*, That nothing in this chapter shall be construed to invalidate a donor card located elsewhere.

(4) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(5) Notwithstanding RCW 68.08.560(2), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(6) Any gift by a person designated in RCW 68.08.510(2), shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message. [1975 c 54 § 2; 1969 c 80 § 5.]

Driver's licenses, anatomical gift statements: RCW 46.20.113.

**Chapter 68.46
PREARRANGEMENT CONTRACTS**

Sections
68.46.010 Definitions.

68.46.010 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section:

"Prearrangement contract" means a contract for purchase of cemetery merchandise or services, to be furnished at a future date for a specific consideration which is paid in advance by one or more payments in one sum or by installment payments.

"Cemetery merchandise or services" shall mean and include monuments, markers, memorials, nameplates, liners, vaults, boxes, urns, vases, interment services, or any one or more of them.

"Prearrangement trust fund" means all funds required to be maintained in one or more funds for the benefit of beneficiaries by either this chapter or by the terms of a prearrangement contract, as herein defined.

"Depository" means a qualified public depository as defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, and a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funds are deposited by any cemetery authority. [1975 1st ex.s. c 55 § 1; 1973 1st ex.s. c 68 § 1.]

**Title 69
FOOD, DRUGS, COSMETICS, AND
POISONS**

Chapters

- 69.04 Food, drug, and cosmetic act.**
- 69.24 Eggs and egg products.**
- 69.25 Washington wholesome eggs and egg products act.**
- 69.28 Honey.**
- 69.33 Uniform narcotic drug act.**

**Chapter 69.04
FOOD, DRUG, AND COSMETIC ACT**

Sections
69.04.110 Embargo of articles.
69.04.392 Regulations permitting tolerance of harmful matter—
Pesticide chemicals in or on raw agricultural commodities.
69.04.394 Regulations permitting tolerance of harmful matter—
Food additives.
69.04.396 Regulations permitting tolerance of harmful matter—
Color additives.
69.04.398 Purpose of RCW 69.04.110, 69.04.392, 69.04.394, 69.04-
.396—Uniformity with federal laws and regulations.
69.04.930 Frozen fish and meat—Labeling requirements—
Exceptions.

69.04.110 Embargo of articles. Whenever the director shall find, or shall have probable cause to believe, that an article subject to this chapter is in intrastate commerce in violation of this chapter, and that its embargo under this section is required to protect the consuming or purchasing public from injury, or possible injury, he is hereby authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director shall find that such article does not involve a violation of this chapter, such embargo shall be forthwith removed. [1975 1st ex.s. c 7 § 25; 1945 c 257 § 29; Rem. Supp. 1945 § 6163-78.]

Purpose of section: See RCW 69.04.398.

69.04.392 Regulations permitting tolerance of harmful matter—Pesticide chemicals in or on raw agricultural commodities. (1) Any poisonous or deleterious pesticide chemical, or any pesticide chemical which generally is recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as unsafe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purpose of the application of clause (2) of RCW 69.04-.210 unless:

- (a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed pursuant to subsection (2) hereof and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or
- (b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance pursuant to subsection (2) hereof.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 408 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, setting forth the tolerances for pesticide chemicals in or on any raw agricultural commodity, are hereby adopted as the regulations for tolerances applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to such federal regulations for tolerances, including exemption from tolerance and zero tolerances, to the extent necessary to protect the public health. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein tolerances for pesticides, exemptions, and zero tolerances, upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such regulation will not be detrimental to the

public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such regulation.

(3) In adopting any new or amended tolerances by regulation issued pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the necessity for the production of an adequate, wholesome, and economical food supply; (c) the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (d) the opinion of experts qualified by scientific training and experience to determine the proper tolerance to be allowed for any pesticide chemical. [1975 1st ex.s. c 7 § 26; 1963 c 198 § 3.]

Purpose of section: See RCW 69.04.398.

69.04.394 Regulations permitting tolerance of harmful matter—Food additives. (1) A food additive shall, with respect to any particular use or intended use of such additives, be deemed unsafe for the purpose of the application of clause (2)(c) of RCW 69.04.210, unless:

(a) It and its use or intended use conform to the terms of an exemption granted, pursuant to a regulation under subsection (2) hereof providing for the exemption from the requirements of this section for any food additive, and any food bearing or containing such additive, intended solely for investigational use by qualified experts when in the director's opinion such exemption is consistent with the public health; or

(b) There is in effect, and it and its use or intended use are in conformity with a regulation issued or effective under subsection (2) hereof prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation, be considered adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 409 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the conditions under which such food additive may be safely used, are hereby adopted as the regulations applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe the conditions under which a food additive may be safely used and exemptions where such food additive is to be used solely for investigational purposes; either upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the

effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect of such additive in the diet of man or animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and (d) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data. [1975 1st ex.s. c 7 § 27; 1963 c 198 § 4.]

Purpose of section: See RCW 69.04.398.

69.04.396 Regulations permitting tolerance of harmful matter—Color additives. (1) A color additive shall, with respect to any particular use (for which it is being used or intended to be used or is represented as suitable) in or on food, be deemed unsafe for the purpose of the application of RCW 69.04.231, unless:

(a) There is in effect, and such color additive and such use are in conformity with, a regulation issued under this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used;

(b) Such additive and such use thereof conform to the terms of an exemption for experimental use which is in effect pursuant to regulation under this section.

While there are in effect regulations under this section relating to a color additive or an exemption with respect to such additive a food shall not, by reason of bearing or containing such additive in all respects in accordance with such regulations or such exemption, be considered adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 706 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the use or limited use of such color additive, are hereby adopted as the regulations applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein the conditions under which a color additive may be safely used including exemptions for experimental purposes. Such a regulation may be issued either upon the director's own motion or upon the petition of any interested party requesting that such a regulation be established. It shall

be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect, if any, of such additive in the diet of man or animals, taking into account the same or any chemically or pharmacologically related substance or substances in such diet; (d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; (e) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) the pure dye and all intermediates and other impurities contained in such color additives, (ii) such additive in or on any article of food, and (iii) any substance formed in or on such article because of the use of such additive; and (f) the conformity by the manufacturer with the established standards in the industry relating to the proper formation of such color additive so as to result in a finished product safe for use as a color additive. [1975 1st ex.s. c 7 § 28; 1963 c 198 § 6.]

Purpose of section: See RCW 69.04.398.

Food—Adulteration by color additive: RCW 69.04.231.

69.04.398 Purpose of RCW 69.04.110, 69.04.392, 69.04.394, 69.04.396—Uniformity with federal laws and regulations. The purpose of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 is to promote uniformity of state legislation and regulations with the Federal Food, Drug and Cosmetic Act 21 USC 301 et seq. and regulations adopted thereunder. In accord with such declared purpose any regulation adopted under said federal food, drug and cosmetic act concerning food in effect on July 1, 1975, and not adopted under any other specific provision of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 are hereby deemed to have been adopted under the provision hereof. Further, to promote such uniformity any regulation adopted hereafter under the provisions of the federal food, drug and cosmetic act concerning food and published in the federal register shall be deemed to have been adopted under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 in accord with chapter 34.04 RCW as enacted or hereafter amended. The director may, however, within thirty days of the publication of the adoption of

any such regulation under the federal food, drug and cosmetic act give public notice that a hearing will be held to determine if such regulation shall not be applicable under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396. Such hearing shall be in accord with the requirements of chapter 34.04 RCW as enacted or hereafter amended. [1975 1st ex.s. c 7 § 36.]

69.04.930 Frozen fish and meat—Labeling requirements—Exceptions. It shall be unlawful for any person to sell at retail or display for sale at retail any food fish or shellfish as defined in RCW 75.04.040 as now or hereafter amended, any meat capable of use as human food as defined in RCW 16.49A.150 as now or hereafter amended, or any meat food product as defined in RCW 16.49A.130 as now or hereafter amended which has been frozen subsequent to being offered for sale or distribution to the ultimate consumer, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such food fish or shellfish, meat or meat food product shall be sold unless in such a package or container bearing said label: *Provided*, That this section shall not include any of the aforementioned food or food products that have been frozen prior to being smoked, cured, cooked or subjected to the heat of commercial sterilization. [1975 c 39 § 1.]

Chapter 69.24 EGGS AND EGG PRODUCTS

Sections

69.24.130	through 69.24.430 Repealed.
69.24.450	Repealed.
69.24.900	Repealed.
69.24.910	Repealed.

69.24.130 through 69.24.430 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

69.24.450 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

69.24.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

69.24.910 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 69.25 WASHINGTON WHOLESOME EGGS AND EGG PRODUCTS ACT

Sections

69.25.010	Legislative finding.
69.25.020	Definitions.
69.25.030	Purpose—Certain federal rules adopted by reference—Hearing, notice by director—Adoption of rules by director.
69.25.040	Application of administrative procedure act.
69.25.050	Egg handler's or dealer's license and number—Application, fee, posting required, procedure.

- 69.25.060 Egg handler's or dealer's license—Late renewal fee—Exceptions.
- 69.25.070 Egg handler's or dealer's license—Denial, suspension, revocation, or conditional issuance.
- 69.25.080 Continuous inspection at processing plants—Exemptions—Condemnation and destruction of adulterated eggs and egg products—Reprocessing—Appeal—Inspections of egg handlers.
- 69.25.090 Sanitary operation of official plants—Inspection refused if requirements not met.
- 69.25.100 Egg products—Pasteurization—Labeling requirements—False or misleading labels or containers—Director may order use of withheld—Hearing, determination, and appeal.
- 69.25.110 Prohibited acts and practices.
- 69.25.120 Director to cooperate with other agencies—May conduct examinations.
- 69.25.130 Eggs or egg products not intended for use as human food—Identification or denaturing required.
- 69.25.140 Records required, access to and copying of.
- 69.25.150 Penalties—Liability of employer—Defense—Interference with person performing official duties.
- 69.25.160 Notice of violation—May take place of prosecution.
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- 69.25.900 Savings.
- 69.25.910 Chapter is cumulative and nonexclusive.
- 69.25.920 Severability—1975 1st ex.s. c 201.
- 69.25.930 Short title.

69.25.010 Legislative finding. Eggs and egg products are an important source of the state's total supply of food, and are used in food in various forms. They are consumed throughout the state and the major portion thereof moves in intrastate commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, unadulterated, and properly labeled and

packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, unadulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this chapter are either in intrastate commerce, or substantially affect such commerce, and that regulation by the director, as contemplated by this chapter, is appropriate to protect the health and welfare of consumers. [1975 1st ex.s. c 201 § 2.]

69.25.020 Definitions. When used in this chapter the following terms shall have the indicated meanings, unless the context otherwise requires:

(1) "Department" means the department of agriculture of the state of Washington.

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

(3) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof, or assignee for the benefit of creditors.

(4) "Adulterated" applies to any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b) If it bears or contains any added poisonous or added deleterious substance (other than one which is: (i) A pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the director, make such article unfit for human food;

(c) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392, as enacted or hereafter amended;

(d) If it bears or contains any food additive which is unsafe within the meaning of RCW 69.04.394, as enacted or hereafter amended;

(e) If it bears or contains any color additive which is unsafe within the meaning of RCW 69.04.396, as enacted or hereafter amended: *Provided*, That an article which is not otherwise deemed adulterated under subsection (4)(c), (d), or (e) of this section shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the director in official plants;

(f) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(g) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become

contaminated with filth, or whereby it may have been rendered injurious to health;

(h) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(i) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(j) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394; or

(k) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(5) "Capable of use as human food" shall apply to any egg or egg product unless it is denatured, or otherwise identified, as required by regulations prescribed by the director, to deter its use as human food.

(6) "Intrastate commerce" means any eggs or egg products in intrastate commerce, whether such eggs or egg products are intended for sale, held for sale, offered for sale, sold, stored, transported, or handled in this state in any manner and prepared for eventual distribution in this state, whether at wholesale or retail.

(7) "Container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(8) "Immediate container" means any consumer package, or any other container in which egg products, not consumer-packaged, are packed.

(9) "Shipping container" means any container used in packaging a product packed in an immediate container.

(10) "Egg handler" or "dealer" means any person who produces, contracts for or obtains possession or control of any eggs for the purpose of sale to another dealer or retailer, or for processing and sale to a dealer, retailer or consumer: *Provided*, That for the purpose of this chapter, "sell" or "sale" includes the following: Offer for sale, expose for sale, have in possession for sale, exchange, barter, trade, or as an inducement for the sale of another product.

(11) "Egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion, or historically have not been, in the judgment of the director, considered by consumers as products of the egg food industry, and which may be exempted by the director under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(12) "Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea, or any other specie of fowl.

(13) "Check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(14) "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(15) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(16) "Incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(17) "Inedible" means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(18) "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(19) "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(20) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(21) "Inspection" means the application of such inspection methods and techniques as are deemed necessary by the director to carry out the provisions of this chapter.

(22) "Inspector" means any employee or official of the department authorized to inspect eggs or egg products under the authority of this chapter.

(23) "Misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the director under RCW 69.25.100.

(24) "Official certificate" means any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under this chapter.

(25) "Official device" means any device prescribed or authorized by the director for use in applying any official mark.

(26) "Official inspection legend" means any symbol prescribed by regulations of the director showing that egg products were inspected in accordance with this chapter.

(27) "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article under this chapter.

(28) "Official plant" means any plant which is licensed under the provisions of this chapter, at which inspection of the processing of egg products is maintained by the United States department of agriculture or by the state under cooperative agreements with the United States department of agriculture or by the state.

(29) "Official standards" means the standards of quality, grades, and weight classes for eggs, adopted under the provisions of this chapter.

(30) "Pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful, viable micro-organisms by such processes as may be prescribed by regulations of the director.

(31) "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meaning for purposes of this chapter as prescribed in chapter 69.04 RCW.

(32) "Plant" means any place of business where egg products are processed.

(33) "Processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(34) "Retailer" means any person in intrastate commerce who sells eggs to a consumer.

(35) "At retail" means any transaction in intrastate commerce between a retailer and a consumer.

(36) "Consumer" means any person who purchases eggs for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs for serving to guests or patrons thereof, or for its own use in cooking or baking.

(37) "Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place. [1975 1st ex.s. c 201 § 3.]

69.25.030 Purpose—Certain federal rules adopted by reference—Hearing, notice by director—Adoption of rules by director. The purpose of this chapter is to promote uniformity of state legislation and regulations with the federal egg products inspection act, 21 U.S.C. sec. 1031, et seq., and regulations adopted thereunder. In accord with such declared purpose, any regulations adopted under the federal egg products inspection act relating to eggs and egg products, as defined in RCW 69.25.020 (11) and (12), in effect on July 1, 1975, are hereby deemed to have been adopted under the provisions hereof. Further, to promote such uniformity, any regulations adopted hereafter under the provisions of the federal egg products inspection act relating to eggs and egg products, as defined in RCW 69.25.020 (11) and (12), and published in the federal register, shall be deemed to have been adopted under the provisions of this chapter in accord with chapter 34.04 RCW, as now or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal egg products inspection act, give public notice that a hearing will be held to determine if such regulations shall not be applicable under the provisions of this chapter. Such hearing shall be in accord with the requirements of chapter 34.04 RCW, as now or hereafter amended.

The director, in addition to the foregoing, may adopt any rule and regulation necessary to carry out the purpose and provisions of this chapter. [1975 1st ex.s. c 201 § 4.]

69.25.040 Application of administrative procedure act. The adoption, amendment, modification, or revocation of any rules or regulations under the provisions of this chapter, or the holding of a hearing in regard to a license issued or which may be issued or denied under the provisions of this chapter, shall be subject to the applicable provisions of chapter 34.04 RCW, the administrative procedure act, as now or hereafter amended. [1975 1st ex.s. c 201 § 5.]

69.25.050 Egg handler's or dealer's license and number—Application, fee, posting required, procedure. No person shall act as an egg handler or dealer without first obtaining an annual license and permanent dealer's number from the department; such license shall expire on the thirtieth day of June following issuance. Application for a license shall be on a form prescribed by the director and accompanied by a ten dollar annual license fee. Duplicate copies of the license may be issued upon payment of five dollars. A copy of said license shall be posted at each location where such licensee operates. Such application shall include the full name of the applicant for the license and the location of each facility he intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership or the names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant and any other necessary information prescribed by the director. Upon the approval of the application and compliance with the provisions of this chapter, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof. Such license and permanent egg handler or dealer's number shall be nontransferable. [1975 1st ex.s. c 201 § 6.]

69.25.060 Egg handler's or dealer's license—Late renewal fee—Exceptions. If the application for the renewal of an egg handler's or dealer's license is not filed before July 1st of any year, an additional fee of five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: *Provided*, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he has not acted as an egg handler or dealer subsequent to the expiration of his license. [1975 1st ex.s. c 201 § 7.]

69.25.070 Egg handler's or dealer's license—Denial, suspension, revocation, or conditional issuance. The department may deny, suspend, revoke, or issue a license or a conditional license if it determines that an applicant or licensee has committed any of the following acts:

(1) That the applicant or licensee is violating or has violated any of the provisions of this chapter or rules and regulations adopted thereunder.

(2) That the application contains any materially false or misleading statement or involves any misrepresentation by any officer, agent, or employee of the applicant.

(3) That the applicant or licensee has concealed or withheld any facts regarding any violation of this chapter by any officer, agent, or employee of the applicant or licensee. [1975 1st ex.s. c 201 § 8.]

69.25.080 Continuous inspection at processing plants—Exemptions—Condemnation and destruction of adulterated eggs and egg products—Reprocessing—Appeal—Inspections of egg handlers. (1) For the purpose of preventing the entry into or movement in intrastate commerce of any egg product which is capable of use as human food and is misbranded or adulterated, the director shall, whenever processing operations are being conducted, unless under inspection by the United States department of agriculture, cause continuous inspection to be made, in accordance with the regulations promulgated under this chapter, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under RCW 69.25.170. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of RCW 69.25.170(1)(a) in the preparation of any articles for human food, shall be deemed to be a plant processing egg products, with respect to such operations.

(2) The director, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(3) Eggs and egg products found to be adulterated at official plants shall be condemned, and if no appeal be taken from such determination or condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided*, That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the director determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(4) The director shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under RCW 69.25.140, as he deems appropriate (and in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of RCW 69.25.140, except that the director shall cause

such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of the director shall be afforded access to all such places of business for purposes of making the inspections provided for in this chapter. [1975 1st ex.s. c 201 § 9.]

69.25.090 Sanitary operation of official plants—Inspection refused if requirements not met. (1) The operator of each official plant shall operate such plant in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the director to effectuate the purposes of this chapter, including requirements for segregation and disposition of restricted eggs.

(2) The director shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section. [1975 1st ex.s. c 201 § 10.]

69.25.100 Egg products—Pasteurization—Labeling requirements—False or misleading labels or containers—Director may order use of withheld—Hearing, determination, and appeal. (1) Egg products inspected at any official plant under the authority of this chapter and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the director, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the director, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the director may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(2) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the director. If the director has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the director, such person may request a hearing, but the use of the labeling or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the superior court in the county in which such person has its principal place of business. [1975 1st ex.s. c 201 § 11.]

69.25.110 Prohibited acts and practices. (1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in intrastate commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the director under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for intrastate commerce except that such eggs may be so possessed and used when authorized by regulations of the director under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(3) No person shall process any egg products for intrastate commerce at any plant except in compliance with the requirements of this chapter.

(4) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in intrastate commerce any egg products required to be inspected under this chapter unless they have been so inspected and are labeled and packaged in accordance with the requirements of RCW 69.25.100.

(5) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(6) No person shall:

(a) Manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the director;

(b) Forge or alter any official device, mark, or certificate;

(c) Without authorization from the director, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under RCW 69.25.100 after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(d) Contrary to the regulations prescribed by the director, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(e) Knowingly possess, without promptly notifying the director or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(f) Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the director;

(g) Knowingly represent that any article has been inspected or exempted, under this chapter when in fact it has not been so inspected or exempted; and

(h) Refuse access, at any reasonable time, to any representative of the director, to any plant or other

place of business subject to inspection under any provisions of this chapter.

(7) No person, while an official or employee of the state or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States government or the state in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this chapter concerning any matter which the originator or relator of such information claims to be entitled to protection as a trade secret. [1975 1st ex.s. c 201 § 12.]

69.25.120 Director to cooperate with other agencies—May conduct examinations. The director shall, whenever he determines that it would effectuate the purposes of this chapter, cooperate with any state, federal or other governmental agencies in carrying out any provisions of this chapter. In carrying out the provisions of this chapter, the director may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such agency commissioned by him for such purpose. [1975 1st ex.s. c 201 § 13.]

69.25.130 Eggs or egg products not intended for use as human food—Identification or denaturing required. Inspection shall not be provided under this chapter at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in intrastate commerce, shall be denatured or identified as prescribed by regulations of the director to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in intrastate commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or identified as required by the regulations of the director. [1975 1st ex.s. c 201 § 14.]

69.25.140 Records required, access to and copying of. For the purpose of enforcing the provisions of this chapter and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in intrastate commerce or in interstate commerce, or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the director may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of the director, permit him at reasonable times to have access to and to copy all such records. [1975 1st ex.s. c 201 § 15.]

69.25.150 Penalties—Liability of employer—Defense—Interference with person performing official duties. (1) Any person who commits any offense prohibited by RCW 69.25.110 shall upon conviction be

guilty of a gross misdemeanor. When construing or enforcing the provisions of RCW 69.25.110, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(2) No carrier or warehouseman shall be subject to the penalties of this chapter, other than the penalties for violation of RCW 69.25.140, or subsection (3) of this section, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this chapter, or unless the carrier or warehouseman refuses to furnish on request of a representative of the director the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(3) Notwithstanding any other provision of law any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be punished by a fine of not more than five thousand dollars or imprisonment in the state penitentiary for not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be punished by a fine of not more than ten thousand dollars or by imprisonment in the state penitentiary for not more than ten years, or both. [1975 1st ex.s. c 201 § 16.]

69.25.160 Notice of violation—May take place of prosecution. Before any violation of this chapter, other than RCW 69.25.150(3), is reported by the director to any prosecuting attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the director to report for criminal prosecution violation of this chapter whenever he believes that the public interest will be adequately served and compliance with this chapter obtained by a suitable written notice of warning. [1975 1st ex.s. c 201 § 17.]

69.25.170 Exemptions permitted by rule of director. (1) The director may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this chapter:

(a) The sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerance in the official state standards for consumer grades for shell eggs;

(b) The processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the director, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of the state consumer grades for shell eggs, and the egg products processed at such plant;

(c) The sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this subsection;

(d) The sale of eggs by shell egg packers on his own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this subsection.

(2) The director may modify or revoke any regulation granting exemption under this chapter whenever he deems such action appropriate to effectuate the purposes of this chapter. [1975 1st ex.s. c 201 § 18.]

69.25.180 Limiting entry of eggs and egg products into official plants. The director may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this chapter. [1975 1st ex.s. c 201 § 19.]

69.25.190 Embargo of eggs or egg products in violation of this chapter—Time limit—Removal of official marks. Whenever any eggs or egg products subject to this chapter are found by any authorized representative of the director upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this chapter, or that they are in any other way in violation of this chapter, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the director, such articles may be embargoed by such representative for a reasonable period but not to exceed twenty days, pending action under RCW 69.25.200 or notification of any federal or other governmental authorities having jurisdiction over such articles, and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the director that the articles are eligible to retain such marks. [1975 1st ex.s. c 201 § 20.]

69.25.200 Embargo—Petition for court order affirming—Removal of embargo or destruction or correction and release—Court costs, fees, administrative

expenses—Bond may be required. When the director has embargoed any eggs or egg products, he shall petition the superior court of the county in which the eggs or egg products are located for an order affirming such embargo. Such court shall have jurisdiction for cause shown and after a prompt hearing to any claimant of eggs or egg products, shall issue an order which directs the removal of such embargo or the destruction or correction and release of such eggs and egg products. An order for destruction or the correction and release of such eggs and egg products shall contain such provision for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provisions for a bond as the court finds indicated in the circumstance. [1975 1st ex.s. c 201 § 21.]

69.25.210 Embargo—Order affirming not required, when. The director need not petition the superior court as provided for in RCW 69.25.200 if the owner or claimant of such eggs or egg products agrees in writing to the disposition of such eggs or egg products as the director may order. [1975 1st ex.s. c 201 § 22.]

69.25.220 Embargo—Consolidation of petitions. Two or more petitions under RCW 69.25.200 which pend at the same time and which present the same issue and claimant hereunder may be consolidated for simultaneous determination by one court of competent jurisdiction, upon application to any court of jurisdiction by the director or claimant. [1975 1st ex.s. c 201 § 23.]

69.25.230 Embargo—Sampling of article. The claimant in any proceeding by petition under RCW 69.25.200 shall be entitled to receive a representative sample of the article subject to such proceedings upon application to the court of competent jurisdiction made at any time after such petition and prior to the hearing thereon. [1975 1st ex.s. c 201 § 24.]

69.25.240 Condemnation—Recovery of damages restricted. No state court shall allow the recovery of damages for administrative action for condemnation under the provisions of this chapter, if the court finds that there was probable cause for such action. [1975 1st ex.s. c 201 § 25.]

69.25.250 Assessment—Rate, applicability, time of payment—Reports—Contents, frequency. There is hereby levied an assessment not to exceed two and one-half mills per dozen eggs entering intrastate commerce, as prescribed by rules and regulations issued by the director. Such assessment shall be applicable to all eggs entering intrastate commerce except as provided in RCW 69.25.170 and 69.25.290. Such assessment shall be paid to the director on a monthly basis on or before the tenth day following the month such eggs enter intrastate commerce. The director may require reports by egg handlers or dealers along with the payment of the assessment fee. Such reports may include any and all pertinent information necessary to carry out the purposes

of this chapter. The director may, by regulations, require egg container manufacturers to report on a monthly basis all egg containers sold to any egg handler or dealer and bearing such egg handler or dealer's license number. [1975 1st ex.s. c 201 § 26.]

69.25.260 Assessment—Prepayment by purchase of egg seals—Permit for printing seal on containers. Any egg handler or dealer may prepay the assessment provided for in RCW 69.25.250 by purchasing Washington state egg seals from the director to be placed on egg containers showing that the proper assessment has been paid. Any carton manufacturer may apply to the director for a permit to place reasonable facsimiles of the Washington state egg seals to be imprinted on egg containers. The director shall, from time to time, prescribe rules and regulations governing the affixing of seals and he is authorized to cancel any such permit issued pursuant to this chapter, whenever he finds that a violation of the terms under which the permit has been granted has been violated. [1975 1st ex.s. c 201 § 27.]

69.25.270 Assessment—Monthly payment—Audit—Failure to pay, penalty. Every egg handler or dealer who pays assessments required under the provisions of this chapter on a monthly basis in lieu of seals shall be subject to audit by the director on an annual basis or more frequently if necessary. The cost to the director for performing such audit shall be chargeable to and payable by the egg handler or dealer subject to audit. Failure to pay assessments when due or refusal to pay for audit costs may be cause for a summary suspension of an egg handler's or dealer's license and a charge of one percent per month, or fraction thereof shall be added to the sum due the director, for each remittance not received by the director when due. The conditions and charges applicable to egg handlers and dealers set forth herein shall also be applicable to payments due the director for facsimiles of seals placed on egg containers. [1975 1st ex.s. c 201 § 28.]

69.25.280 Assessment—Use of proceeds. The proceeds from assessment fees paid to the director shall be retained for the inspection of eggs and carrying out the provisions of this chapter relating to eggs. [1975 1st ex.s. c 201 § 29.]

69.25.290 Assessment—Exclusions. The assessments provided in this chapter shall not apply to:

- (1) Sale and shipment to points outside of this state;
- (2) Sale to the United States government and its instrumentalities;
- (3) Sale to breaking plants for processing into egg products;
- (4) Sale between egg dealers. [1975 1st ex.s. c 201 § 30.]

69.25.300 Transfer of moneys in state egg account. All moneys in the state egg account, created by RCW 69.24.450, at the time of July 1, 1975, shall be transferred to the director and shall be retained and expended for administering and carrying out the purposes of this chapter. [1975 1st ex.s. c 201 § 31.]

69.25.310 Containers—Marking required—Obliteration of previous markings required for reuse—Penalty. All containers used by an egg handler or dealer to package eggs shall bear the name and address or the permanent number issued by the director to said egg handler or dealer. Such permanent number shall be displayed in a size and location prescribed by the director. It shall constitute a gross misdemeanor for any egg handler or dealer to reuse a container which bears the permanent number of another egg handler or dealer unless such number is totally obliterated prior to reuse. The director may in addition require the obliteration of any or all markings that may be on any container which will be reused for eggs by an egg handler or dealer. [1975 1st ex.s. c 201 § 32.]

69.25.320 Records required, additional—Sales to retailer or food service—Exception—Defense to charged violation—Sale of eggs deteriorated due to storage time. In addition to any other records required to be kept and furnished the director under the provisions of this chapter, the director may require any person who sells to any retailer, or to any restaurant, hotel, boarding house, bakery, or any institution or concern which purchases eggs for serving to guests or patrons thereof or for its use in preparation of any food product for human consumption, candled or graded eggs other than those of his own production sold and delivered on the premises where produced, to furnish that retailer or other purchaser with an invoice covering each such sale, showing the exact grade or quality, and the size or weight of the eggs sold, according to the standards prescribed by the director, together with the name and address of the person by whom the eggs were sold. The person selling and the retailer or other purchaser shall keep a copy of said invoice on file at his place of business for a period of thirty days, during which time the copy shall be available for inspection at all reasonable times by the director: *Provided*, That no retailer or other purchaser shall be guilty of a violation of this chapter if he can establish a guarantee from the person from whom the eggs were purchased to the effect that they, at the time of purchase, conformed to the information required by the director on such invoice: *Provided further*, That if the retailer or other purchaser having labeled any such eggs in accordance with the invoice keeps them for such a time after they are purchased as to cause them to deteriorate to a lower grade or standard, and sells them under the label of the invoice grade or standard, he shall be guilty of a violation of this chapter.

No invoice shall be required on eggs when packed for sale to the United States department of defense, or a component thereof, if labeled with grades promulgated

by the United States secretary of agriculture. [1975 1st ex.s. c 201 § 33.]

69.25.330 Exemption from chapter. The provisions of this chapter shall not apply to the sale of eggs by any egg producer with an annual egg production from a flock of three thousand or less hens. [1975 1st ex.s. c 201 § 34.]

69.25.340 General penalty. Any person violating any provision of this chapter or regulations for which a penalty is not specifically provided for in this chapter, shall be guilty of a misdemeanor and guilty of a gross misdemeanor for any subsequent violation: *Provided*, That any offense committed more than five years after a previous conviction shall be considered a first offense. [1975 1st ex.s. c 201 § 36.]

69.25.900 Savings. The enactment of this chapter shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which shall already be in existence on July 1, 1975. [1975 1st ex.s. c 201 § 35.]

69.25.910 Chapter is cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy at law. [1975 1st ex.s. c 201 § 37.]

69.25.920 Severability—1975 1st ex.s. c 201. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 201 § 38.]

69.25.930 Short title. This act may be known and cited as the "Washington wholesome eggs and egg products act". [1975 1st ex.s. c 201 § 39.]

Chapter 69.28 HONEY

Sections	
69.28.150	Repealed.
69.28.400	Labeling requirements for artificial honey or mixtures containing honey.
69.28.410	Embargo on honey or product—Notice by director—Removal.
69.28.420	Embargo on honey or product—Court order affirming, required—Order for destruction or correction and release—Bond.
69.28.430	Consolidation of petitions presenting same issue and claimant.
69.28.440	Sample of honey or product may be obtained—Procedure.
69.28.450	Recovery of damages barred if probable cause for embargo.

69.28.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

69.28.400 Labeling requirements for artificial honey or mixtures containing honey. (1) No person shall sell, keep for sale, expose or offer for sale, any article or

product in imitation or semblance of honey branded exclusively as "honey", "liquid or extracted honey", "strained honey" or "pure honey".

(2) No person, firm, association, company or corporation shall manufacture, sell, expose or offer for sale, any compound or mixture branded or labeled exclusively as honey which shall be made up of honey mixed with any other substance or ingredient.

(3) Whenever honey is mixed with any other substance or ingredient and the commodity is to be marketed in imitation or semblance of honey, the product shall be labeled with the word "artificial" or "imitation" in the same type size and style as the word "honey";

(4) Whenever any substance or commodity is to be marketed in imitation or semblance of honey, but contains no honey, the product shall not be branded or labeled with the word "honey" and/or depict thereon a picture or drawing of a bee, bee hive, or honeycomb;

(5) Whenever honey is mixed with any other substance or ingredient and the commodity is to be marketed, there shall be printed on the package containing such compound or mixture a statement giving the ingredients of which it is made; if honey is one of such ingredients it shall be so stated in the same size type as are the other ingredients; nor shall such compound or mixture be branded or labeled exclusively with the word "honey" in any form other than as herein provided; nor shall any product in semblance of honey, whether a mixture or not, be sold, exposed or offered for sale as honey, or branded or labeled exclusively with the word "honey", unless such article is pure honey. [1975 1st ex.s. c 283 § 1.]

69.28.410 Embargo on honey or product—Notice by director—Removal. Whenever the director shall find, or shall have probable cause to believe, that any honey or product subject to the provisions of this chapter, as now or hereafter amended, is in intrastate commerce, which was introduced into such intrastate commerce in violation of the provisions of this chapter, as now or hereafter amended, he is hereby authorized to affix to such honey or product a notice placing an embargo on such honey or product, and prohibiting its sale in intrastate commerce, and no person shall move or sell such honey or product without first receiving permission from the director to move or sell such honey or product. But if, after such honey or product has been embargoed, the director shall find that such honey or product does not involve a violation of this chapter, as now or hereafter amended, such embargo shall be forthwith removed. [1975 1st ex.s. c 283 § 3.]

69.28.420 Embargo on honey or product—Court order affirming, required—Order for destruction or correction and release—Bond. When the director has embargoed any honey or product he shall, no later than twenty days after the affixing of notice of its embargo, petition the superior court for an order affirming such embargo. Such court shall then have jurisdiction, for cause shown and after prompt hearing to any claimant of such honey or product, to issue an order which directs the removal of such embargo or the destruction or

the correction and release of such honey or product. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses, as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for bond, as the court finds indicated in the circumstances. [1975 1st ex.s. c 283 § 4.]

69.28.430 Consolidation of petitions presenting same issue and claimant. Two or more petitions under this chapter, as now or hereafter amended, which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by such claimant. [1975 1st ex.s. c 283 § 5.]

69.28.440 Sample of honey or product may be obtained—Procedure. The claimant in any proceeding by petition under this chapter, as now or hereafter amended, shall be entitled to receive a representative sample of the honey or product subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon. [1975 1st ex.s. c 283 § 6.]

69.28.450 Recovery of damages barred if probable cause for embargo. No state court shall allow the recovery of damages for embargo under this chapter, as now or hereafter amended, if the court finds that there was probable cause for such action. [1975 1st ex.s. c 283 § 7.]

Chapter 69.33 UNIFORM NARCOTIC DRUG ACT

Sections
69.33.230 through 69.33.270 Repealed.
69.33.960 Decodified.

69.33.230 through 69.33.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

69.33.960 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 70 PUBLIC HEALTH AND SAFETY

Chapters

- 70.12 Public health funds.**
- 70.32 County and state tuberculosis funds.**
- 70.33 State administered tuberculosis hospital facilities.**
- 70.35 Eastern tuberculosis hospital districts.**
- 70.41 Hospital licensing and regulation.**
- 70.44 Public hospital districts.**
- 70.85 Party line telephones—Emergency calls.**

- 70.88 Conveyances for persons in recreational activities.
- 70.92 Public buildings—Provision for aged and handicapped.
- 70.92A Public accommodations—Provision for physically handicapped.
- 70.94 Washington clean air act.
- 70.95A Pollution control—Municipal bonding authority.
- 70.96A Uniform alcoholism and intoxication treatment.
- 70.112 Family medicine—Education and residency programs.

Chapter 70.12 PUBLIC HEALTH FUNDS

Sections

COUNTY FUNDS

- 70.12.010 County tax levy for public health. (Expires January 1, 1977.)
- 70.12.025 County funds for public health. (Effective January 1, 1977.)

COUNTY FUNDS

70.12.010 County tax levy for public health. (Expires January 1, 1977.) Each board of county commissioners shall annually budget and levy as a tax for public health work in its county a sum equal to the amount which would be raised by a levy of nine cents per thousand dollars of assessed value against the taxable property in the county, but nothing herein contained shall prohibit a county from obtaining said public health funds from any other source of county revenue or from budgeting additional sums for public health work.

This section shall expire on January 1, 1977. [1975 1st ex.s. c 291 § 1; 1973 2nd ex.s. c 4 § 4; 1973 1st ex.s. c 195 § 78; 1970 ex.s. c 47 § 6; 1943 c 163 § 1; 1939 c 191 § 1; Rem. Supp. 1943 § 3997-2a.]

Reviser's note: RCW 70.12.010 was repealed by 1975 1st ex.s. c 291 § 24, effective January 1, 1977.

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Emergency—Effective dates—1973 2nd ex.s. c 4: See notes following RCW 84.52.043.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

70.12.025 County funds for public health. (Effective January 1, 1977.) Each county legislative authority shall annually budget and appropriate a sum for public health work. [1975 1st ex.s. c 291 § 2.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Chapter 70.32 COUNTY AND STATE TUBERCULOSIS FUNDS

Sections

- 70.32.010 Expenditures for tuberculosis control directed—Standards. (Effective January 1, 1977.)
- 70.32.090 Repealed. (Effective January 1, 1977.)

70.32.010 Expenditures for tuberculosis control directed—Standards. (Effective January 1, 1977.) Tuberculosis is a communicable disease and tuberculosis control, case finding, prevention and follow up of known cases of tuberculosis represents the basic step in the conquest of this major health problem. In order to carry on such work effectively in accordance with the standards set by the secretary pursuant to RCW 70.33.020, the legislative authority of each county shall budget a sum to be used for the control of tuberculosis, including case finding, prevention and follow up of known cases of tuberculosis. [1975 1st ex.s. c 291 § 3; 1973 1st ex.s. c 195 § 79; 1971 ex.s. c 277 § 21; 1970 ex.s. c 47 § 7; 1967 ex.s. c 110 § 11; 1959 c 117 § 1; 1945 c 66 § 1; 1943 c 162 § 1; Rem. Supp. 1945 § 6113-1.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

County budget for tuberculosis facilities—State services: RCW 70.33.040.

County treasurer: Chapter 36.29 RCW.

Definitions: RCW 70.33.010.

70.32.090 Repealed. (Effective January 1, 1977.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 70.33 STATE ADMINISTERED TUBERCULOSIS HOSPITAL FACILITIES

Sections

- 70.33.040 County budget for tuberculosis facilities—State services. (Effective January 1, 1977.)

70.33.040 County budget for tuberculosis facilities—State services. (Effective January 1, 1977.) In order to maintain adequate tuberculosis hospital facilities and to provide for adequate hospitalization, nursing home and other appropriate facilities and services for the residents of the state of Washington who are or may be suffering from tuberculosis and to assure their proper care, the standards set by the secretary pursuant to RCW 70.33.020 and 70.32.050 and 70.32.060, the legislative authority of each county shall budget annually a sum to provide such services in the county.

If such counties desire to receive state services, they may elect to utilize funds pursuant to this section for the purpose of contracting with the state upon agreement by the state for the cost of providing tuberculosis hospitalization and/or outpatient treatment including laboratory services, or such funds may be retained by the county for operating its own services for the prevention and treatment of tuberculosis or any other community health purposes authorized by law. None of such counties shall be required to make any payments to the state or any other agency from these funds except upon the express consent of the county legislative authority: *Provided*, That if the counties do not comply with the promulgated standards of the department the secretary shall take action to provide such required

services and to charge the affected county directly for the provision of these services by the state. [1975 1st ex.s. c 291 § 4. Prior: 1973 1st ex.s. c 213 § 4; 1973 1st ex.s. c 195 § 81; 1971 ex.s. c 277 § 18.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Expenditures for tuberculosis control directed—Standards: RCW 70.32.010.

Chapter 70.35 EASTERN TUBERCULOSIS HOSPITAL DISTRICTS

Sections

70.35.010 through 70.35.110 Repealed. (Effective January 1, 1978.)

70.35.010 through 70.35.110 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 70.41 HOSPITAL LICENSING AND REGULATION

Sections

70.41.190 Retention and preservation of records of patients.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

70.41.190 Retention and preservation of records of patients. Unless specified otherwise by the board, a hospital shall retain and preserve all medical records which relate directly to the care and treatment of a patient for a period of no less than ten years following the most recent discharge of the patient; except the records of minors, which shall be retained and preserved for a period of no less than three years following attainment of the age of eighteen years, or ten years following such discharge, whichever is longer.

If a hospital ceases operations, it shall make immediate arrangements, as approved by the department, for preservation of its records.

The board shall by regulation define the type of records and the information required to be included in the medical records to be retained and preserved under this section; which records may be retained in photographic form pursuant to chapter 5.46 RCW. [1975 1st ex.s. c 175 § 1.]

Chapter 70.44 PUBLIC HOSPITAL DISTRICTS

Sections

70.44.050 Commissioners—Compensation—Expenses—Insurance—Resolutions by majority vote—Officers—Rules—Seal—Records.

70.44.050 Commissioners—Compensation—Expenses—Insurance—Resolutions by majority vote—Officers—Rules—Seal—Records. A district may provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding twenty-five dollars for each day or major part thereof devoted to the business of the district, and

[1975 RCW Supp—p 576]

days upon which he attends meetings of the commission of his own district, or meetings attended by one or more commissioners of two or more districts called to consider business common to them, except that the total compensation paid to such commissioner during any one year shall not exceed one thousand two hundred dollars: *Provided*, That commissioners may not be compensated for services performed of a ministerial or professional nature. Any district providing group insurance for its employees, covering them, their immediate family, and dependents, may provide insurance for its commissioners with the same coverage. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging and travel while away from his place of residence. No resolution shall be adopted without a majority vote of the whole commission. The commission shall organize by election of its own members of a president and secretary, shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings of the commission shall be by motion or resolution recorded in a book or books kept for such purpose, which shall be public records. [1975 c 42 § 1; 1965 c 157 § 1; 1945 c 264 § 15; Rem. Supp. 1945 § 6090-44.]

Chapter 70.85 PARTY LINE TELEPHONES—EMERGENCY CALLS

Call to operator without charge or coin insertion be provided: RCW 80.36.225.

Chapter 70.88 CONVEYANCES FOR PERSONS IN RECREATIONAL ACTIVITIES

Sections

70.88.070 Costs of inspection—Lien—Disposition of funds.

70.88.070 Costs of inspection—Lien—Disposition of funds. The expenses incurred in connection with making inspections under this chapter shall be paid by the owner or operator of such recreational devices either by reimbursing the commission for the costs incurred or by paying directly such individuals or firms that may be engaged by the commission to accomplish the inspection service. Payment shall be made only upon notification by the commission of the amount due. The commission shall maintain accurate and complete records of the costs incurred for each inspection and shall assess the respective owners or operators of said recreational devices only for the actual costs incurred by the commission for such safety inspections. The costs as assessed by the commission shall be a lien on the equipment of the owner or operator of the recreational devices so inspected. Such moneys collected by the commission hereunder shall be paid into the parks and parkways account of the general fund. [1975 1st ex.s. c 74 § 1; 1961 c 253 § 2; 1959 c 327 § 7.]

Chapter 70.92
PUBLIC BUILDINGS—PROVISION FOR AGED
AND HANDICAPPED

Sections

70.92.010	through 70.92.060 Repealed. (Effective July 1, 1976.)
70.92.100	Legislative intent.
70.92.110	Buildings and structures to which standards and specifications apply—Exemptions.
70.92.120	Handicap symbol—Display—Signs showing location of entrance for handicapped.
70.92.130	Definitions.
70.92.140	Minimum standards for facilities—Adoption—Facilities to be included.
70.92.150	Standards adopted by other states to be considered—Majority vote.
70.92.160	Waiver from compliance with standards.

70.92.010 through 70.92.060 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

70.92.100 Legislative intent. It is the intent of the legislature that, notwithstanding any law to the contrary, plans and specifications for the erection of buildings through the use of public or private funds shall make special provisions for elderly or physically disabled persons. [1975 1st ex.s. c 110 § 1.]

70.92.110 Buildings and structures to which standards and specifications apply—Exemptions. The standards and specifications adopted under this chapter shall, as provided in this section, apply to buildings, structures, or portions thereof used primarily for group A through group H occupancies, as defined in the Washington state building code. All such buildings, structures, or portions thereof, which are constructed, substantially remodeled, or substantially rehabilitated after July 1, 1976, shall conform to the standards and specifications adopted under this chapter: *Provided*, That the following buildings, structures, or portions thereof shall be exempt from this chapter:

(1) Buildings, structures, or portions thereof for which construction contracts have been awarded prior to July 1, 1976;

(2) Any building, structure, or portion thereof in respect to which the administrative authority deems, after considering all circumstances applying thereto, that full compliance is impracticable: *Provided*, That, such a determination shall be made no later than at the time of issuance of the building permit for the construction, remodeling, or rehabilitation: *Provided further*, That the board of appeals provided for in section 204 of the Uniform Building Code shall have jurisdiction to hear and decide appeals from any decision by the administrative authority regarding a waiver or failure to grant a waiver from compliance with the standards adopted pursuant to RCW 70.92.100 through 70.92.160. The provisions of the Uniform Building Code regarding the appeals process shall govern the appeals herein;

(3) Any building or structure used solely for dwelling purposes and which contains not more than two dwelling units;

(4) Any building or structure not used primarily for group A through group H occupancies as set forth in the Washington state building code; or

(5) Apartment houses with ten or fewer units. [1975 1st ex.s. c 110 § 2.]

70.92.120 Handicap symbol—Display—Signs showing location of entrance for handicapped. All buildings built in accordance with the standards and specifications provided for in this chapter, and containing facilities that are in compliance therewith, shall display the following symbol which is known as the international symbol of access.



Such symbol shall be white on a blue background and shall indicate the location of facilities designed for the physically disabled or elderly. When a building contains an entrance other than the main entrance which is ramped or level for use by physically disabled or elderly persons, a sign with the symbol showing its location shall be posted at or near the main entrance which shall be visible from the adjacent public sidewalk or way. [1975 1st ex.s. c 110 § 3.]

70.92.130 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Administrative authority" means the building department of each county, city, or town of this state;

(2) "Substantially remodeled or substantially rehabilitated" means any alteration or restoration of a building or structure within any twelve-month period, the cost of which exceeds sixty percent of the currently appraised value of the particular building or structure;

(3) "Council" means the state building code advisory council. [1975 1st ex.s. c 110 § 4.]

70.92.140 Minimum standards for facilities—Adoption—Facilities to be included. The state building code advisory council shall adopt minimum standards by rule and regulation for the provision of facilities in buildings and structures to accommodate the elderly, as well as physically disabled persons, which shall include but not be limited to standards for:

- (1) Ramps;
- (2) Doors and doorways;
- (3) Stairs;
- (4) Floors;
- (5) Entrances;
- (6) Toilet rooms and paraphernalia therein;
- (7) Water fountains;
- (8) Public telephones;
- (9) Elevators;
- (10) Switches and levers for the control of light, ventilation, windows, mirrors, etc.;
- (11) Plaques identifying such facilities;
- (12) Turnstiles and revolving doors;
- (13) Kitchen facilities, where appropriate;
- (14) Grading of approaches to entrances;
- (15) Parking facilities;
- (16) Seating facilities, where appropriate, in buildings where people normally assemble. [1975 1st ex.s. c 110 § 5.]

70.92.150 Standards adopted by other states to be considered—Majority vote. The council in adopting these minimum standards shall consider minimum standards adopted by both law and rule and regulation in other states: *Provided*, That no standards adopted by the council pursuant to RCW 70.92.100 through 70.92.160 shall take effect until July 1, 1976. The council shall adopt such standards by majority vote pursuant to the provisions of chapter 34.04 RCW. [1975 1st ex.s. c 110 § 6.]

70.92.160 Waiver from compliance with standards. The administrative authority of any jurisdiction may grant a waiver from compliance with any standard adopted hereunder for a particular building or structure if it determines that compliance with the particular standard is impractical: *Provided*, That such a determination shall be made no later than at the time of issuance of the building permit for the construction, remodeling, or rehabilitation: *Provided further*, That the board of appeals provided for in section 204 of the Uniform Building Code shall have jurisdiction to hear and decide appeals from any decision by the administrative authority regarding a waiver or failure to grant a waiver from compliance with the standards adopted pursuant to RCW 70.92.100 through 70.92.160. The provisions of the Uniform Building Code regarding the appeals process shall govern the appeals herein. [1975 1st ex.s. c 110 § 7.]

Chapter 70.92A

PUBLIC ACCOMMODATIONS—PROVISION FOR PHYSICALLY HANDICAPPED

Sections

70.92A.010 through 70.92A.060 Repealed. (Effective July 1, 1976.)

70.92A.010 through 70.92A.060 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 70.94

WASHINGTON CLEAN AIR ACT

Sections

70.94.092 Fiscal year—Adoption of budget—Contents—"Supplemental income"—Emergency expenditures.
70.94.097 Special air pollution studies—Contracts for conduct of.
70.94.656 Open burning of field and turf grasses grown for seed—Alternatives—Studies—Funding—Procedures—Limitations.

70.94.092 Fiscal year—Adoption of budget—Contents—"Supplemental income"—Emergency expenditures. Notwithstanding the provisions of RCW 1.16.030, the budget year of each activated authority shall be the fiscal year beginning July 1st and ending on the following June 30th. The current budget year shall be terminated June 30, 1975, and a budget for the fiscal year beginning July 1, 1975, shall be adopted pursuant to this section as now or hereafter amended. On or before the fourth Monday in June of each year, each activated authority shall adopt a budget for the following fiscal year. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The remaining funds required to meet budget expenditures, if any, shall be designated as "supplemental income" and shall be obtained from the component cities, towns, and counties in the manner provided in this chapter. The affirmative vote of three-fourths of all members of the board shall be required to authorize emergency expenditures. [1975 1st ex.s. c 106 § 1; 1969 ex.s. c 168 § 8; 1967 c 238 § 16.]

70.94.097 Special air pollution studies—Contracts for conduct of. In addition to paying its share of the supplemental income of the activated authority, each component city, town, or county shall have the power to contract with such authority and expend funds for the conduct of special studies, investigations, plans, research, advice, or consultation relating to air pollution and its causes, effects, prevention, abatement, and control as such may affect any area within the boundaries of the component city, town, or county, and which could not be performed by the authority with funds otherwise available to it. Any component city, town or county which contracts for the conduct of such special air pollution studies, investigations, plans, research, advice or consultation with any entity other than the activated authority shall require that such an entity consult with the activated authority. [1975 1st ex.s. c 106 § 2.]

70.94.656 Open burning of field and turf grasses grown for seed—Alternatives—Studies—Funding—Procedures—Limitations.

Grass burning research advisory committee: Chapter 43.21E RCW.

**Chapter 70.95A
POLLUTION CONTROL—MUNICIPAL
BONDING AUTHORITY**

Sections

- 70.95A.010 Legislative declaration—Liberal construction.
70.95A.035 Actions by municipalities validated.
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70.95A.010 Legislative declaration—Liberal construction. The legislature finds:

(1) That environmental damage seriously endangers the public health and welfare;

(2) That such environmental damage results from air, water, and other resources pollution and from solid waste disposal, noise and other environmental problems;

(3) That to abate or control such environmental damage antipollution devices, equipment, and facilities must be acquired, constructed and installed;

(4) That the tax exempt financing permitted by Section 103 of the Internal Revenue Code of 1954, as amended, and authorized by this chapter results in lower costs of installation of pollution control facilities;

(5) That such lower costs benefit the public with no measurable cost impact;

(6) That the method of financing provided in this chapter is in the public interest and its use serves a public purpose in (a) protecting and promoting the health and welfare of the citizens of the cities, towns, counties, and port districts and of this state by encouraging and accelerating the installation of facilities for abating or controlling and preventing environmental damage and (b) in attracting and retaining environmentally sound industry in this state which reduces unemployment and provides a more diversified tax base.

(7) For the reasons set forth in subsection (6) of this section, the provisions of this chapter relating to port districts and all proceedings heretofore or hereafter taken by port districts pursuant thereto are, and shall be deemed to be, for industrial development as authorized by Article 8, section 8 of the Washington state Constitution.

This chapter shall be liberally construed to accomplish the intentions expressed in this section. [1975 c 6 § 1; 1973 c 132 § 2.]

70.95A.035 Actions by municipalities validated. All actions heretofore taken by any municipality in conformity with the provisions of this chapter and the provisions of *this 1975 amendatory act hereby made applicable thereto relating to pollution control facilities, including but not limited to all bonds issued for such

purposes, are hereby declared to be valid, legal and binding in all respects. [1975 c 6 § 4.]

***Reviser's note:** "this 1975 amendatory act" [1975 c 6] consists of amendments to RCW 70.95A.010 and 70.95A.040 and the enactment of RCW 53.08.040, 70.95A.035, 70.95A.045, 70.95A.912, 70.95A.940, and an uncodified section declaring an emergency and providing an effective date.

Port districts—Pollution control facilities or other industrial development—Validation: RCW 53.08.041.

70.95A.040 Municipalities—Revenue bonds for pollution control facilities—Authorized—Construction—Sale, conditions—Form, terms. (1) All bonds issued by a municipality under the authority of this chapter shall be secured solely by revenues derived from the lease or sale of the facility. Bonds and interest coupons issued under the authority of this chapter shall not constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds. The use of the municipality's name on revenue bonds authorized hereunder shall not be construed to be the giving or lending of the municipality's financial guarantee or pledge, i.e. credit to any private person, firm, or corporation as the term credit is used in Article 8, section 7 of the Washington state Constitution.

(2) The bonds referred to in subsection (1) of this section, may (a) be executed and delivered at any time and from time to time, (b) be in such form and denominations, (c) be of such tenor, (d) be in registered or bearer form either as to principal or interest or both, and may provide for conversion between registered and coupon bonds of varying denominations, (e) be payable in such installments and at such time or times not exceeding forty years from their date, (f) be payable at such place or places, (g) bear interest at such rate or rates as may be determined by the governing body, payable at such place or places within or without this state and evidenced in such manner, (h) be redeemable prior to maturity, with or without premium, and (i) contain such provisions not inconsistent herewith, as shall be deemed for the best interest of the municipality and provided for in the proceedings of the governing body whereunder the bonds shall be authorized to be issued.

(3) Any bonds issued under the authority of this chapter, may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof from the proceeds of the sale of said bonds or from the revenues of the facilities.

(4) All bonds issued under the authority of this chapter, and all interest coupons applicable thereto shall be investment securities within the meaning of the uniform commercial code and shall be deemed to be issued by a political subdivision of the state.

(5) The proceeds from any bonds issued under this chapter shall be used only for purposes qualifying under Section 103(c)(4)(f) of the Internal Revenue Code of 1954, as amended. [1975 c 6 § 3; 1973 c 132 § 5.]

Port districts—Pollution control facilities or other industrial development—Validation: RCW 53.08.041.

70.95A.045 Proceeds of bonds are separate trust funds—Municipal treasurer, compensation. The proceeds of any bonds heretofore or hereafter issued in conformity with the authority of this chapter, together with interest and premiums thereon, and any revenues used to pay or redeem any of such bonds, together with interest and any premiums thereon, shall be separate trust funds and used only for the purposes permitted herein and shall not be considered to be money of the municipality. The services of the treasurer of a municipality, if such treasurer is or has been used, were and are intended to be for the administrative convenience of receipt and payment of nonpublic moneys only for which reasonable compensation may be charged by such treasurer or municipality. [1975 c 6 § 2.]

Port districts—Pollution control facilities or other industrial development—Validation: RCW 53.08.041.

70.95A.912 Construction—1975 c 6. *This 1975 amendatory act shall be liberally construed to accomplish the intention expressed herein. [1975 c 6 § 6.]

***Reviser's note:** "This 1975 amendatory act" [1975 c 6] see note following RCW 70.95A.035.

Port districts—Pollution control facilities or other industrial development—Validation: RCW 53.08.041.

70.95A.940 Severability—1975 c 6. If any provision of *this 1975 amendatory act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of *this 1975 amendatory act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. [1975 c 6 § 7.]

***Reviser's note:** "this 1975 amendatory act" [1975 c 6] see note following RCW 70.95A.035.

Chapter 70.96A

UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT

Sections

70.96A.130 Repealed.

70.96A.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 70.112

FAMILY MEDICINE—EDUCATION AND RESIDENCY PROGRAMS

Sections

70.112.010 Definitions.

70.112.020 Education in family medical practice—Department in school of medicine—Residency programs—Financial support.

70.112.030 Family practice education advisory board—Chairman—Membership.

70.112.040 Advisory board—Terms of members—Filling vacancies.

70.112.050 Advisory board—Duties—Annual report.

70.112.060 Funding of residency programs.

70.112.010 Definitions. (1) "School of medicine" means the University of Washington school of medicine located in Seattle, Washington;

(2) "Residency programs" mean community based family practice residency educational programs either in existence or established under this chapter;

(3) "Affiliated" means established or developed in cooperation with the school of medicine;

(4) "Family practice unit" means the community facility or classroom used for training of ambulatory health skills within a residency training program; and

(5) "Advisory board" means the family practice education advisory board created by this chapter. [1975 1st ex.s. c 108 § 1.]

70.112.020 Education in family medical practice—Department in school of medicine—Residency programs—Financial support. There is established a state-wide medical education system for the purpose of training resident physicians in family practice. The dean of the school of medicine shall be responsible for implementing the development and expansion of residency programs in cooperation with the medical profession, hospitals, and clinics located throughout the state. The chairman of the department of family medicine in the school of medicine, with the consent of the advisory board, shall determine where affiliated residency programs shall exist; giving consideration to communities in the state where the population, hospital facilities, number of physicians, and interest in medical education indicate the potential success of the residency program. The medical education system shall provide financial support for residents in training for those programs which are affiliated with the school of medicine and shall establish positions for appropriate faculty to staff these programs. The number of programs shall be determined by the board and be in keeping with the needs of the state. [1975 1st ex.s. c 108 § 2.]

70.112.030 Family practice education advisory board—Chairman—Membership. There is created a family practice education advisory board which shall consist of eight members with the dean of the school of medicine serving as chairman. Other members of the board will be:

(1) Chairman, department of family medicine, school of medicine;

(2) Two public members to be appointed by the governor;

(3) A member appointed by the Washington state medical association;

(4) A member appointed by the Washington state academy of family physicians;

(5) A hospital administrator representing those Washington hospitals with family practice residency programs, appointed by the governor; and

(6) A director representing the directors of community based family practice residency programs, appointed by the governor. [1975 1st ex.s. c 108 § 3.]

70.112.040 Advisory board—Terms of members—Filling vacancies. The dean and chairman of the department of family medicine at the University of Washington school of medicine shall be permanent members of the advisory board. Other members will be initially appointed as follows: Terms of the two public members shall be two years; the member from the medical association and the hospital administrator, three years; and the remaining two members, four years. Thereafter, terms for the nonpermanent members shall be four years; members may serve two consecutive terms; and new appointments shall be filled in the same manner as for original appointments. Vacancies shall be filled for an unexpired term in the manner of the original appointment. [1975 1st ex.s. c 108 § 4.]

70.112.050 Advisory board—Duties—Annual report. The advisory board shall advise the dean and the chairman of the department of family medicine in the implementation of the educational programs provided for in this chapter; including, but not limited to, the selection of the areas within the state where affiliate residency programs shall exist, the allocation of funds appropriated under this chapter, and the procedures for review and evaluation of the residency programs. On or before January 15 of each year the advisory board shall provide the governor and the legislature with the report on the status of the state-wide family practice residency program. [1975 1st ex.s. c 108 § 5.]

70.112.060 Funding of residency programs. (1) The moneys appropriated for these state-wide family medicine residency programs shall be in addition to all the income of the University of Washington and its school of medicine and shall not be used to supplant funds for other programs under the administration of the school of medicine.

(2) The allocation of state funds for the residency programs shall not exceed fifty percent of the total cost of the program.

(3) No more than twenty-five percent of the appropriation for each fiscal year for the affiliated programs shall be authorized for expenditures made in support of the faculty and staff of the school of medicine who are associated with the affiliated residency programs and are located at the school of medicine.

(4) No funds for the purposes of this chapter shall be used to subsidize the cost of care incurred by patients. [1975 1st ex.s. c 108 § 6.]

Title 71 MENTAL ILLNESS AND INEBRIACY

Chapters

71.05 Mental illness.

Chapter 71.05 MENTAL ILLNESS

Sections	
71.05.040	No detention or judicial commitment—Epileptic—Mentally deficient or retarded—Senile—Chronic alcoholic or drug abuse impaired.
71.05.050	Voluntary application for mental health services—Rights—Review of condition and status—Detention.
71.05.150	Detention of mentally disordered persons for evaluation and treatment—Procedure.
71.05.210	Evaluation—Treatment and care—Release or other disposition.
71.05.230	Procedures for additional treatment.
71.05.290	Petition—Affidavit.
71.05.300	Filing of petition—Appearance—Notice—Advice as to rights—Appointment of attorney, professional person.
71.05.310	Time for hearing—Due process—Jury trial—Continuation of treatment.
71.05.320	Remand for additional treatment—Duration—New petition—Grounds—Hearing.
71.05.390	Confidential information and records—Disclosure.
71.05.525	Transfer of person committed to juvenile correction institution to institution or facility for mentally ill juveniles.

71.05.040 No detention or judicial commitment—Epileptic—Mentally deficient or retarded—Senile—Chronic alcoholic or drug abuse impaired. Persons who are epileptics, mentally deficient, mentally retarded, impaired by chronic alcoholism or drug abuse, or senile shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or as a result of a mental disorder such condition exists that constitutes a likelihood of serious harm to self or others: *Provided*, That a person shall not be subject to the provisions of this chapter if proceedings have been initiated under the provisions of the Washington Uniform Alcoholism and Intoxication Treatment Act, chapter 70.96A RCW. [1975 1st ex.s. c 199 § 1; 1974 ex.s. c 145 § 5; 1973 1st ex.s. c 142 § 9.]

71.05.050 Voluntary application for mental health services—Rights—Review of condition and status—Detention. Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate release and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment and/or possible release, at which time

they shall again be advised of their right to release upon request: *Provided however*. That if the professional staff of any public or private agency regards a person voluntarily admitted who requests release as presenting, as a result of a mental disorder, an imminent likelihood of serious harm to himself or others, or is gravely disabled, they may detain such person for sufficient time to notify the designated county mental health professional of such person's condition to enable such mental health professional to authorize such person being further held in custody or transported to an evaluation and treatment center pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day. [1975 1st ex.s. c 199 § 2; 1974 ex.s. c 145 § 6; 1973 1st ex.s. c 142 § 10.]

71.05.150 Detention of mentally disordered persons for evaluation and treatment—Procedure. (1) (a) When a mental health professional designated by the county receives information alleging that a person, as a result of a mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, such mental health professional, after investigation and evaluation of the specific facts alleged, and of the reliability and credibility of the person or persons, if any, providing information to initiate detention, may summon such person to appear at an evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period; the summons shall state whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient status. The mental health professional shall also designate, at the time of the summons, from a list provided by the court, an attorney who will be appointed, if any is to be appointed, and state the name, business address, and telephone number of this attorney in the summons.

(b) The summons shall state a date and time to appear not less than twenty-four hours after the service of the summons. The summons shall state the address of the evaluation and treatment facility to which such person is to report and the business address and phone number of the mental health professional designated by the county. The summons shall state that if the person named in the summons fails to appear at the evaluation and treatment facility at or before the date and time stated in the summons, such person may be involuntarily taken into custody. Accompanying the summons to such person shall be a copy of the petition for initial detention and a notice of rights.

(c) If such mental health professional decides to summon such person for up to a seventy-two hour evaluation and treatment period, the mental health professional must file in court the summons, the petition for initial detention, and all documentary evidence. The mental health professional shall then serve or cause to be served on such person, his guardian, and conservator, if any, a copy of the summons together with a notice of rights and a petition for initial detention. After service on such person the mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and

treatment facility and the designated attorney. The mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time specified on the summons if such person is not released prior to the expiration of such period.

(d) If the person summoned appears on or before the date and time specified, the evaluation and treatment facility may admit such person as required by RCW 71.05.170 or may provide treatment on an outpatient basis. If the person summoned fails to appear on or before the date and time specified, the evaluation and treatment facility shall immediately notify the mental health professional designated by the county who may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. Should the mental health professional notify a peace officer authorizing him to take a person into custody under the provisions of this subsection, he shall file with the court a copy of such authorization and a notice of detention. At the time such person is taken into custody there shall commence to be served on such person, his guardian, and conservator, if any, a copy of the original summons together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) When a mental health professional designated by the county receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm to himself or others, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility pursuant to subsection (1)(d) of this section.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause such person to be taken into custody and immediately delivered to an evaluation and treatment facility:

(a) Only pursuant to subsections (1)(d) and (2) of this section; or

(b) When he has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm to others or himself.

(5) Persons delivered to evaluation and treatment facilities by peace officers pursuant to subsection (4)(b) of this section may be held by the facility for a period of up to twelve hours: *Provided*, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the designated county mental health professional must file a supplemental petition for detention, and commence

service on the designated attorney for the detained person. [1975 1st ex.s. c 199 § 3; 1974 ex.s. c 145 § 8; 1973 1st ex.s. c 142 § 20.]

71.05.210 Evaluation—Treatment and care—Release or other disposition. Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his admission, be examined and evaluated by a licensed physician and a mental health professional as defined in this chapter, and shall receive such treatment and care as his condition requires including treatment on an outpatient basis for the period that he is detained, except that, beginning twenty-four hours prior to a court proceeding, the individual may refuse all but emergency life-saving treatment, and the individual shall be informed at an appropriate time of his right to such refusal of treatment. Such person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his professional designee, the person presents a likelihood of serious harm to himself or others, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

An evaluation and treatment center admitting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated county mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days. [1975 1st ex.s. c 199 § 4; 1974 ex.s. c 145 § 14; 1973 1st ex.s. c 142 § 26.]

71.05.230 Procedures for additional treatment. A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of either involuntary intensive treatment or of a less restrictive alternative to involuntary intensive treatment if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that said condition is caused by mental disorder and either results in a likelihood of serious harm to the person detained or to others, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department of social and health services; and

(4) The professional staff of the agency or facility or the mental health professional designated by the county

has filed a petition for fourteen day involuntary detention or a less restrictive alternative with the court. The petition must be signed either by two physicians or by one physician and a mental health professional who have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his attorney and his guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary treatment after a probable cause hearing has been held pursuant to RCW 71.05.240. [1975 1st ex.s. c 199 § 5; 1974 ex.s. c 145 § 15; 1973 1st ex.s. c 142 § 28.]

71.05.290 Petition—Affidavit. (1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his professional designee or the designated county mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.090(3) as now existing or hereafter amended, then the professional person in charge of the treatment facility or his professional designee or the county designated mental health professional may directly file a petition for ninety day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed. [1975 1st ex.s. c 199 § 6; 1974 ex.s. c 145 § 20; 1973 1st ex.s. c 142 § 34.]

71.05.300 Filing of petition—Appearance—Notice—Advice as to rights—Appointment of attorney, professional person. The petition for ninety day treatment shall be filed with the clerk of the superior court. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated county mental health professional. The designated county mental health professional shall immediately notify the person detained, his attorney, if any, and his guardian or conservator, if any, and the prosecuting attorney, and provide a copy of the petition to such persons as soon as possible.

At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him of his right to be represented by an attorney and of his right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

The court may, if requested, also appoint a professional person as defined in RCW 71.05.020(12) to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person.

The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310. [1975 1st ex.s. c 199 § 7; 1974 ex.s. c 145 § 21; 1973 1st ex.s. c 142 § 35.]

71.05.310 Time for hearing—Due process—Jury trial—Continuation of treatment. The court shall conduct a hearing on the petition for ninety day treatment within five judicial days of the first court appearance after the probable cause hearing unless the person named in the petition requests a jury trial, in which case trial shall commence within ten judicial days of the filing of the petition for ninety day treatment. The court may continue the hearing upon the written request of the person named in the petition or his attorney, which continuance shall not exceed ten additional judicial days. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.250.

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his attorney, the detained person shall be released. [1975 1st ex.s. c 199 § 8; 1974 ex.s. c 145 § 22; 1973 1st ex.s. c 142 § 36.]

71.05.320 Remand for additional treatment—Duration—New petition—Grounds—Hearing. (1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment.

(2) Said person shall be released from involuntary treatment at the expiration of ninety days unless the superintendent or professional person in charge of the facility in which he is confined, or in the event of a less restrictive alternative, the designated mental health professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) Has threatened, attempted, or inflicted physical harm upon the person of another during the current period of court ordered treatment and, as a result of mental disorder presents a likelihood of serious harm to others; or

(b) Was taken into custody as a result of conduct in which he attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder a likelihood of serious harm to others; or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder presents a substantial likelihood of repeating similar acts; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in subsections (b) and (c) of this section was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the

same manner as provided herein above. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. No person committed as herein provided may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length. [1975 1st ex.s. c 199 § 9; 1974 ex.s. c 145 § 23; 1973 1st ex.s. c 142 § 37.]

71.05.390 Confidential information and records—Disclosure. The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care or who is not a designated county mental health professional or who is not involved in providing services under the community mental health services act, chapter 71.24 RCW;

(2) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation;

(3) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(4) For program evaluation and/or research: *Provided*, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, _____, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ _____ "

(5) To the courts as necessary to the administration of this chapter.

(6) To law enforcement officers or public health officers necessary to carry out the responsibilities of their office: *Provided*, That

(a) Only the fact and date of admission, the fact and date of discharge, and the last known address shall be disclosed upon request; and

(b) The law enforcement and public health officers shall be obligated to keep such information confidential in accordance with this chapter; and

(c) Additional information shall be disclosed only after giving notice to said person and his counsel and upon a showing of clear, cogent and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained: *Provided however*, That in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence.

(7) To the attorney of the detained person.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained. [1975 1st ex.s. c 199 § 10; 1974 ex.s. c 145 § 27; 1973 1st ex.s. c 142 § 44.]

71.05.525 Transfer of person committed to juvenile correction institution to institution or facility for mentally ill juveniles. When, in the judgment of the department of social and health services, the welfare of any person committed to or confined in any state juvenile correctional institution or facility necessitates that such a person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of mentally ill juveniles the secretary, or his designee, is authorized to order and effect such move or transfer: *Provided, however*, That the secretary shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined in such institution or facility for the care of mentally ill juveniles, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in state juvenile correctional institutions or facilities: *Provided, further*, That the secretary shall notify the original committing court of such transfer. [1975 1st ex.s. c 199 § 12.]

**Title 72
STATE INSTITUTIONS**

Chapters

- 72.19 Juvenile correctional institution in King county.
 72.23 Public and private facilities for mentally ill.
 72.33 State residential schools—Residential placement, etc.
 72.36 Soldiers' and veterans' homes.
 72.40 State schools for blind and deaf.
 72.99 Bond acts.

Chapter 72.19

JUVENILE CORRECTIONAL INSTITUTION IN KING COUNTY

Sections

- 72.19.100 General obligation bond issue to provide buildings—Juvenile correctional institution building bond redemption fund—Payment from and prior charge on retail sales tax.

72.19.100 General obligation bond issue to provide buildings—Juvenile correctional institution building bond redemption fund—Payment from and prior charge on retail sales tax. The juvenile correctional institution building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 72.19.070 through 72.19.130. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said juvenile correctional institution building bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 35; 1963 ex.s. c 27 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 72.23

PUBLIC AND PRIVATE FACILITIES FOR MENTALLY ILL

Sections

- 72.23.070 Voluntary patients—Right to receive—Application—Review of condition and status—Minors, commitment procedure and requirements, rights.

72.23.070 Voluntary patients—Right to receive—Application—Review of condition and status—Minors, commitment procedure and requirements, rights. Pursuant to rules and regulations established by the department, a public or private facility may receive

any person who is a suitable person for care and treatment as mentally ill, or for observation as to the existence of mental illness, upon the receipt of a written application of the person, or others on his behalf, in accordance with the following requirements:

(1) In the case of a person eighteen years of age or over, the application shall be voluntarily made by the person:

(2) In the case of a person thirteen years of age or under, the application may be voluntarily made by his parents, or by the parent, conservator, guardian, or other person entitled to his custody. When such person is more than thirteen years of age, such application must be accompanied by the written consent, knowingly and voluntarily given, of the minor. All such voluntary applications to a public agency shall be reviewed by the county mental health professionals, who shall submit a written report and evaluation with recommendations to the superintendent of such facility to which such application is made stating whether treatment is necessary and proper on a voluntary basis and evaluating the reasons for voluntary commitment. Such person's condition and status shall be reviewed by the professional person in charge of the facility or his designee at least once each one hundred eighty days. A person under eighteen years of age received into a public facility as a voluntary patient shall not be retained after he reaches eighteen years of age, but such person, upon reaching eighteen years of age, may apply for admission into a public or private facility as a voluntary patient.

(3) No minor over thirteen years of age shall be involuntarily committed to a state or private facility for care and treatment as mentally disordered, or for observation as to the existence of mental disorder, except in accordance with the following requirements:

(a) The facility must be certified by the department of social and health services to provide evaluation and treatment to persons under eighteen years of age suffering from mental disorders: *Provided*, That a physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: *Provided further*, That a facility which is part of, or a part of, or operated by, the department of social and health services or any federal agency will not require certification.

(b) A petition shall be filed with the juvenile court by the person's parent, parents, conservator, guardian, or by the juvenile court itself. The petition shall set forth the reasons why commitment is necessary and what alternative courses of treatment have been explored. The juvenile court shall then conduct a hearing, at which the person under eighteen years of age shall be represented by an attorney, to determine whether commitment is clearly in the best interests of the person sought to be committed, and that no less restrictive alternative exists: *Provided*, That, if in the opinion of the designated county mental health professional a minor presents an imminent likelihood of serious harm to himself or others, he may be temporarily detained for up to seventy-two hours by a licensed facility pending petition to the juvenile court for further commitment.

(c) If the juvenile court determines that commitment is clearly necessary, it will issue an order approving such petition. If the juvenile court determines that a less restrictive alternative is desirable, it may order that alternatives be followed.

(d) If a person under the age of eighteen years is committed to a state or private facility pursuant to this section, the juvenile court recommending commitment shall require a report from the facility every one hundred eighty days that sets forth such facts as the juvenile court may require. Upon receipt of the report, the juvenile court shall undertake a review of the status of such person to determine whether or not it is still clearly in the best interests of the patient that he remain in the facility. If the juvenile court determines that further commitment is not clearly in the best interests of the patient, it shall order release upon such conditions as it deems necessary.

(e) Every person under the age of eighteen shall have all the rights provided for persons eighteen years of age or over under this chapter as now or hereafter amended except those rights specifically modified by this section: *Provided*, That the juvenile court rather than the superior court shall be responsible for any proceedings. A voluntarily admitted minor over thirteen years of age shall have the right to release on the next judicial day from the date of request unless a petition is filed in juvenile court by the professional person in charge of the facility or his designee on the grounds that the juvenile is dangerous to himself or others or that it would be in the best interests of the juvenile that he remain in the facility. Furthermore, should the patient and his parent, parents, conservator, or guardian both request his release, he shall be immediately released unless the professional person in charge of the facility objects immediately in writing to the juvenile court on the grounds that the person is dangerous to himself or others and that it would not be in the patient's best interests to be released. Should this occur, the juvenile court shall hold a hearing on the issue within five judicial days and determine whether the person should be released.

(f) Nothing in this section shall prohibit the professional person in charge of the facility in which the person is being treated from releasing him at any time when, in the opinion of said professional person, further commitment would no longer be in the best interests of the patient.

Whenever a person is released by the professional person in charge of a facility under this section, said person shall, in writing, notify the juvenile court which committed the person for treatment.

(4) In the case of a person eighteen years of age or over for whom a conservator or guardian of the person has been appointed, such application shall be made by said conservator or guardian, when so authorized by proper court order in the conservatorship or guardianship proceedings. [1975 1st ex.s. c 199 § 11; 1974 ex.s. c 145 § 3; 1973 2nd ex.s. c 24 § 1; 1973 1st ex.s. c 142 § 4; 1971 ex.s. c 292 § 50; 1959 c 28 § 72.23.070. Prior: 1951 c 139 § 11; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.030.]

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900-71.05.930.

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

Involuntary commitment procedure: Chapter 71.05 RCW.

Mental illness: Chapter 71.05 RCW.

Chapter 72.33 STATE RESIDENTIAL SCHOOLS— RESIDENTIAL PLACEMENT, ETC.

Sections	
72.33.020	Definitions.
72.33.120	Repealed.
72.33.125	Services or facilities as alternative to state residential schools—Application—Determination of eligibility.
72.33.130	Admission to suitable facility—Commitment by court.
72.33.140	Withdrawal of resident from school or other residential placement—Placement, discharge basis.
72.33.150	Preventing withdrawal from residential custody—Procedure.
72.33.160	Return of resident to community—Placement.
72.33.165	Payments for nonresidential services—Authorized.
72.33.170	Discharge procedure.
72.33.200	Department not responsible until person is resident of school or other state operated facility.
72.33.220	Transfer of resident between schools and other residential placements.
72.33.240	Review of secretary's decision—Court review.

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

(1) "Mental deficiency" is a state of subnormal development of the human organism in consequence of which the individual affected is mentally incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(2) "Physical deficiency" is a state of physical impairment of the human organism in consequence of which the individual affected is physically incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(3) "Parent" is the person or persons having the legal right to custody of a child by reason of kinship by birth or adoption.

(4) "State school" shall mean any residential school of the department established, operated and maintained by the state of Washington for the education, guidance, care, treatment and rehabilitation of mentally and/or physically deficient persons as defined herein.

(5) "Resident of a state school" shall mean a person, whose mental and/or physical involvement requires the specialized care, treatment and educational instruction therein provided, and who has been admitted upon parental or guardian's application, or found in need of residential care by proper court and duly received.

(6) "Court" shall mean the superior court of the state of Washington.

(7) "Division" shall mean the division of children and youth services of the department of institutions or its successor.

(8) "Resident of the state of Washington" shall mean a person who has acquired his domicile in this state by continuously residing within the state for a period of not less than one year before application for admission is made: *Provided*, That the residence of an unemancipated minor shall be imputed from the residence of the parents if they are living together, or from the residence of the parent with whom the child resides, and if the parental rights and responsibilities regarding a minor have been transferred by the court, then the residence of such minor shall be imputed from the person to whom such have been awarded.

(9) "Superintendent" shall mean the superintendent of Lakeland Village, Rainier school and other like residential schools that may be hereafter established.

(10) "Custody" shall mean immediate physical attendance, retention and supervision.

(11) "Placement" shall mean an extramural status for the resident's best interests granted after reasonable notice and consultation with the parents or guardian and such resident.

(12) "Discharge" shall mean the relinquishment by the state of all rights and responsibilities it may have acquired by reason of the acceptance for admission of any resident.

(13) "Residential placement" is any out-of-home placement providing domiciliary type care among other services for which the state makes payment in whole or in part including, but not limited to, state residential schools, group homes, group training homes, boarding homes and nursing homes, but does not include placement in a state juvenile or adult correctional facility without consultation as provided for in RCW 72.33.160.

(14) "Domiciliary care services" shall mean the furnishing of necessary room, board, laundry, clothing, housekeeping, and other personal care services.

(15) "Secretary" means the secretary of social and health services or his designee. [1975 1st ex.s. c 246 § 1; 1973 1st ex.s. c 154 § 101; 1959 c 28 § 72.33.020. Prior: 1957 c 102 § 2.]

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

72.33.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

72.33.125 Services or facilities as alternative to state residential schools—Application—Determination of eligibility. (1) In order to provide ongoing points of contact with the mentally deficient and/or physically deficient individual and his family so that they may have a place of entry for state services and return to the community as the need may appear; to provide a link between those individuals and services of the community and state operated services so that the individuals with mental or physical deficiencies and their families may have access to the facilities best suited to them throughout the life of the individual; to offer viable alternatives to state residential school admission; and to encourage the placement of persons from state residential schools, the secretary of social and health services or his designee, pursuant to rules and regulations of the

department, shall receive applications of persons for care, treatment, hospitalization, support, training, or rehabilitation provided by state programs or services for the mentally and/or physically deficient. Written applications shall be submitted in accordance with the following requirements:

(a) In the case of a minor person, the application shall be made by his parents or by the parent, guardian, person or agency legally entitled to custody, which application shall be in the form and manner required by the department; and

(b) In the case of an adult person, the application shall be made by such person, by his parents, or by a parent, guardian, or agency legally entitled to custody, which application shall be in the form and manner required by the department.

(2) Upon receipt of the written application the secretary shall determine if the individual to receive services has a mental deficiency and/or a physical deficiency as defined in RCW 72.33.020 qualifying him for services. In order to determine eligibility for services, the secretary may require a supporting affidavit of a physician or a clinical psychologist, or one of each profession, certifying that the individual is mentally and/or physically deficient as herein defined.

(3) After determination of eligibility because of mental and/or physical deficiency, the secretary shall determine the necessary services to be provided for the individual. Individuals may be temporarily admitted, for a period not to exceed thirty days, to departmental residential facilities for observation prior to determination of needed services, where such observation is necessary to determine the extent and necessity of services to be provided. [1975 1st ex.s. c 246 § 2.]

72.33.130 Admission to suitable facility—Commitment by court. In the event a minor person under the age of eighteen years shall be found under the juvenile court law to be "dependent" or "delinquent" and mentally and/or physically deficient as herein defined, and that placement for care, custody, treatment, or education in a state school is to the minor's welfare, the secretary shall receive such minor upon commitment from the superior court pursuant to such terms and conditions as may therein be set forth for placement by the department in a facility most appropriate to his needs, subject to the provisions of RCW 72.33.070. [1975 1st ex.s. c 246 § 3; 1959 c 28 § 72.33.130. Prior: 1957 c 102 § 13. (i) 1913 c 173 § 2; RRS § 4660. (ii) 1937 c 10 § 9; RRS § 4679-9.]

Juvenile courts and juvenile delinquents: Title 13 RCW.

72.33.140 Withdrawal of resident from school or other residential placement—Placement, discharge basis. Subject to the provisions of RCW 72.33.150, as now or hereafter amended, no person under the age of eighteen years residing at a state school or in other residential placement pursuant to RCW 72.33.125 shall be retained therein for more than forty-eight hours after the parent entitled to custody or the guardian has given notice of their desire to remove such person from said state school or facility unless held pursuant to court order.

Subject to the provisions of RCW 72.33.150 as now or hereafter amended, no person over eighteen years residing at a state school or in other residential placement pursuant to RCW 72.33.130 shall be retained therein for more than forty-eight hours after said person, his guardian, or his court appointed personal representative entitled to custody has given notice of desire to remove such person unless held pursuant to court order.

Such notice shall indicate to the superintendent or other person in charge the proposed plan of future residence of such person and whether placement or discharge is desired. In the event withdrawal is upon a placement basis, it shall be understood that readmission will be available to the former resident if it is found necessary to return such person to the school. In the event withdrawal is upon a discharge basis it shall be understood that application for readmission shall be considered as if it were a first application. [1975 1st ex.s. c 246 § 4; 1959 c 28 § 72.33.140. Prior: 1957 c 102 § 14. (i) 1913 c 173 § 10; RRS § 4668. (ii) 1937 c 10 § 20; RRS § 4679-20.]

72.33.150 Preventing withdrawal from residential custody—Procedure. Whenever it is deemed not to be the best interests of a resident that he should be removed from residential custody, the secretary shall promptly file a petition in the probate department of the superior court of the county of residence of such person setting forth his reasons why continued residence is indicated.

If a petition is filed the department may continue its custody over the individual for a period not to exceed five days pending disposition of the petition or preliminary hearing as to temporary custody.

Upon due notice and hearing, the court shall resolve the matter and in the event the person is found in need of further residential care the court shall so order and shall name a fit and proper person to serve as guardian or other personal representative over the resident pursuant to state law if none has been previously named. [1975 1st ex.s. c 246 § 5; 1959 c 28 § 72.33.150. Prior: 1957 c 102 § 15. (i) 1913 c 173 § 8; RRS § 4666. (ii) 1937 c 10 § 14; RRS § 4679-14.]

72.33.160 Return of resident to community—Placement. Whenever in the judgment of the secretary, the treatment and training of any resident of a state residential school has progressed to the point that it is deemed advisable to return such resident to the community, the secretary may grant placement on such terms and conditions as he may deem advisable after reasonable notice to and consultation with the resident, and with any available parent, guardian, or other court appointed personal representative of such person.

The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement. [1975 1st ex.s. c 246 § 6; 1969 ex.s. c 166 § 4; 1959 c 28 § 72.33.160. Prior: 1957 c 102 § 16.]

Effective date—1969 ex.s. c 166: July 1, 1969, see note following RCW 72.33.830.

72.33.165 Payments for nonresidential services—Authorized. The secretary of social and health services is authorized to make payments for nonresidential services which exceed the cost of caring for an average individual at home, and which are reasonably necessary for the care, treatment, maintenance, support, and training of mentally and/or physically deficient persons, upon application pursuant to RCW 72.33.125. The department shall adopt rules and regulations determining the extent and type of care and training for which the department will pay all or a portion of the costs. [1975 1st ex.s. c 246 § 11.]

72.33.170 Discharge procedure. Whenever in the judgment of the secretary a person no longer needs the services provided by the department for mentally and/or physically deficient persons, he may be discharged from services after reasonable notice and consultation with the person to be discharged and any available parent, guardian, or other court appointed personal representative. [1975 1st ex.s. c 246 § 7; 1959 c 28 § 72.33.170. Prior: 1957 c 102 § 17.]

72.33.200 Department not responsible until person is resident of school or other state operated facility. The department shall not be responsible for the support, welfare or actions of any person until such person is admitted to a residential school or other state operated facility for services pursuant to RCW 72.33.125. [1975 1st ex.s. c 246 § 8; 1959 c 28 § 72.33.200. Prior: 1957 c 102 § 20.]

72.33.220 Transfer of resident between schools and other residential placements. Whenever it appears to serve the best interests of the resident concerned, the department, after consultation as provided for in RCW 72.33.160, shall have authority to transfer such resident between state schools and other residential placements conducting or having access to the type of program contemplated by this chapter. [1975 1st ex.s. c 246 § 9; 1959 c 28 § 72.33.220. Prior: 1957 c 102 § 22.]

72.33.240 Review of secretary's decision—Court review. Any parent or guardian feeling aggrieved by an adverse decision pertaining to admission, placement, or discharge of his ward may apply to the secretary in writing within thirty days of notification of the decision for a review and reconsideration of the decision. An administrative hearing shall be held within ten days from the date of receipt of the written request for review. In the event of an unfavorable ruling by the secretary, such parent or guardian may institute proceedings in the superior court of the state of Washington in the county of residence of such parent or guardian, otherwise in Thurston county, and have such decision reviewed and its correctness, reasonableness, and lawfulness decided in an appeal heard as in initial proceeding on an original application. Said parent or guardian shall have the right to appeal from the decision of the superior court to the supreme court or

the court of appeals of the state of Washington, as in civil cases. [1975 1st ex.s. c 246 § 10; 1971 c 81 § 135; 1959 c 28 § 72.33.240. Prior: 1957 c 102 § 24.]

Chapter 72.36 SOLDIERS' AND VETERANS' HOMES

Sections

- 72.36.030 Who may be admitted.
72.36.080 Who may be admitted to veterans' home.

72.36.030 Who may be admitted. All honorably discharged soldiers, sailors and marines who have served the United States government in any of its wars, and members of the state militia disabled while in the line of duty, may be admitted to the state soldiers' home at Orting under such rules and regulations as may be adopted by the department: *Provided*, That such applicants have been actual bona fide citizens of this state at the time of their application, and are indigent and unable to support themselves: *Provided, further*, That sufficient facilities and resources are available to accommodate such applicant. [1975 c 13 § 1; 1959 c 28 § 72.36.030. Prior: 1915 c 106 § 1; 1911 c 124 § 1; 1905 c 152 § 1; 1901 c 167 § 2; 1890 p 270 § 2; RRS § 10729.]

72.36.080 Who may be admitted to veterans' home. All of the following persons who have been actual bona fide residents of this state at the time of their application, and who are indigent and unable to earn a support for themselves and families may be admitted to the Washington veterans' home under such rules and regulations as may be adopted by the director: *Provided*, That sufficient facilities and resources are available to accommodate such person:

(1) All honorably discharged veterans of the armed forces of the United States who have served the United States in any of its wars, and members of the state militia disabled while in the line of duty, and the spouses of such veterans, and members of the state militia: *Provided*, That such spouse was married to and living with such veteran on or before three years prior to the date of application for admittance, or, if married to him or her since that date, was also a member of a soldiers' home or colony in this state or entitled to admission thereto.

(2) The spouses of all soldiers, sailors, and marines and members of the state militia disabled while in the line of duty, who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death, and spouses of all such soldiers, sailors, and marines and members of the state militia, who would have been entitled to admission to a soldiers' home or colony in this state at the time of death but for the fact that they were not indigent and unable to earn a support for themselves and families, which spouses have since the death of their husbands or wives, become indigent and unable to earn a support for themselves: *Provided*, That such spouses are not less than fifty years of age and were married and living with their husbands or wives on or before three years prior to the date of

their application, and have not been married since the decease of their husbands or wives to any person not a member of a soldiers' home or colony in this state or entitled to admission thereto. [1975 c 13 § 2; 1973 1st ex.s. c 154 § 104; 1959 c 28 § 72.36.080. Prior: 1955 c 104 § 1; 1927 c 276 § 2; 1915 c 106 § 4; RRS § 10732.]

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

Commitment to veterans administration or other federal agency: RCW 73.36.165.

Chapter 72.40 STATE SCHOOLS FOR BLIND AND DEAF

Sections

- 72.40.060 Duty of school district clerks.
72.40.070 Duty of educational service district superintendents.
72.40.080 Duty of parents.
72.40.090 Expense of transportation.
72.40.100 Penalty.

72.40.060 Duty of school district clerks. It shall be the duty of the clerks of all school districts in the state, at the time for making the annual reports, to report to the superintendent of their respective educational service districts the names of all deaf, mute, or blind youth residing within their respective school districts who are between the ages of six and twenty-one years. [1975 1st ex.s. c 275 § 151; 1969 ex.s. c 176 § 97; 1959 c 28 § 72.40.060. Prior: 1909 c 97 p 258 § 6; 1897 c 118 § 252; 1890 p 497 § 1; RRS § 4650.]

Effective date—1969 ex.s. c 176: The effective date of this section, RCW 72.40.070, 72.40.080 and 72.40.100 was April 25, 1969.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Superintendent's duties: RCW 28A.58.150.

72.40.070 Duty of educational service district superintendents. It shall be the duty of each educational service district superintendent to make a full and specific report of such deaf, mute, or blind youth to the board of county commissioners of the county in which the youth resides at its regular meeting in July of each year. He shall also, at the same time, transmit a duplicate copy of such report to the director and the superintendent of the school for the blind or the school for the deaf, as the case may be. [1975 1st ex.s. c 275 § 152; 1969 ex.s. c 176 § 98; 1959 c 28 § 72.40.070. Prior: 1909 c 97 p 259 § 7; 1897 c 118 § 253; 1890 p 497 § 2; RRS § 4651.]

Effective date—1969 ex.s. c 176: See note following RCW 72.40.060.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Educational service districts—**Superintendents**—**Boards:** Chapter 28A.21 RCW.

72.40.080 Duty of parents. It shall be the duty of the parents or the guardians of all such blind or deaf youth to send them each year to the proper institution. The educational service district superintendent shall take all action necessary to enforce this section. If satisfactory evidence is laid before the educational service district superintendent that any blind or deaf youth is being

properly educated at home or in some suitable institution other than the state schools, he shall take no action in such case other than to make a record of such fact, and take such steps as may be necessary to satisfy himself that such defective youth will continue to receive a proper education. [1975 1st ex.s. c 275 § 153; 1969 ex.s. c 176 § 99; 1959 c 28 § 72.40.080. Prior: 1909 c 97 p 259 § 8; 1897 c 118 § 254; 1890 p 498 § 3; RRS § 4652.]

Effective date—1969 ex.s. c 176: See note following RCW 72.40.060.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Handicapped children, parental responsibility, commitment: Chapter 26.40 RCW.

72.40.090 Expense of transportation. If it appears to the satisfaction of the board of county commissioners that the parents of any such blind or deaf youth within their county are unable to bear the expense of transportation to and from the state schools, it shall send them to and return them from the schools or maintain them there during vacation at the expense of the county. Nothing in this section shall be construed as prohibiting the department from authorizing or incurring such travel expenses for the purpose of transporting such blind or deaf youth to and from points within this state during weekends and/or vacation periods. For the purposes of this section, the department shall impose no conditions upon parents or guardians specifying the number of weekends such persons shall take custody of deaf and blind students. [1975 c 51 § 1; 1959 c 28 § 72.40.090. Prior: 1909 c 97 p 259 § 9; 1899 c 142 § 28; 1899 c 81 § 2; 1897 c 118 § 255; RRS § 4653.]

72.40.100 Penalty. Any parent, guardian, educational service district superintendent or county commissioner who, without proper cause, fails to carry into effect the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars. [1975 1st ex.s. c 275 § 154; 1969 ex.s. c 176 § 100; 1959 c 28 § 72.40.100. Prior: 1909 c 97 p 259 § 10; 1897 c 118 § 256; 1890 p 498 § 5; RRS § 4654.]

Effective date—1969 ex.s. c 176: See note following RCW 72.40.060.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 72.99 BOND ACTS

Sections

GENERAL OBLIGATION BOND ACT—1949

72.99.040 Institutional building bond redemption fund created—
Purpose—Deposits—Priority as to sales tax revenue—Enforcement.

STATE BUILDING CONSTRUCTION ACT

72.99.120 State building construction bond redemption fund—
Purpose, deposits—Priority as to sales tax revenue.

GENERAL OBLIGATION BOND ACT—1957

72.99.200 Institutional building bond redemption fund—
Purpose, deposits—Priority as to sales tax revenue—
Enforcement.

GENERAL OBLIGATION BOND ACT—1949

72.99.040 Institutional building bond redemption fund created—Purpose—Deposits—Priority as to sales tax revenue—Enforcement. The institutional building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 72.99.010 through 72.99.060. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said institutional building bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a first and prior charge against all retail sales tax revenues of the state of Washington.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 36; 1949 c 230 § 4; No RRS.]

Construction—**Severability**—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Institutional building bond redemption fund, 1957 act: RCW 72.99.200.

Mandamus, generally: Chapter 7.16 RCW.

State finance committee: Chapter 43.33 RCW.

STATE BUILDING CONSTRUCTION ACT

72.99.120 State building construction bond redemption fund—Purpose, deposits—Priority as to sales tax revenue. There is hereby created in the state treasury a special fund to be known as the state building construction bond redemption fund, which fund shall be exclusively devoted for the retirement of said bonds upon maturity and the payment of interest as it falls due. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and the state treasurer shall thereupon deposit such amount in said state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to the charges thereon created by chapters 229 and 230, Laws of 1949 [RCW 28A.47.130–28A.47.180 and 72.99.010–72.99.060]. Said bond redemption

fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 72.99.070 through 72.99.160, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 72.99.070 through 72.99.160 shall have been paid. [1975 1st ex.s. c 278 § 37; 1957 c 298 § 6.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

GENERAL OBLIGATION BOND ACT—1957

72.99.200 Institutional building bond redemption fund—Purpose, deposits—Priority as to sales tax revenue—Enforcement. The institutional building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 72.99.170 through 72.99.220. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said institutional building bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 38; 1957 c 299 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Title 73

VETERANS AND VETERANS' AFFAIRS

Chapters

73.16 Employment and reemployment.

73.34 Veterans' bonus—1972 act.

Chapter 73.16

EMPLOYMENT AND REEMPLOYMENT

Sections

73.16.010 Preference in public employment.

73.16.010 Preference in public employment. In every public department, and upon all public works of the state, and of any county thereof, honorably discharged soldiers, sailors, and marines who are veterans of any war of the United States, or of any military campaign for which a campaign ribbon shall have been awarded, and their widows or widowers, shall be preferred for appointment and employment. Age, loss of limb, or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them, provided they possess the capacity necessary to discharge the duties of the position involved: *Provided*, That spouses of honorably discharged veterans who have a service connected permanent and total disability shall also be preferred for appointment and employment. [1975 1st ex.s. c 198 § 1; 1973 1st ex.s. c 154 § 107; 1951 c 29 § 1; 1943 c 141 § 1; 1919 c 26 § 1; 1915 c 129 § 1; 1895 c 84 § 1; Rem. Supp. 1943 § 10753.]

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

Veterans to receive preference status in competitive examinations for public employment: RCW 41.04.010.

Chapter 73.34

VETERANS' BONUS—1972 ACT

Sections

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| 73.34.020 | Compensation authorized—Amount and to whom payable—Election to receive tuition, fees, etc., from educational institutions in lieu of bonus. |
| 73.34.090 | Free official service—Discounting certificates—Penalty. |
| 73.34.120 | Terminal dates for filing claims—Applications. |

73.34.020 Compensation authorized—Amount and to whom payable—Election to receive tuition, fees, etc., from educational institutions in lieu of bonus. (1) There shall be paid to each person who has received the Viet Nam Service Medal or Armed Forces Expeditionary Medal (Viet Nam) or who has been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and March 28, 1973, and who has been honorably separated or discharged from such service, and who for a period of one year immediately prior to the date of his entry into such service was a bona fide citizen or resident of the state of Washington, for such service between said dates the sum of two hundred fifty dollars for service in the Viet Nam combat zone and said person received the Viet Nam Service Medal or Armed Forces Expeditionary Medal (Viet Nam): *Provided however*, That persons otherwise eligible who have been continuously in said armed services for a period of five years or more immediately prior to August 5, 1964, shall not be eligible to receive compensation under the terms of this chapter, except that POW's, dependents of MIA's and survivors of those persons who have been continuously in said armed services for a period of five years or more immediately prior to August 5, 1964, shall be eligible to receive compensation under the terms of this chapter: *Provided further*, That persons otherwise eligible who were on

active duty for training only, excepting persons who received the Viet Nam Service Medal or Armed Forces Expeditionary Medal (Viet Nam), shall not be eligible to receive compensation under the terms of this chapter: *And provided further*, That persons who have already received extra compensation or other benefits based upon claimed residence at the time of entry into such active service from any other state or territory shall not be entitled to compensation under this chapter: *And provided further*, That no person shall be eligible to receive compensation under this chapter having prior thereto applied for and received compensation hereunder.

(2) In lieu of awaiting receipt of the stated money amounts as provided in subsection (1) above, any qualified person may elect to receive credit for tuition, incidental fees or other fees in such amount at any state institution of higher education, including community colleges and vocational technical institutions, or at private institutions of higher education within the state, such credit to be immediately available upon the processing of such person's claim for a bonus under this chapter; institutions of higher education entering into this program under this chapter shall be reimbursed at such time as the bonus payment would otherwise be made.

(3) In case of the death of any such person prior to said termination date as referred to in subsection (1) above, or at such time as such person would have been eligible for benefits hereunder, an equal amount shall be paid to his surviving widow if not remarried at the time compensation is requested, or in case he left no widow or in case his widow remarried and he has left children, then to his surviving children, or in the event he left no widow eligible for payment hereunder, or children surviving on such date, then to his surviving parent or parents, or in the event he left no widow eligible for payment hereunder, or children surviving on such date, or parent or parents surviving on such date, then to his surviving grandparent or grandparents: *Provided, however*, That no such parent who has been deprived of custody of such child by a decree of a court of competent jurisdiction shall be entitled to any compensation under this chapter. Where a preceding beneficiary fails to file a proper claim for compensation before the final date set by this chapter, succeeding beneficiaries who have filed proper claims before such final date may proceed to qualify upon submission of satisfactory proof of eligibility. Widows, children, or parents of persons missing in action or prisoners of war may file claims for compensation as authorized by this chapter and in the same order as claims for deceased veterans. Any compensation paid to a beneficiary pursuant to this subsection shall be complete settlement and satisfaction of any claim thereafter made on behalf of the person or by the person himself. [1975 1st ex.s. c 273 § 1; 1972 ex.s. c 154 § 2.]

73.34.090 Free official service—Discounting certificates—Penalty. No charge shall be made by any agent, notary public, or attorney for any service in connection with obtaining a certificate to obtain the allowance provided for by this chapter, and no person shall, for a consideration, discount or attempt to discount, or for a consideration, advance money upon any certificate or certificates issued pursuant to this chapter. No claim for payment under this chapter shall be subject to garnishment, attachment, levy, or execution. Any violation of this section shall be a gross misdemeanor. [1975 1st ex.s. c 273 § 2; 1972 ex.s. c 154 § 10.]

73.34.120 Terminal dates for filing claims—Applications. No certificate or claim for compensation under this chapter shall be accepted after March 28, 1976. No warrant shall be drawn for the payment of any compensation authorized by this chapter unless a formal application has been filed as set forth above.

The state treasurer and his authorized agents shall have until December 31, 1976, to process all applications filed pursuant to this chapter and microfilm all records pertaining thereto. [1975 1st ex.s. c 273 § 3; 1974 ex.s. c 173 § 2; 1972 ex.s. c 154 § 13.]

Title 74 PUBLIC ASSISTANCE

Chapters

- 74.09** Medical care.
- 74.13** Child welfare services.
- 74.16** Aid to blind persons.
- 74.17** Blind persons—Vending facilities in public buildings.

Chapter 74.09 MEDICAL CARE

Sections

- 74.09.120** Purchases of services, care, supplies—Regulations—Inspection.

74.09.120 Purchases of services, care, supplies—Regulations—Inspection. The department shall purchase necessary physician and dentist services by contract or "fee for service." The department shall purchase hospital care by contract or by all inclusive day rate, or at a reasonable cost based on a ratio of charges to cost. Any hospital when requested by the department shall supply such information as necessary to justify its rate, charges or costs. All additional services provided by the hospital shall be purchased at rates established by the department after consultation with the hospital. The department shall purchase nursing home care by contract. The department shall establish regulations for reasonable nursing home accounting and reimbursement systems which recognize relevant cost related factors for department of social and health services patients, including but not limited to the scope or level of services or care, requirements of staff, and

physical plant, and a reasonable rate of return on investment; said formula shall provide that no payment shall be made to a nursing home which does not permit inspection by the department of social and health services of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the department deems relevant to the establishment of such a system.

All other services and supplies provided under the program shall be secured by contract. [1975 1st ex.s. c 213 § 1; 1967 ex.s. c 30 § 1; 1959 c 26 § 74.09.120. Prior: 1955 c 273 § 13.]

Purchasing by state departments: RCW 43.19.200.

Chapter 74.13 CHILD WELFARE SERVICES

Sections

ADOPTION SUPPORT DEMONSTRATION ACT OF 1971

- 74.13.106 Adoption support account—Created—Source—Use—Federal funds—Gifts and grants.
74.13.142 Repealed.

ADOPTION SUPPORT DEMONSTRATION ACT OF 1971

74.13.106 Adoption support account—Created—Source—Use—Federal funds—Gifts and grants. All fees paid for adoption services pursuant to RCW 26.32.115 and 74.13.100 through 74.13.145 shall be credited to an adoption support account, hereby created, in the general fund. Expenses incurred in connection with supporting the adoption of hard to place children shall be paid by warrants drawn against such account. The secretary may also from time to time transfer to such account from appropriations available to him for care of children in foster homes and child-caring institutions such sums as in his judgment will further the purposes set forth in RCW 74.13.100. The secretary may for such purposes, contract with any public agency or licensed child placing agency and/or adoptive parent and is authorized to accept funds from other sources including federal, private and other public funding sources to carry out such purposes.

The secretary shall actively seek, where consistent with the policies and programs of the department, and shall make maximum use of, such federal funds as are or may be made available to the department for the purpose of supporting the adoption of hard to place children. The secretary may, if permitted by federal law, deposit federal funds for adoption support, aid to adoptions, or subsidized adoption in the adoption support account of the general fund and may use such funds, subject to such limitations as may be imposed by federal law, to carry out the program of adoption support authorized by RCW 26.32.115 and 74.13.100 through 74.13.145.

The secretary may also deposit in such account and disburse therefrom all gifts and grants from any non-federal source, including public and private foundations, which may be used for the program of adoption support authorized by RCW 26.32.115 and 74.13.100 through 74.13.145. [1975 c 53 § 1; 1973 c 61 § 1; 1971 ex.s. c 63 § 3.]

74.13.142 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 74.16 AID TO BLIND PERSONS

Sections

- 74.16.310 Repealed.

74.16.310 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 74.17 BLIND PERSONS—VENDING FACILITIES IN PUBLIC BUILDINGS

Sections

- 74.17.010 Definitions.
74.17.020 Priority to blind persons.
74.17.030 Business enterprises revolving fund.
74.17.040 Rules and regulations—Existing facilities.

74.17.010 Definitions. The terms defined in this section shall have the indicated meanings when used in this chapter.

(1) "Department" means the department of social and health services.

(2) "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select.

(3) "Licensee" means a blind person licensed by the state of Washington pursuant to federal law, 49 Stat. 1559, as amended, 20 U.S.C. sec. 107, this chapter, and the rules and regulations issued hereunder.

(4) "Public building" means any building owned by the state of Washington or any political subdivision thereof and any space leased by the state of Washington or any political subdivision thereof in any privately owned building and designated by the department as being appropriate for inclusion in the business enterprises program: *Provided, however,* That any vending facility or vending machine under the jurisdiction and control of another established state or local board or authority responsible for its maintenance and operation shall not be designated without the consent and approval of such state or local board or authority.

(5) "Vending facility" means any vending stand, facility, cafeteria, or snack bar at which food, tobacco, or sundries are offered for sale.

(6) "Vending machine" means any coin operated machine offering food, tobacco, or sundries for sale.

(7) "Business enterprises program" is that program operated by the department pursuant to applicable federal law and this chapter in support of blind persons operating vending businesses in public buildings. [1975 1st ex.s. c 251 § 1.]

74.17.020 Priority to blind persons. (1) The department is authorized to license blind persons for the operation of vending facilities and machines on federal property and in public buildings.

(2) The state, political subdivisions thereof, and agencies of the state or political subdivisions thereof shall give priority to licensees in the operation of vending facilities and machines in a public building. [1975 1st ex.s. c 251 § 2.]

74.17.030 Business enterprises revolving fund. (1) There is established in the general fund an account known as "the business enterprises revolving fund".

(2) The net proceeds from any vending machine operation in a public building, other than such an operation managed by a licensee, shall be made payable to the business enterprises revolving fund. "Net proceeds", for purposes of this section, shall mean the gross amount received less the costs of the operation, including a fair minimum return to the operator, which return shall not exceed a reasonable amount to be determined by the department.

(3) All moneys in the business enterprises revolving fund shall be expended only for equipment, services, and payment to licensees in the business enterprises programs. [1975 1st ex.s. c 251 § 3.]

74.17.040 Rules and regulations—Existing facilities. (1) The department shall promulgate rules and regulations necessary to implement this chapter.

(2) This chapter and rules promulgated thereunder shall not apply to any franchise, concession, or contract governing operation of a vending facility in a public building if such franchise, concession, or contract was in existence immediately prior to September 8, 1975. [1975 1st ex.s. c 251 § 4.]

Title 75 FOOD FISH AND SHELLFISH

Chapters

- 75.04** Definitions.
- 75.08** Administration and enforcement.
- 75.20** Restrictions as to dams, ditches, and other uses of waters and waterways.
- 75.28** Licenses.
- 75.44** Loan assistance to commercial fishermen.

Chapter 75.04 DEFINITIONS

Sections

- 75.04.010 Scope of definitions.
- 75.04.040 "Food fish"—"Shellfish"

75.04.010 Scope of definitions. Terms used in this title or in any rule or regulation of the director of fisheries shall have the meaning given to them in this chapter unless the context clearly indicates otherwise. [1975 1st ex.s. c 152 § 2; 1955 c 12 § 75.04.010. Prior: 1949 c 112 § 1, part; Rem. Supp. 1949 § 5780-100, part.]

Reviser's note: For effective date and expiration date of the amendment to this section by 1975 1st ex.s. c 152 § 2, see RCW 75.44.060.

Appointment, qualifications, powers, etc., of director of fisheries: Chapter 75.08 RCW.

Control of traffic along ocean beach highways for conservation of natural resources: RCW 43.51.680.

Loan assistance to commercial fishermen: Chapter 75.44 RCW.

Tidelands reserved for recreational use and taking of fish and shellfish: RCW 79.16.175, 79.16.176.

75.04.040 "Food fish"—"Shellfish".

Frozen food fish or shellfish—Labeling requirements: RCW 69.04.930.

Chapter 75.08 ADMINISTRATION AND ENFORCEMENT

Sections

- 75.08.012 Duties of the department.
- 75.08.230 Disposition of moneys collected—Proceeds from sale of food fish or shellfish.

75.08.012 Duties of the department. It shall be the duty and purpose of the department of fisheries to preserve, protect, perpetuate and manage the food fish and shellfish in the waters of the state and the offshore waters thereof to the end that such food fish and shellfish shall not be taken, possessed, sold or disposed of at such times and in such manner as will impair the supply thereof. For the purpose of conservation, and in a manner consistent therewith, the department shall seek to maintain the economic well-being and stability of the commercial fishing industry in the state of Washington. [1975 1st ex.s. c 183 § 1; 1949 c 112 § 3, part; Rem. Supp. 1949 § 5780-201, part. Formerly RCW 43.25.020. Redesignated as RCW 75.08.012 and added to chapter 12, Laws of 1955 and Title 75 RCW by 1965 c 8 § 43.25.020.]

Reviser's note: For the effective date and expiration date of the amendment to this section by 1975 1st ex.s. c 183 § 1, see RCW 75.28.535.

Program to purchase fishing vessels, gear, licenses and permits: RCW 75.28.500-75.28.540.

75.08.230 Disposition of moneys collected—Proceeds from sale of food fish or shellfish. All license fees, taxes, fines, and moneys realized from the sale of property seized or confiscated under the provisions of this title, and all bail moneys forfeited under prosecutions instituted under the provisions of this title, and all moneys realized from the sale of any of the property,

real or personal, heretofore or hereafter acquired for the state and under the control of the department, such moneys as are realized from the sale of food fish or shellfish caught or taken during test fishing operations conducted by the department for the purpose of food fish or shellfish resource evaluation studies, all moneys collected for damages and injuries to any such property, and all moneys collected for rental or concessions from such property, shall be paid into the state treasury general fund: *Provided*, That salmon taken in test fishing operations shall not be sold except during a season open to commercial fishing in the district that test fishing is being conducted: *Provided further*, That fifty percent of all money received as fines together with all of the costs shall be retained by the county in which the fine was collected.

All fines collected shall be remitted monthly by the justice of the peace or by the clerk of the court collecting the same to the county treasurer of the county in which the same shall be collected, and the county treasurer shall at least once a month remit fifty percent of the same to the state treasurer and at the same time shall furnish a statement to the director showing the amount of fines so remitted and from whom collected: *Provided*, That in instances wherein any portion of a fine assessed by a court is suspended, deferred, or otherwise not collected, the entire amount collected shall be remitted by the county treasurer to the state treasurer and shall be credited to the general fund: *Provided further*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Proceeds from the sale of food fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds may exceed estimates thereof in the budget approved by the legislature, may be allocated by the office of program planning and fiscal management as unanticipated receipts under such procedures as are adopted by the legislature for the allocation of such receipts to reimburse the department for any unanticipated costs for test fishing operations in excess of any allowance therefor in the budget as approved by the legislature.

Proceeds of all sales of salmon and all sales of salmon eggs by the department, to the extent these proceeds may exceed estimates in the budget as approved by the legislature, may be allocated by the office of program planning and fiscal management as unanticipated receipts under such procedures as the legislature may adopt for the allocation of such receipts.

Such allocations shall be made only for the purpose of meeting department obligations in regards to hatchery operations partially or wholly financed by sources other than state general revenues or for purposes of processing human consumable salmon for disposal as may be provided by law. [1975 1st ex.s. c 223 § 1; 1969 ex.s. c 199 § 31; 1969 ex.s. c 16 § 1; 1965 ex.s. c 72 § 2; 1955 c 12 § 75.08.230. Prior: 1951 c 271 § 2; 1949 c 112 § 25; Rem. Supp. 1949 § 5780-223.]

Sale of food fish or shellfish taken in test fishing operations—Restrictions as to salmon: RCW 75.12.130.

Chapter 75.20

RESTRICTIONS AS TO DAMS, DITCHES, AND OTHER USES OF WATERS AND WATERWAYS

Sections

75.20.100 Hydraulic projects or other work—Plans and specifications—Approval—Failure to follow or carry out approval conditions—Penalty—Emergencies.

75.20.100 Hydraulic projects or other work—Plans and specifications—Approval—Failure to follow or carry out approval conditions—Penalty—Emergencies. In the event that any person or government agency desires to construct any form of hydraulic project or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds, such person or government agency shall submit to the department of fisheries and the department of game full plans and specifications of the proposed construction or work, complete plans and specifications for the proper protection of fish life in connection therewith, the approximate date when such construction or work is to commence, and shall secure the written approval of the director of fisheries and the director of game as to the adequacy of the means outlined for the protection of fish life in connection therewith and as to the propriety of the proposed construction or work and time thereof in relation to fish life, before commencing construction or work thereon. The director of fisheries and the director of game shall designate and authorize certain employees of their respective departments to act in place of themselves by signing written approvals for such designations and authorizations. If any person or government agency commences construction on any such works or projects without first providing plans and specifications subject to the approval of the director of fisheries and the director of game for the proper protection of fish life in connection therewith and without first having obtained written approval of the director of fisheries and the director of game as to the adequacy of such plans and specifications submitted for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, he is guilty of a gross misdemeanor. If any such person or government agency be convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such. For the purposes of this section, "bed" shall mean that portion of a river or stream and the shorelands within the ordinary high water lines.

Provided, That in case of an emergency arising from weather or stream flow conditions the department of fisheries or department of game, through their authorized representatives, shall issue immediately upon request oral permits to a riparian owner or lessee for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream without the necessity of submitting

prepared plans and specifications or obtaining a written permit prior to commencing work. Conditions of an oral permit shall be reduced to writing within thirty days and complied with as provided for in this section. [1975 1st ex.s. c 29 § 1; 1967 c 48 § 1; 1955 c 12 § 75.20.100. Prior: 1949 c 112 § 49; Rem. Supp. 1949 § 5780-323.]

Chapter 75.28 LICENSES

Sections

75.28.500	Program to purchase fishing vessels, gear, licenses and permits—Finding and intent.
75.28.505	Program to purchase fishing vessels, gear, licenses and permits—Definitions.
75.28.510	Program to purchase fishing vessels, gear, licenses and permits—Authorized.
75.28.515	Program to purchase fishing vessels, gear, licenses and permits—Valuation—Maximum price—Retirement of licenses and permits.
75.28.520	Program to purchase fishing vessels, gear, licenses and permits—Disposition of vessels and gear—Prohibition against using purchased vessels for fishing purposes.
75.28.525	Program to purchase fishing vessels, gear, licenses and permits—Violations—Penalties—Forfeiture.
75.28.530	Program to purchase fishing vessels, gear, licenses and permits—Administration of program—Advisory board.
75.28.535	Program to purchase fishing vessels, gear, licenses and permits—Effective date—Expiration—Administration—Vessel, gear, license and permit reduction fund.
75.28.540	Program to purchase fishing vessels, gear, licenses and permits—Time limitation to apply for participation—Completion of program.

75.28.500 Program to purchase fishing vessels, gear, licenses and permits—Finding and intent. The legislature finds that the protection, welfare, and economic well-being of the commercial fishing industry is important to the people of this state. There presently exists an overabundance of commercial fishing gear in our state waters which causes great pressure on the fishing resources. This results in great economic waste to the state and prohibits conservation and harvesting programs from achieving their goals. This adverse situation has been compounded by the recent federal court decision, *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for the Western District of Washington, February 12, 1974. As a result, large numbers of commercial fishermen face personal economic hardship and the state commercial fishing industry is confronted with economic difficulty. The public welfare requires that the state have the authority to purchase commercial fishing vessels, licenses, gear, and permits offered for sale, as appropriate, in a manner which will provide relief to the individual vessel owner, and which will effect a reduction in the amount of commercial fishing gear in use in the state so as to insure increased economic opportunity for those persons in the industry and to insure that sound scientific conservation and harvesting programs can be carried out. It is the intention of the legislature to provide relief to commercial fishermen adversely affected by the current economic situation in the state

fishery and to preserve this valuable state industry and these natural resources. [1975 1st ex.s. c 183 § 2.]

Loan assistance program for commercial fishermen: Chapter 75.44 RCW.

75.28.505 Program to purchase fishing vessels, gear, licenses and permits—Definitions. As used in RCW 75.28.500 through 75.28.540, unless the context indicates otherwise:

(1) "Case area" means those areas of the Western district of Washington within the watersheds of Puget Sound and the Olympic Peninsula north of Grays Harbor and in the adjacent offshore waters which are within the jurisdiction of the state of Washington, as defined in *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, or any area in which fishing rights are affected by court decision in a manner consistent with the above-mentioned decision;

(2) "Department" means the department of fisheries;

(3) "Director" means the director of the department of fisheries. [1975 1st ex.s. c 183 § 3.]

Reviser's note: Throughout RCW 75.28.500-75.28.540, the phrase "this 1975 amendatory act" has been changed to RCW 75.28.500 through 75.28.540. "This 1975 amendatory act" [1975 1st ex.s. c 183] also amends RCW 75.08.012.

75.28.510 Program to purchase fishing vessels, gear, licenses and permits—Authorized. The department is authorized to purchase commercial fishing vessels and appurtenant gear, and the appropriate current commercial fishing licenses and delivery permits issued by the state of Washington if the vessel, licensee or permit holder:

(1) Was licensed to fish or deliver fish during 1974 within the case area; and

(2) Was substantially restricted in its fishing season in 1974 by the department as a result of compliance with *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974.

The department shall not purchase any vessel without also purchasing all appropriate current Washington commercial fishing licenses and delivery permits issued to such vessel or its owner: *Provided*, That the department is authorized to purchase current licenses and delivery permits in the absence of the purchase of a vessel. [1975 1st ex.s. c 183 § 4.]

75.28.515 Program to purchase fishing vessels, gear, licenses and permits—Valuation—Maximum price—Retirement of licenses and permits. The purchase by the department of a vessel and appurtenant gear shall be based on a survey conducted by a qualified marine surveyor. A license or delivery permit shall be valued separately by the department.

The director may specify a maximum price to be paid by the department for any vessel, gear, license or delivery permit purchased pursuant to RCW 75.28.510. Any

license or delivery permit so purchased shall be permanently retired by the department. [1975 1st ex.s. c 183 § 5.]

75.28.520 Program to purchase fishing vessels, gear, licenses and permits—Disposition of vessels and gear—Prohibition against using purchased vessels for fishing purposes. The department may arrange for the insurance and storage and for the resale or other disposition of all vessels and gear purchased pursuant to RCW 75.28.500 through 75.28.540. Such vessels shall not be used by any owner or operator as a fishing vessel other than as a vessel used for angling or other personal use in waters within the state of Washington, nor shall such vessels be used by any owner or operator to deliver fish within the boundaries of the state of Washington. The department shall require that the purchasers or other users of vessels resold or otherwise disposed of by the department execute any and all suitable instruments to insure compliance with the requirements of this section. The director may commence suit or be sued on any such instrument in any state court of record or United States district court having jurisdiction. [1975 1st ex.s. c 183 § 6.]

Reviser's note: See note following RCW 75.28.505.

75.28.525 Program to purchase fishing vessels, gear, licenses and permits—Violations—Penalties—Forfeiture. Any person violating any of the provisions of RCW 75.28.500 through 75.28.540, or of any of the rules or regulations of the director made pursuant thereto, or who aids or abets or assists in the violation thereof, shall be guilty of a gross misdemeanor, and upon a conviction thereof shall be punished by imprisonment for not less than thirty days or more than one year, or by a fine of not less than twenty-five dollars or more than one thousand dollars, or both. Upon conviction of any person of a violation of any provision of RCW 75.28.500 through 75.28.540, or rule or regulation of the director, the judge or justice of the peace may, in addition to the penalty imposed by law, provide for the forfeiture of the vessel and licenses and/or permits to the state of Washington. [1975 1st ex.s. c 183 § 7.]

Reviser's note: See note following RCW 75.28.505.

75.28.530 Program to purchase fishing vessels, gear, licenses and permits—Administration of program—Advisory board. The director shall promulgate rules and regulations concerning the operation of such program in accordance with the provisions of chapter 34.04 RCW. The director may enlist the aid of such other state agencies to assist the department in the administration of the provisions of RCW 75.28.500 through 75.28.540. To minimize the impact of this program on other ongoing state activities as well as on current staffing levels, the director shall have the authority to contract with persons or entities not employed by the state to assist in the administration of the provisions of RCW 75.28.500 through 75.28.540.

The director shall appoint an advisory board composed of four individuals who are knowledgeable of the

commercial fishing industry to assist the director, including the rendering of advice from time to time concerning the values of licenses and permits which may be purchased pursuant to the provisions of RCW 75.28.510, and to perform such other functions as deemed appropriate by the director. The members of such advisory board shall be reimbursed for subsistence and travel expenses pursuant to RCW 43.03.050 and 43.03.060 for each day or major portion thereof spent in the performance of their duty. [1975 1st ex.s. c 183 § 8.]

Reviser's note: See note following RCW 75.28.505.

75.28.535 Program to purchase fishing vessels, gear, licenses and permits—Effective date—Expiration—Administration—Vessel, gear, license and permit reduction fund. The provisions of *this 1975 amendatory act shall become effective only upon receipt by the department from the federal government of funds in an amount sufficient to administer such provisions and to accomplish its purposes. If such funds are not received or authorized prior to July 1, 1976, *this 1975 amendatory act shall expire on said date.

The director shall be the responsible state officer for the administration of, and the disbursement of all funds, goods, commodities, and services, which may be received by the state in connection with the provisions of *this 1975 amendatory act. There is created within the state treasury a fund to be known as the "vessel, gear, license, and permit reduction fund", which shall be used for the purchase of vessels, licenses, permits, and fishing gear as provided in *this 1975 amendatory act, and for the administration of the provisions of *this 1975 amendatory act. This fund shall be credited with any federal or other funds received to carry out the purposes of *this 1975 amendatory act and shall also be credited with all proceeds from the sale or other disposition of any property purchased pursuant to RCW 75.28.510. [1975 1st ex.s. c 183 § 9.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 183] consists of RCW 75.28.500-75.28.540, and amendments to RCW 75.08.012.

75.28.540 Program to purchase fishing vessels, gear, licenses and permits—Time limitation to apply for participation—Completion of program. No application for participation in the program provided for in RCW 75.28.500 through 75.28.540 shall be accepted by the department later than June 30, 1977. The director shall provide for the expeditious completion of the program thereafter and shall notify the state legislature when such provisions might appropriately be declared null and void. [1975 1st ex.s. c 183 § 10.]

Reviser's note: See note following RCW 75.28.505.

Chapter 75.44 LOAN ASSISTANCE TO COMMERCIAL FISHERMEN

Sections	
75.44.010	Legislative finding and intent.
75.44.020	Definitions.
75.44.030	Authority to make loans—Eligibility.
75.44.040	Loan restrictions and limitations.

- 75.44.050 Administration of program.
- 75.44.060 Effective date, expiration of chapter.
- 75.44.070 Authority to accept federal funds—Interest payment loan fund—Investments.
- 75.44.080 Time limitation to make application.

Program to purchase vessels, gear, licenses and permits: RCW 75.28.500–75.28.540.

75.44.010 Legislative finding and intent. The legislature finds that the economic health and stability of the commercial fishing industry is of paramount importance to the people of this state. The recent federal court decision, *United States of America et al v. State of Washington et al*, Civil No. 9213, United States District Court for the Western District of Washington, February 12, 1974, together with department of fisheries compliance therewith, have had an adverse impact on this economic health and stability. The public welfare requires that the state have the authority to transmit federal funds in the form of loans to eligible productive commercial fishermen.

Retaining productive commercial fishermen in the state's fishery will enhance productivity by the fishing industry, will improve economic opportunity for those fishermen dependent upon the resource as a source of income, and will contribute to sound conservation and harvesting programs affecting this important state fishery resource. It is the intention of the legislature to provide assistance to productive commercial fishermen who are adversely affected by the current economic situation in the state's commercial fishery. [1975 1st ex.s. c 152 § 1.]

75.44.020 Definitions. As used in this chapter the terms in this section shall have the meanings indicated unless the context indicates otherwise.

(1) "Case area" shall have the meaning as defined in *United States of America, et al v. State of Washington, et al*, Civil No. 9213, United States District Court for the Western District of Washington, February 12, 1974, which is: "That portion of the State of Washington west of the Cascade Mountains and north of the Columbia River drainage area, and includes the American portion of the Puget Sound watershed, the watersheds of the Olympic Peninsula north of the Grays Harbor watershed, and the offshore waters adjacent to those areas". The director is authorized to modify the definition of "case area" to correspond to any subsequent definition included in a relevant decision of the same court, or in appellate review thereof, or where fishing rights are affected by some other court decision in a manner consistent with the above-mentioned decision.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration. [1975 1st ex.s. c 152 § 3.]

75.44.030 Authority to make loans—Eligibility. The department is empowered to make loans which the department determines to be necessary and appropriate to commercial fishermen. To be eligible a commercial fisherman shall:

- (1) Own a commercial fishing vessel;

(2) Have been licensed to fish or deliver fish in 1974 in the case area;

(3) Have been adversely affected by a fishing season in 1974 in the case area which was substantially restricted by the department of fisheries as a result of compliance with the federal court decision;

(4) Be currently licensed to fish or deliver fish;

(5) Be determined to be a productive commercial fisherman by the department in cooperation with the department of fisheries by an analysis of individual fish catch records for the calendar years 1972, 1973, 1974, and/or 1975; and

(6) Be determined by the department to have been primarily dependent on commercial fishing for his or her earned income during at least one of the calendar years 1972, 1973, 1974, or 1975. [1975 1st ex.s. c 152 § 4.]

75.44.040 Loan restrictions and limitations. (1) Loans made pursuant to RCW 75.44.030 shall be used only to pay accrued and past due interest payments owing on obligations whose proceeds were used for the construction, reconstruction, or purchase of a commercial fishing vessel and shall not exceed the amount of such interest payments falling due during 1974 and 1975.

(2) No loan assistance provided under this chapter shall be made available to any fisherman who participates or seeks to participate in any aspect of the program administered through funds made available from the "vessel, gear, and permit reduction fund" if such fund is established pursuant to separate legislation.

(3) The provisions of subsections (1) and (2) of this section shall be subject to the following additional restrictions and limitations:

(a) No financial assistance shall be extended pursuant to this chapter unless the financial assistance applied for is not otherwise available on reasonable terms.

(b) No loan under this chapter shall be made if the total amount outstanding and committed to the borrower from the interest payment loan fund established by RCW 75.44.070 would exceed ten thousand dollars or is less than five hundred dollars.

(c) The rate of interest to be charged by the department for any such loan shall be at the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of one percent, plus one-quarter of one percent per annum.

(d) No such loan, including renewals or extensions thereof, may be made for a period or periods exceeding two years.

(e) All loans made pursuant to this chapter shall be of such sound value or so secured as reasonably to assure repayment.

(4) The director may establish priority classes of persons who might first qualify for loans under the provisions of this chapter in order that the purposes and objectives of the chapter shall be accomplished. [1975 1st ex.s. c 152 § 5.]

75.44.050 Administration of program. The director shall promulgate rules and regulations concerning the operation of such program in accordance with the provisions of chapter 34.04 RCW. The director may enlist the aid of such other state agencies to assist the department in the administration of the provisions of this chapter. To minimize the impact of this program on other ongoing state activities as well as on current staffing levels, the director shall have the authority to contract with persons or entities not employed by the state to assist in the administration of the provisions of this chapter. [1975 1st ex.s. c 152 § 6.]

75.44.060 Effective date, expiration of chapter. The provisions of this chapter shall become effective only upon receipt by the department from the federal government of funds in an amount sufficient to administer such provisions and to accomplish the purposes of this chapter. If such funds are not received or authorized prior to January 1, 1976, this chapter shall expire on said date, and shall be null and void and without any further force and effect on such date without any further action by the legislature. [1975 1st ex.s. c 152 § 7.]

75.44.070 Authority to accept federal funds—Interest payment loan fund—Investments. The department is empowered to receive and accept funds from the federal government for the administration of this program as authorized in the provisions of this chapter. There is created within the department a fund to be known as the "interest payment loan fund", which shall be used for the disbursement of loan moneys as provided in this chapter, and for the administration of the provisions of this chapter. This fund shall be credited with any federal funds received to carry out the purposes of this chapter and shall also be credited with all repayments of loans, payments of interest, and other receipts arising out of transactions entered into by the department pursuant to the provisions of this chapter. The director shall have the full power to invest and reinvest such funds in those classes of securities described in the provisions of RCW 43.84.150. [1975 1st ex.s. c 152 § 8.]

75.44.080 Time limitation to make application. No application for participation in the program provided for in this chapter shall be accepted by the department later than December 31, 1976. [1975 1st ex.s. c 152 § 9.]

Title 76

FORESTS AND FOREST PRODUCTS

Chapters

76.09 Forest practices.

76.14 Forest rehabilitation.

76.20 Firewood on state lands.

Chapter 76.09 FOREST PRACTICES

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76.09.060	Applications for forest practices—Form—Contents—Conversion of forest land to other use—New applications—Approval—Emergencies.
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76.09.240	Restrictions upon local political subdivisions or regional entities—Exceptions and limitations.
76.09.910	Shoreline management act, hydraulics act, other statutes and ordinances not modified—Exceptions.

Chapter 76.09 RCW to be used to satisfy federal water pollution act requirements: RCW 90.48.425.

76.09.030 Forest practices board—Created—Membership—Terms—Vacancies—Meetings—Per diem and expenses—Staff. (1) There is hereby created the forest practices board of the state of Washington as an agency of state government consisting of members as follows:

- (a) The commissioner of public lands or his designee;
- (b) The director of the department of commerce and economic development or his designee;
- (c) The director of the department of agriculture or his designee;
- (d) The director of the department of ecology or his designee;

(e) An elected member of a county legislative authority appointed by the governor: *Provided*, That such member's service on the board shall be conditioned on his continued service as an elected county official; and

(f) Six members of the general public appointed by the governor, one of whom shall be an owner of not more than five hundred acres of forest land, and one of whom shall be an independent logging contractor.

(2) The members of the initial board appointed by the governor shall be appointed so that the term of one member shall expire December 31, 1975, the term of one member shall expire December 31, 1976, the term of one member shall expire December 31, 1977, the terms of two members shall expire December 31, 1978, and the terms of two members shall expire December 31, 1979. Thereafter, each member shall be appointed for a term of four years. Vacancies on the board shall be filled in the same manner as the original appointments. Each member of the board shall continue in

office until his successor is appointed and qualified. The commissioner of public lands or his designee shall be the chairman of the board.

(3) The board shall meet at such times and places as shall be designated by the chairman or upon the written request of the majority of the board. The principal office of the board shall be at the state capital.

(4) Members of the board, except public employees and elected officials, shall receive forty dollars per diem for each day or major portion thereof actually spent in attending to their duties as board members and in addition they shall be entitled to reimbursement for subsistence and actual travel expenses incurred in the performance of their duties in the same manner as provided for state officials generally in chapter 43.03 RCW as now or hereafter amended.

(5) The board may employ such clerical help and staff pursuant to chapter 41.06 RCW as is necessary to carry out its duties. [1975 1st ex.s. c 200 § 1; 1974 ex.s. c 137 § 3.]

76.09.050 Rules establishing classes of forest practices—Applications for classes of forest practices—Approval or disapproval—Notifications—Procedures—Appeals—Waiver. (1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource that may be conducted without submitting an application or a notification;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, or being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 75.20.100;

(c) Within "shorelines of the state" as defined in RCW 90.58.030; or

(d) Excluded from Class II by the board;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within fourteen calendar days from the date the department receives the application;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, (b) on lands being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, and/or (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW.

Such evaluation shall be made within ten days from the date the department receives the application: *Provided*, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) No Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended: *Provided*, That any person commencing a forest practice during 1974 may continue such forest practice until April 1, 1975, if such person has submitted an application to the department prior to January 1, 1975: *Provided, further*, That in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) If a notification or application is delivered in person to the department by the operator or his agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) The department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be

deemed approved and the operation may be commenced: *Provided*, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: *Provided, further*, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: *Provided, further*, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology, game, and fisheries, and to the county in which the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) If the county believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) The department shall not approve portions of applications to which a county objects if:

(a) The department receives written notice from the county of such objections within fourteen business days from the time of transmittal of the application to the county, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

- (i) Platted after January 1, 1960; or
- (ii) Being converted to another use.

The department shall either disapprove those portions of such application or appeal the county objections to the appeals board. If the objections related to subparagraphs (b) (i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county objections. Unless the county either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county objections has expired.

(8) In addition to any rights under the above paragraph, the county may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) Appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.220(9). In such appeals there shall be no presumption of correctness of either the county or the department position.

(10) The department shall, within four business days notify the county of all notifications, approvals, and disapprovals of an application affecting lands within the county, except to the extent the county has waived its right to such notice.

(11) A county may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department. [1975 1st ex.s. c 200 § 2; 1974 ex.s. c 137 § 5.]

76.09.060 Applications for forest practices—Form—Contents—Conversion of forest land to other use—New applications—Approval—Emergencies.

(1) The department shall prescribe the form and contents of the notification and application. The forest practices regulations shall specify by whom and under what conditions the notification and application shall be signed. The application or notification shall be delivered in person or sent by certified mail to the department. The information required may include, but shall not be limited to:

(a) Name and address of the forest land owner, timber owner, and operator;

(b) Description of the proposed forest practice or practices to be conducted;

(c) Legal description of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices regulations;

(g) Soil, geological, and hydrological data with respect to forest practices;

(h) The expected dates of commencement and completion of all forest practices specified in the application;

(i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources; and

(j) An affirmation that the statements contained in the notification or application are true.

(2) At the option of the applicant, the application or notification may be submitted to cover a single forest practice or any number of forest practices within reasonable geographic or political boundaries as specified by the department. Long range plans may be submitted to the department for review and consultation.

(3) The application shall indicate whether any land covered by the application will be converted or is intended to be converted to a use other than commercial timber production within three years after completion of the forest practices described in it. (a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices regulations shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices regulations issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.28, 84.33, and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices regulations.

(b) If the application does not state that any land covered by the application will be or is intended to be so converted:

(i) For six years after the date of the application the county or city and regional governmental entities may deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal from classification under the provisions of RCW 84.28.065, a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial timber operations within three years after completion of the forest practices without the consent of the county or municipality shall constitute a violation of each of the county, municipal and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application shall be either signed by the land owner or accompanied by a statement signed by the land owner indicating his intent with respect to conversion and acknowledging that he is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) The notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of one year from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice. [1975 1st ex.s. c 200 § 3; 1974 ex.s. c 137 § 6.]

76.09.070 Reforestation—Requirements—

Procedures. After the completion of a logging operation, satisfactory reforestation as defined by the rules and regulations promulgated by the board shall be completed within three years: *Provided*, That a longer period may be authorized if seed or seedlings are not available: *Provided further*, That a period of up to five years may be allowed where a natural regeneration plan is approved by the department. Upon the completion of a reforestation operation a report on such operation shall be filed with the department of natural resources. Within twelve months of receipt of such a report the department shall inspect the reforestation operation, and shall determine either that the reforestation operation has been properly completed or that further reforestation and inspection is necessary.

The forest practices regulations may provide alternatives to or limitations on the applicability of reforestation requirements with respect to forest lands being converted in whole or in part to another use which is compatible with timber growing. The forest practices regulations may identify classifications and/or areas of forest land that have the likelihood of future conversion to urban development within a ten year period. The reforestation requirements may be modified or eliminated on such lands: *Provided*, That such identification and/or such conversion to urban development must be consistent with any local or regional land use plans or ordinances. [1975 1st ex.s. c 200 § 4; 1974 ex.s. c 137 § 7.]

76.09.080 Stop work orders—Grounds—Contents—Procedure—Appeals.

(1) The department shall have the authority to serve upon an operator a stop work order which shall be a final order of the department if:

(a) There is any violation of the provisions of this chapter or the forest practices regulations; or

(b) There is a deviation from the approved application; or

(c) Immediate action is necessary to prevent continuation of or to avoid material damage to a public resource.

(2) The stop work order shall set forth:

(a) The specific nature, extent, and time of the violation, deviation, damage, or potential damage;

(b) An order to stop all work connected with the violation, deviation, damage, or potential damage;

(c) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to public resources which has resulted from any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence; and

(d) The right of the operator to a hearing before the appeals board.

The department shall immediately file a copy of such order with the appeals board and mail a copy thereof to the timber owner and forest land owner at the addresses shown on the application. The operator, timber owner, or forest land owner may commence an appeal to the appeals board within fifteen days after service upon the operator. If such appeal is commenced, a hearing shall be held not more than twenty days after copies of the notice of appeal were filed with the appeals board. Such proceeding shall be a contested case within the meaning of chapter 34.04 RCW. The operator shall comply with the order of the department immediately upon being served, but the appeals board if requested shall have authority to continue or discontinue in whole or in part the order of the department under such conditions as it may impose pending the outcome of the proceeding. [1975 1st ex.s. c 200 § 5; 1974 ex.s. c 137 § 8.]

76.09.090 Notice of failure to comply—Contents—Procedures—Appeals—Hearing—Final order—Limitations on actions. If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the department determines that a stop work order is unnecessary, then the department shall issue and serve upon the operator or land owner a notice, which shall clearly set forth:

(1) (a) The specific nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of this chapter or of the forest practice regulations relating thereto;

(2) The right of the operator or land owner to a hearing before the department; and

(3) The specific course of action ordered by the department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

The department shall mail a copy thereof to the forest land owner and the timber owner at the addresses shown on the application, showing the date of service

upon the operator. Such notice to comply shall become a final order of the department: *Provided*, That no direct appeal to the appeals board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the department unless, within fifteen days after the date of service of such notice to comply, the operator, forest land owner, or timber owner, shall request the department in writing to schedule a hearing. If so requested, the department shall schedule a hearing on a date not more than twenty days after receiving such request. Within ten days after such hearing, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the department unless within thirty days after the date of such final order, the operator, forest land owner, or timber owner appeals such final order to the appeals board.

No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules and regulations: *Provided*, That this provision shall not relieve the forest land owner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing road maintenance. No action to recover damages shall be taken under this section more than two years after the date the damage involved occurs. [1975 1st ex.s. c 200 § 6; 1974 ex.s. c 137 § 9.]

76.09.100 Failure to comply with water quality protection—Department of ecology authorized to petition appeals board—Action on petition. If the department of ecology determines that a person has failed to comply with the forest practices regulations relating to water quality protection, and that the department of natural resources has not issued a stop work order or notice to comply, the department of ecology shall inform the department thereof. If the department of natural resources fails to take authorized enforcement action within twenty-four hours under RCW 76.09.080, 76.09.090, 76.09.120, or 76.09.130, the department of ecology may petition to the chairman of the appeals board, who shall, within forty-eight hours, either deny the petition or direct the department of natural resources to immediately issue a stop work order or notice to comply, or to impose a penalty. No civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department of natural resources. [1975 1st ex.s. c 200 § 7; 1974 ex.s. c 137 § 10.]

76.09.140 Enforcement. (1) The department of natural resources, through the attorney general, may take any necessary action to enforce any final order or final decision, or to enjoin any forest practices by any person

for a one year period after such person has failed to comply with a final order or a final decision.

(2) A county may bring injunctive, declaratory, or other actions for enforcement for forest practice activities within its jurisdiction in the superior court as provided by law against the department, the forest land owner, timber owner or operator to enforce the forest practice regulations or any final order of the department, or the appeals board: *Provided*, That no civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department of natural resources: *And provided further*, That such actions shall not be commenced unless the department fails to take appropriate action after ten days written notice to the department by the county of a violation of the forest practices regulations or final orders of the department or the appeals board. [1975 1st ex.s. c 200 § 8; 1974 ex.s. c 137 § 14.]

76.09.170 Violations—Penalties—Remission or mitigation—Appeals. Every person who fails to comply with any provision of RCW 76.09.010 through 76.09.280 as now or hereafter amended or of the forest practices regulations shall be subject to a penalty in an amount of not more than five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. In case of a failure to comply with a notice pursuant to RCW 76.09.090 as now or hereafter amended or a stop work order, every day's continuance shall be a separate and distinct violation. Every person who through an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty herein provided for: *Provided*, That no penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board or advisory committee created by this chapter for any act or omission in his duties in the administration of this chapter or of any regulation promulgated thereunder.

The penalty herein provided for shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department of natural resources describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, that department may remit or mitigate the penalty upon whatever terms that department in its discretion deems proper, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department of natural resources shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such regulations as it may deem proper.

Any person incurring any penalty hereunder may appeal the same to the forest practices appeals board.

Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department. When such an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the department setting forth the disposition of the application.

Any penalty imposed hereunder shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred hereunder is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final decision confirming the penalty in whole or in part.

If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided. [1975 1st ex.s. c 200 § 9; 1974 ex.s. c 137 § 17.]

76.09.220 Forest practices appeals board—Compensation—Expenses—Staff—Chairman—Office—Quorum—Powers and duties—Jurisdiction—Review. (1) The appeals board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part time basis, each member shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his duties: *Provided*, That such compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel and other expenses incurred in the discharge of his duties in accordance with the provisions of chapter 43.03 RCW.

(2) The appeals board may appoint, discharge, and fix the compensation of an executive secretary, a clerk, and such other clerical, professional, and technical assistants as may be necessary. As specified in RCW 41.06.073, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW.

(3) The appeals board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect or reelect a chairman.

(4) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be 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 appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(5) The appeals 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 and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(6) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(7) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(8) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department.

(9) (a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice may seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his request with the department and the attorney general. The attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in subparagraph (a) of this subsection are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases. [1975 1st ex.s. c 200 § 10; 1974 ex.s. c 137 § 22.]

76.09.240 Restrictions upon local political subdivisions or regional entities—Exceptions and limitations. No county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

(1) Land use planning or zoning authority: *Provided*, That exercise of such authority may regulate forest

practices only: (a) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands will be converted to a use other than commercial timber production; or (b) on lands which have been platted after January 1, 1960: *Provided*, That no permit system solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

(2) Taxing powers;

(3) Regulatory authority with respect to public health; and

(4) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971", except that in relation to "shorelines" as defined in RCW 90.58.030, the following shall apply:

(a) The forest practice regulations adopted pursuant to this chapter shall be the sole rules applicable to the performance of forest practices, and enforcement thereof shall be solely as provided in chapter 76.09 RCW;

(b) As to that road construction which constitutes a substantial development, no permit shall be required under chapter 90.58 RCW for the construction of up to five hundred feet of one and only one road or segment of a road provided such road does not enter the shoreline more than once. Such exemption from said permit requirements shall be limited to a single road or road segment for each forest practice and such road construction shall be subject to the requirements of chapter 76.09 RCW and regulations adopted pursuant thereto and to the prohibitions or restrictions of any master program in effect under the provisions of chapter 90.58 RCW. Nothing in this subsection shall add to or diminish the authority of the shoreline management act regarding road construction except as specifically provided herein. The provisions of this subsection shall not relate to any road which crosses over or through a stream, lake, or other water body subject to chapter 90.58 RCW;

(c) Nothing in this section shall create, add to, or diminish the authority of local government to prohibit or restrict forest practices within the shorelines through master programs adopted and approved pursuant to chapter 90.58 RCW except as provided in (a) and (b) above.

Any powers granted by chapter 90.58 RCW pertaining to forest practices, as amended herein, are expressly limited to lands located within "shorelines of the state" as defined in RCW 90.58.030. [1975 1st ex.s. c 200 § 11; 1974 ex.s. c 137 § 24.]

76.09.910 Shoreline management act, hydraulics act, other statutes and ordinances not modified—Exceptions. Nothing in RCW 76.09.010 through 76.09.280 as now or hereafter amended shall modify any requirements to comply with the Shoreline Management Act of 1971 except as limited by RCW 76.09.240 as now or hereafter amended, or the hydraulics act (RCW 75.20-.100), other state statutes in effect on January 1, 1975, and any local ordinances not inconsistent with RCW

76.09.240 as now or hereafter amended. [1975 1st ex.s. c 200 § 12; 1974 ex.s. c 137 § 32.]

Chapter 76.14 FOREST REHABILITATION

Sections

- 76.14.050 Firebreaks—Powers of board and supervisor—Grazing lands.
76.14.051 Firebreaks—Preexisting agreements not altered.

76.14.050 Firebreaks—Powers of board and supervisor—Grazing lands. The supervisor is authorized to cooperate with owners of land located in the area described in RCW 76.14.020 in establishing firebreaks in their most logical position regardless of land ownership. The board may by gift, purchase, condemnation or otherwise acquire easements for road rights of way and land or interests therein located in the high hazard forest area described in RCW 76.14.020 for any purpose deemed necessary for access for forest protection, reforestation, development and utilization, and for access to state owned lands within the area described in RCW 76.14.020 for all other purposes, and the supervisor shall have authority to regulate the use thereof. When the landowner is using the land for agricultural grazing purposes the state shall maintain gates or adequate cattle guards at each place the road enters upon the private landowner's fenced lands. [1975 1st ex.s. c 101 § 1; 1955 c 171 § 2; 1953 c 74 § 5.]

76.14.051 Firebreaks—Preexisting agreements not altered. Nothing in the provisions of RCW 76.14.050 as now or hereafter amended shall be construed to otherwise alter the terms of any existing agreements heretofore entered into by the state and private parties under the authority of RCW 76.14.050 as now or hereafter amended. [1975 1st ex.s. c 101 § 2.]

Chapter 76.20 FIREWOOD ON STATE LANDS

Sections

- 76.20.010 License to remove firewood authorized.
76.20.030 Issuance of license—Fee—Limit on amount removed.
76.20.035 Removal of firewood without charge—Authorization.

76.20.010 License to remove firewood authorized. The department of natural resources may issue licenses to residents of this state to enter upon lands under the administration or jurisdiction of the department of natural resources for the purpose of removing therefrom, standing or downed timber which is unfit for any purpose except to be used as firewood. [1975 c 10 § 1; 1945 c 97 § 1; Rem. Supp. 1945 § 7797-40a.]

76.20.030 Issuance of license—Fee—Limit on amount removed. The application may be made to the department of natural resources, and if deemed proper, the license may be issued upon the payment of two dollars and fifty cents which shall be paid into the treasury of the state by the officer collecting the same and placed in the resource management cost account; the

license shall be dated as of the date of issuance and authorize the holder thereof to remove between the dates so specified not more than six cords of wood not fit for any use but as firewood for the use of himself and family from the premises described in the license under such regulations as the department of natural resources may prescribe. [1975 c 10 § 2; 1945 c 97 § 3; Rem. Supp. 1945 § 7797-40c.]

76.20.035 Removal of firewood without charge—Authorization. Whenever the department of natural resources determines that it is in the best interest of the state and there will be a benefit to the lands involved or a state program affecting such lands it may designate specific areas and authorize the general public to enter upon lands under its jurisdiction for the purposes of cutting and removing standing or downed timber for use as firewood for the personal use of the person so cutting and removing without a charge under such terms and conditions as it may require. [1975 c 10 § 3.]

Title 77 GAME AND GAME FISH

Chapters

- 77.12 Powers and duties of commission.
77.16 Prohibited acts and penalties.
77.20 Beaver.
77.28 Game farmers.
77.32 Licenses.

Chapter 77.12 POWERS AND DUTIES OF COMMISSION

Sections

- 77.12.150 Seasons—Opening and closing—Bag limits.
77.12.160 Notice of seasons and bag limits—Publication.
77.12.173 Penalty assessments upon fines and forfeitures—Deposit in state game fund.
77.12.175 Personalized license plates—Use of fees for support and aid of wildlife resources—Purpose of act.
77.12.320 Agreements for propagation, protection of game—Acceptance of compensation for fish and wildlife losses, gifts, grants—Deposit in special wildlife account.
77.12.323 Game special wildlife account—Created—Uses—Investments.

77.12.150 Seasons—Opening and closing—Bag limits. The director, with the approval of the commission, may entirely close, or shorten any season for game animals, fur-bearing animals, game birds, or game fish within the respective game areas, and after a season has been closed or shortened, reopen it, and also fix daily, weekly, or season bag limits on game animals, fur-bearing animals, game birds, or game fish within any game area.

Whenever the director finds that game animals have increased in numbers in any locality of the state to such an extent that they are damaging public or private property, or over-grazing their range, the commission may establish a special hunting season, designate the area and the number and sex of the animals that may

be killed by a licensed hunter therein, promulgate necessary rules and regulations, and determine by lot the number of hunters that may hunt within such area and the conditions and requirements incident thereto. The drawing shall take place at the city hall of the town nearest the area to be opened. Notice of the establishing of such special hunting season and of the drawing shall be given in the manner provided for the publishing of orders opening or closing seasons.

The exercise of power herein granted to close or reopen regular or special seasons, or fix bag limits, shall be by a written order signed by the director promulgated in accordance with chapter 34.04 RCW. [1975 1st ex.s. c 102 § 1; 1955 c 36 § 77.12.150. Prior: 1949 c 205 § 2; 1947 c 275 § 25; Rem. Supp. 1949 § 5992-35.]

77.12.160 Notice of seasons and bag limits—Publication. The director shall publish the order closing, shortening, or reopening any season, or fixing any bag limit, in a newspaper of general circulation in each county affected. [1975 1st ex.s. c 102 § 2; 1955 c 36 § 77.12.160. Prior: 1947 c 275 § 26; Rem. Supp. 1947 § 5992-36.]

77.12.173 Penalty assessments upon fines and forfeitures—Deposit in state game fund. On and after June 12, 1975, there shall be levied a penalty assessment in an amount of five dollars for every twenty dollars or fraction thereof, imposed and collected by any court as a fine or forfeiture of bail for any violation of a provision of Title 77 RCW or of any rule, regulation, or order adopted pursuant thereto. Penalties so assessed shall be used by the department of game for the purposes set forth in RCW 77.12.010. Where multiple violations are involved, the penalty assessment shall be based upon the total fine or bail forfeited for all included offenses. When a fine is suspended, in whole or in part, the penalty assessment shall be reduced in proportion to the suspension, except that the penalty assessment shall never be reduced to less than a total of five dollars.

If bail is forfeited, the court shall collect the appropriate amount of the penalty assessment from the person forfeiting such bail and the total amount of such assessment shall be remitted within fifteen days after the end of each quarter to the department of game and deposited in the state game fund.

After a determination by the court of the amount of fine and assessment, the court shall collect and remit within fifteen days after the end of each quarter to the department of game the total amount of such assessment for deposit in the state game fund. [1975 c 57 § 1.]

77.12.175 Personalized license plates—Use of fees for support and aid of wildlife resources—Purpose of act. It is declared to be the public policy of the state of Washington to direct financial resources of this state toward the support and aid of the wildlife resources existing within the state of Washington in order that the general welfare of these inhabitants of the state be served. For the purposes of this chapter, wildlife resources are understood to be those species of wildlife

other than that managed by the department of fisheries under their existing jurisdiction as well as all unclassified marine fish, shellfish, and marine invertebrates which shall remain under the jurisdiction of the director of fisheries. The legislature further finds that the preservation, protection, perpetuation, and enhancement of such wildlife resources of the state is of major concern to it, and that aid for a satisfactory environment and ecological balance in this state for such wildlife resources serves a public interest, purpose, and desire.

It is further declared that such preservation, protection, perpetuation, and enhancement can be fostered through financial support derived on a voluntary basis from those citizens of the state of Washington who wish to assist in such objectives; that a desirable manner of accomplishing this is through offering personalized license plates for certain vehicles and campers the fees for which are to be directed to the state treasury to the credit of the state game fund for the furtherance of the programs, policies, and activities of the state game department in preservation, protection, perpetuation, and enhancement of the wildlife resources that abound within the geographical limits of the state of Washington.

In particular, the legislature recognizes the benefit of this program to be specifically directed toward those species of wildlife including but not limited to song birds, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates which shall remain under the jurisdiction of the director of fisheries that exist within the limits of the state of Washington. [1975 c 59 § 7; 1973 1st ex.s. c 200 § 1.]

77.12.320 Agreements for propagation, protection of game—Acceptance of compensation for fish and wildlife losses, gifts, grants—Deposit in special wildlife account. The commission may enter into agreements with persons, municipal subdivisions of this state, the United States, or any of its agencies or instrumentalities regarding all matters concerning propagation, protection and conservation of wild animals, wild birds and game fish and concerning hunting or fishing therefor.

The commission or the department may at any time on behalf of the state accept compensation for fish and wildlife losses or gifts or grants of personal property for use by the department: *Provided*, That all compensation received heretofore or hereafter for fish and wildlife losses shall be deposited in the special wildlife account of the state game fund established in RCW 77.12.323. Any other moneys, when received by the commission or the department, shall currently be delivered to the state treasurer for deposit in the state game fund. [1975 1st ex.s. c 207 § 1; 1974 ex.s. c 67 § 1; 1955 c 36 § 77.12.320. Prior: 1947 c 275 § 37; Rem. Supp. 1947 § 5992-47.]

77.12.323 Game special wildlife account—Created—Uses—Investments. (1) There is established in the state game fund an account to be known as the

game special wildlife account. All moneys received pursuant to RCW 77.12.320 as now or hereafter amended as compensation for fish and wildlife losses shall be deposited in the game special wildlife account of the state game fund and shall be used only for purposes in support of RCW 77.12.010, 77.12.030, and 77.12.175.

(2) The commission may advise the state treasurer and the state finance committee of any surplus in the game special wildlife account above the current needs in support of game and wildlife. The state finance committee may invest and reinvest such surplus of said account as the commission or department deems appropriate, except as otherwise prohibited by law, in an investment authorized by RCW 43.84.150, or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4), and all income received from such investments shall be deposited to the credit of the game special wildlife account in the state game fund. [1975 1st ex.s. c 207 § 2.]

Chapter 77.16 PROHIBITED ACTS AND PENALTIES

Sections

- 77.16.020 Taking during closed season—Exceeding bag limits—Taking within reserves.
77.16.030 Possession during closed season or in excess of bag limits.

77.16.020 Taking during closed season—Exceeding bag limits—Taking within reserves.

Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal: RCW 77.32.290.

77.16.030 Possession during closed season or in excess of bag limits.

Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal: RCW 77.32.290.

Chapter 77.20 BEAVER

Sections

- 77.20.015 Licensed residents may take—Beaver tags required, fee, style, duration.

77.20.015 Licensed residents may take—Beaver tags required, fee, style, duration. It shall be lawful for any resident, licensed under RCW 77.32.190, to trap, hunt, or kill beaver for their skins in such areas and at such times as the commission by rule or regulation may permit.

It shall be unlawful for a licensee to trap, hunt, or kill beaver without first having procured from the director a tag or tags to be known as supplemental beaver tags. The fee for issuing and procuring each tag shall be two dollars on and after July 1, 1975, and shall be paid in addition to all other license fee prescribed by law. Beaver tags shall be prepared and distributed under the supervision of the director in such number and manner each year as he deems advisable. The tags shall bear the name "department of game of the state of Washington"

and the year for which it is issued, and any other distinguishing marks deemed necessary by the director. The tags shall be void on the first day of April next following the date of issuance. [1975 1st ex.s. c 15 § 1; 1963 c 177 § 10.]

Chapter 77.28 GAME FARMERS

Sections

- 77.28.020 License fee.

77.28.020 License fee. The director may cause to be issued a game farmer's license that shall authorize the licensee to acquire, grow, breed, keep, or sell all or some of such species of wild animals, wild birds, and game fish as may be designated by the commission as suitable for such acquisition, breeding, growing, keeping, and sale. The cost of such license shall be forty-one dollars for the first year and twenty-one dollars for each yearly renewal thereafter. All such licenses shall expire on December 31st annually and application for renewal shall be made prior thereto. [1975 1st ex.s. c 15 § 2; 1970 ex.s. c 29 § 14; 1955 c 36 § 77.28.020. Prior: 1947 c 275 § 82; Rem. Supp. 1947 § 5992-91.]

Chapter 77.32 LICENSES

Sections

- 77.32.020 Supplemental seals—Tags—Permits—Deer, elk, mountain goat, mountain sheep, wild turkey, bear—Birds—Bow and arrow—Muzzle-loading rifles—Penalties.
77.32.031 Supplemental steelhead seal—Fee, exempt persons, disposition of moneys from—Penalty. (Section expires March 31, 1976.)
77.32.032 Supplemental steelhead seal—Fee, exempt persons, disposition of moneys from—Penalty. (Effective April 1, 1976.)
77.32.100 Resident state hunting and fishing license. (Section expires December 31, 1975.)
77.32.101 Resident state hunting and fishing license. (Effective January 1, 1976.)
77.32.103 Resident state hunting license. (Section expires December 31, 1975.)
77.32.104 Resident state hunting license. (Effective January 1, 1976.)
77.32.105 Resident state fishing license. (Section expires December 31, 1975.)
77.32.106 Resident state fishing license. (Effective January 1, 1976.)
77.32.110 Resident county hunting and fishing license. (Section expires December 31, 1975.)
77.32.111 Resident county hunting and fishing license. (Effective January 1, 1976.)
77.32.113 Resident county fishing license. (Section expires December 31, 1975.)
77.32.114 Resident county fishing license. (Effective January 1, 1976.)
77.32.130 Nonresident state hunting license. (Section expires December 31, 1975.)
77.32.131 Nonresident state hunting license. (Effective January 1, 1976.)
77.32.150 Nonresident state fishing license. (Section expires December 31, 1975.)
77.32.151 Nonresident state fishing license. (Effective January 1, 1976.)
77.32.160 Transient's limited state fishing license. (Section expires December 31, 1975.)

- 77.32.161 Transient's limited state fishing license. (Effective January 1, 1976.)
- 77.32.190 Trapper's license. (Section expires December 31, 1975.)
- 77.32.191 Trapper's license. (Effective January 1, 1976.)
- 77.32.195 Nonresident's or alien's trappers's license.
- 77.32.200 Taxidermist's license. (Section expires December 31, 1975.)
- 77.32.201 Taxidermist's license. (Effective January 1, 1976.)
- 77.32.210 Fur dealer's license. (Section expires December 31, 1975.)
- 77.32.211 Fur dealer's license. (Effective January 1, 1976.)
- 77.32.225 Fishing guide license—Rules, records, reports. (Section expires December 31, 1975.)
- 77.32.226 Fishing guide license—Rules, records, reports. (Effective January 1, 1976.)
- 77.32.255 Duplicate licenses and permits. (Section expires December 31, 1975.)
- 77.32.256 Duplicate licenses and permits. (Effective January 1, 1976.)
- 77.32.290 Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal.

77.32.020 Supplemental seals—Tags—Permits—Deer, elk, mountain goat, mountain sheep, wild turkey, bear—Birds—Bow and arrow—Muzzle-loading rifles—Penalties. It shall be unlawful for any person to hunt or kill deer without first having procured from the director a tag to be known as a supplemental deer seal, which tag shall be procured, in addition to any other license, to hunt game animals required by law. The fee for issuing and procuring such tag shall be five dollars on and after July 1, 1975, and shall be paid in addition to all other license fees prescribed by law. It shall be unlawful for any person to hunt or kill elk without first having procured from the director a tag to be known as a supplemental elk seal, which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be eleven dollars on and after July 1, 1975, and shall be paid in addition to all other license fees prescribed by law.

It shall be unlawful for any person to hunt or kill mountain goat without first having procured from the director a tag to be known as a supplemental goat seal, which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be eleven dollars on and after July 1, 1975, and shall be paid in addition to all other license fees prescribed by law.

It shall be unlawful for any person to hunt or kill mountain sheep without first having procured from the director a tag to be known as a supplemental mountain sheep seal, which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be eleven dollars on and after July 1, 1975, and shall be paid in addition to all other license fees prescribed by law.

It shall be unlawful for any person to hunt or kill wild turkey without first having procured from the director a tag to be known as a supplemental wild turkey seal, which tag shall be procured in addition to any other license to hunt game birds required by law. The

fee for issuing and procuring such tag shall be two dollars until December 31, 1975, and three dollars thereafter and shall be paid in addition to all other license fees prescribed by law.

It shall be unlawful for any person to hunt or kill bear in any place where bear is classified as a game animal without first having procured from the director a tag to be known as a supplemental bear seal, which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be two dollars until December 31, 1975, and three dollars thereafter and shall be paid in addition to all other license fees prescribed by law: *Provided*, That the director may issue permits for the control of bears in areas where, in his opinion, property is being damaged. No tag will be required for any bear killed to control damage.

It shall be unlawful for any nonresident or alien to hunt or kill elk without first having procured from the director a tag to be known as a supplemental nonresident elk seal which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be forty-two dollars on and after July 1, 1975, and shall be paid in addition to all other license fees provided by law.

It shall be unlawful for any nonresident or alien to hunt or kill mountain goat without first having procured from the director a tag to be known as a supplemental nonresident goat seal which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be forty-two dollars on and after July 1, 1975, and shall be paid in addition to all other license fees prescribed by law.

It shall be unlawful for any nonresident or alien to hunt or kill mountain sheep without first having procured from the director a tag to be known as a supplemental mountain sheep seal, which tag shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such tag shall be forty-two dollars on and after July 1, 1975, and shall be paid in addition to all other license fees prescribed by law.

It shall be unlawful for any person to hunt or kill any pheasant, quail, or partridge without first having procured from the director an upland bird permit, which permit shall be procured in addition to any other license to hunt game animals required by law. The fee for issuing and procuring such permit shall be three dollars on and after July 1, 1975.

It shall be unlawful for any person to hunt or kill wild animals or birds with a bow and arrow or muzzle-loading rifle during any special seasons established exclusively for bow and arrow or muzzle-loading rifle without first procuring from the director a permit to be known as an archery and/or muzzle-loading rifle permit, which permit shall be procured in addition to any other license to hunt game animals or birds required by law. The fee for issuing and procuring such permit shall be six dollars on and after July 1, 1975.

Such tags or permits shall be in the possession of all persons while engaged in hunting deer, elk, mountain goat, mountain sheep, wild turkey, bear, pheasant, quail, or partridge; or any game animals during special bow and arrow or muzzle-loading rifle seasons. Such tags or permits shall be prepared by and under the supervision of the director and shall bear the name "department of game of the state of Washington" and the year for which it is issued, and any other distinguishing marks deemed necessary by the director, and shall be void on the first day of April next following the date of issuance. Any person who kills any deer, elk, mountain goat, mountain sheep, wild turkey, or bear shall immediately attach his own tag to the carcass of any such animal or bird and properly seal the same. All moneys received from the issuance or sale of tags or permits as provided herein shall be paid into the state game fund. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars and not more than two hundred fifty dollars or by imprisonment in the county jail for not less than ten days and not more than thirty days or by both such fine and imprisonment. [1975 1st ex.s. c 15 § 3; 1970 ex.s. c 29 § 1; 1967 c 10 § 1; 1957 c 176 § 1; 1955 c 36 § 77.32.020. Prior: 1953 c 75 § 1; 1947 c 275 § 94; 1945 c 81 § 7; 1937 c 63 § 2; 1935 c 59 § 4; Rem. Supp. 1947 § 5992-103.]

Effective date—1970 ex.s. c 29: "The effective date of this 1970 amendatory act shall be January 1, 1971." [1970 ex.s. c 29 § 16.] This applies to the 1970 amendments to RCW 77.28.020, 77.32.020, 77.32-.060, 77.32.100-77.32.113, 77.32.130-77.32.160, 77.32.190, 77.32.200, 77.32.225 and to RCW 77.32.255.

77.32.031 Supplemental steelhead seal—Fee, exempt persons, disposition of moneys from—Penalty. (Section expires March 31, 1976.) It shall be unlawful for any person to fish for or take steelhead without first having procured from the director a seal to be known as a supplemental steelhead seal, which shall be procured, in addition to any other license, to fish for steelhead required by law. This seal shall be in the possession of all persons while engaged in fishing for steelhead.

The seal shall be prepared by and under the supervision of the director, and it shall bear the name "Department of Game of the State of Washington", the time period for which it is issued, and any other distinguishing marks deemed necessary by the director. The procuring fee shall be two dollars and shall be in addition to other license fees prescribed by law: *Provided*, That this fee shall not apply to juveniles and free license holders. All moneys received from the issuance or sale of the seal provided herein shall be paid into the state game fund.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not less than twenty-five dollars nor more than two hundred fifty dollars or by imprisonment in the county jail for not less than ten days nor more than thirty days or by both such fine and imprisonment.

This section shall expire on March 31, 1976, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 4; 1969 ex.s. c 17 § 1.]

77.32.032 Supplemental steelhead seal—Fee, exempt persons, disposition of moneys from—Penalty. (Effective April 1, 1976.) It shall be unlawful for any person to fish for or take steelhead without first having procured from the director a seal to be known as a supplemental steelhead seal, which shall be procured, in addition to any other license, to fish for steelhead required by law. This seal shall be in the possession of all persons while engaged in fishing for steelhead.

The seal shall be prepared by and under the supervision of the director, and it shall bear the name "Department of Game of the State of Washington", the time period for which it is issued, and any other distinguishing marks deemed necessary by the director. The procuring fee shall be three dollars and shall be in addition to other license fees prescribed by law: *Provided*, That this fee shall not apply to juveniles and free license holders. All moneys received from the issuance or sale of the seal provided herein shall be paid into the state game fund.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not less than twenty-five dollars nor more than two hundred fifty dollars or by imprisonment in the county jail for not less than ten days nor more than thirty days or by both such fine and imprisonment. [1975 1st ex.s. c 15 § 19.]

Effective dates—1975 1st ex.s. c 15: "Section 19 of this 1975 amendatory act shall be effective April 1, 1976. Sections 20 through 32 of this 1975 amendatory act shall be effective January 1, 1976." [1975 1st ex.s. c 15 § 34.] This applies to RCW 77.32.032, 77.32.101, 77.32.104, 77.32.106, 77.32.111, 77.32.114, 77.32.131, 77.32.151, 77.32.161, 77.32.191, 77.32.201, 77.32.211, 77.32.226, and 77.32.256.

77.32.100 Resident state hunting and fishing license. (Section expires December 31, 1975.) Any resident may by paying the sum of twelve dollars obtain a state hunting and fishing license, which shall entitle the holder thereof to hunt and fish in any county of the state until the first day of January next following the date of its issuance, when it is lawful to hunt or fish therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 5; 1970 ex.s. c 29 § 3; 1965 c 48 § 1; 1957 c 176 § 3; 1955 c 36 § 77.32.100. Prior: 1953 c 75 § 4; 1947 c 128 § 2; Rem. Supp. 1947 § 5897-2.]

77.32.101 Resident state hunting and fishing license. (Effective January 1, 1976.) Any resident may by paying the sum of fourteen dollars obtain a state hunting and fishing license, which shall entitle the holder thereof to hunt and fish in any county of the state until the first day of January next following the date of its issuance, when it is lawful to hunt or fish therein. [1975 1st ex.s. c 15 § 20.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.103 Resident state hunting license. (Section expires December 31, 1975.) Any resident may by paying the sum of six dollars and fifty cents obtain a state hunting license which shall entitle the holder thereof to hunt in any county of the state until the first day of January next following the date of its issuance, when it is lawful to hunt therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 6; 1970 ex.s. c 29 § 4; 1965 c 48 § 2; 1957 c 176 § 4; 1955 c 36 § 77.32.103. Prior: 1953 c 75 § 5.]

77.32.104 Resident state hunting license. (Effective January 1, 1976.) Any resident may by paying the sum of seven dollars and fifty cents obtain a state hunting license which shall entitle the holder thereof to hunt in any county of the state until the first day of January next following the date of its issuance, when it is lawful to hunt therein. [1975 1st ex.s. c 15 § 21.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.105 Resident state fishing license. (Section expires December 31, 1975.) Any resident may by paying the sum of seven dollars and fifty cents obtain a state fishing license which shall entitle the holder thereof to fish in any county of the state until the first day of January next following the date of its issuance, when it is lawful to fish therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 7; 1970 ex.s. c 29 § 5; 1965 c 48 § 3; 1957 c 176 § 5; 1955 c 36 § 77.32.105. Prior: 1953 c 75 § 6.]

77.32.106 Resident state fishing license. (Effective January 1, 1976.) Any resident may by paying the sum of eight dollars and fifty cents obtain a state fishing license which shall entitle the holder thereof to fish in any county of the state until the first day of January next following the date of its issuance, when it is lawful to fish therein. [1975 1st ex.s. c 15 § 22.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.110 Resident county hunting and fishing license. (Section expires December 31, 1975.) Any resident may by paying the sum of eight dollars obtain a hunting and fishing license, which shall entitle the holder thereof to hunt and fish within the county in which he resides and for which the license is issued until the first day of January next following the date of issuance, when it is lawful to hunt or fish therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 8; 1970 ex.s. c 29 § 6; 1965 c 48 § 4; 1957 c 176 § 6; 1955 c 36 § 77.32.110. Prior: 1953 c 75 § 7; 1947 c 128 § 1; Rem. Supp. 1947 § 5897-1.]

77.32.111 Resident county hunting and fishing license. (Effective January 1, 1976.) Any resident may by paying the sum of nine dollars obtain a hunting and fishing license, which shall entitle the holder thereof to hunt and fish within the county in which he resides and for which the license is issued until the first day of January next following the date of issuance, when it is lawful to hunt or fish therein. [1975 1st ex.s. c 15 § 23.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 75.32.032.

77.32.113 Resident county fishing license. (Section expires December 31, 1975.) Any resident may by paying the sum of six dollars obtain a fishing license which shall entitle the holder thereof to fish within the county in which he resides and for which the license is issued until the first day of January next following the date of issuance, when it is lawful to fish therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 9; 1970 ex.s. c 29 § 7; 1965 c 48 § 5; 1957 c 176 § 7; 1955 c 36 § 77.32.113. Prior: 1953 c 75 § 8.]

77.32.114 Resident county fishing license. (Effective January 1, 1976.) Any resident may by paying the sum of seven dollars obtain a fishing license which shall entitle the holder thereof to fish within the county in which he resides and for which the license is issued until the first day of January next following the date of issuance, when it is lawful to fish therein. [1975 1st ex.s. c 15 § 24.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.130 Nonresident state hunting license. (Section expires December 31, 1975.) Any nonresident or alien may by paying the sum of fifty dollars obtain a hunting license which shall entitle the holder thereof to hunt in any county of the state until the first day of January next following the date of issuance, when it is lawful to hunt therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 10; 1970 ex.s. c 29 § 8; 1957 c 176 § 8; 1955 c 36 § 77.32.130. Prior: 1953 c 75 § 9; 1947 c 275 § 102; 1931 c 108 § 5; 1927 c 258 § 8; 1925 ex.s. c 178 § 44; Rem. Supp. 1947 § 5992-111.]

77.32.131 Nonresident state hunting license. (Effective January 1, 1976.) Any nonresident or alien may by paying the sum of sixty dollars obtain a hunting license which shall entitle the holder thereof to hunt in any county of the state until the first day of January next following the date of issuance, when it is lawful to hunt therein. [1975 1st ex.s. c 15 § 25.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.150 Nonresident state fishing license. (Section expires December 31, 1975.) Any nonresident or alien may by paying the sum of twenty dollars obtain a

state fishing license, which shall entitle the holder thereof to fish in any county of the state until the first day of January next following the date of issuance, when it is lawful to fish therein.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 11; 1970 ex.s. c 29 § 9; 1957 c 176 § 9; 1955 c 36 § 77.32.150. Prior: 1953 c 75 § 11; 1949 c 205 § 4; 1947 c 275 § 104; 1931 c 108 § 5; 1927 c 258 § 8; 1925 ex.s. c 178 § 44; Rem. Supp. 1949 § 5992-113.]

77.32.151 Nonresident state fishing license. (Effective January 1, 1976.) Any nonresident or alien may by paying the sum of twenty-four dollars obtain a state fishing license, which shall entitle the holder thereof to fish in any county of the state until the first day of January next following the date of issuance, when it is lawful to fish therein. [1975 1st ex.s. c 15 § 26.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.160 Transient's limited state fishing license. (Section expires December 31, 1975.) Any nonresident or alien who is temporarily sojourning in the state may by paying the sum of six dollars obtain a state fishing license, which shall entitle the holder thereof to fish in any county of the state for a period of seven days following the date of its issuance, when it is lawful to fish therein: *Provided*, That the license under this section shall not entitle the holder thereof to fish for steelhead during the winter steelhead seasons as established by rule or regulation of the commission.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 12; 1970 ex.s. c 29 § 10; 1957 c 176 § 10; 1955 c 36 § 77.32.160. Prior: 1953 c 75 § 12; 1947 c 275 § 105; 1931 c 108 § 6; 1925 ex.s. c 178 § 45; Rem. Supp. 1947 § 5992-114.]

77.32.161 Transient's limited state fishing license. (Effective January 1, 1976.) Any nonresident or alien who is temporarily sojourning in the state may by paying the sum of seven dollars and twenty-five cents obtain a state fishing license, which shall entitle the holder thereof to fish in any county of the state for a period of seven days following the date of its issuance, when it is lawful to fish therein: *Provided*, That the license under this section shall not entitle the holder thereof to fish for steelhead during the winter steelhead seasons as established by rule or regulation of the commission. [1975 1st ex.s. c 15 § 27.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.190 Trapper's license. (Section expires December 31, 1975.) Any resident may by paying the sum of ten dollars obtain a state trapping license which shall entitle the holder thereof to trap furbearing animals for their hides or their pelts only, within any county of the state until the first day of April next following the date of its issuance, at any time when it is lawful to trap such animals.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 13; 1970 ex.s. c 29 § 11; 1963 c 177 § 7; 1957 c 176 § 11; 1955 c 36 § 77.32.190. Prior: 1947 c 275 § 108; 1929 c 221 § 4; 1925 ex.s. c 178 § 51; Rem. Supp. 1947 § 5992-117.]

77.32.191 Trapper's license. (Effective January 1, 1976.) Any resident may by paying the sum of eleven dollars obtain a state trapping license which shall entitle the holder thereof to trap furbearing animals for their hides or their pelts only, within any county of the state until the first day of April next following the date of its issuance, at any time when it is lawful to trap such animals. [1975 1st ex.s. c 15 § 28.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.195 Nonresident's or alien's trapper's license. Any nonresident or alien may by paying the sum of fifty dollars obtain a state trapping license which shall entitle the holder thereof to trap furbearing animals for their hides or their pelts only, within any county of the state until the first day of April next following the date of its issuance, at any time when it is lawful to trap such animals. [1975 1st ex.s. c 15 § 14.]

77.32.200 Taxidermist's license. (Section expires December 31, 1975.) Any person may by paying the sum of ten dollars obtain a license, which shall entitle him to practice taxidermy for profit in any county of the state until the first day of January next following the date of its issuance.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 15; 1970 ex.s. c 29 § 12; 1955 c 36 § 77.32.200. Prior: 1947 c 275 § 109; Rem. Supp. 1947 § 5992-118.]

77.32.201 Taxidermist's license. (Effective January 1, 1976.) Any person may by paying the sum of eleven dollars obtain a license, which shall entitle him to practice taxidermy for profit in any county of the state until the first day of January next following the date of its issuance. [1975 1st ex.s. c 15 § 29.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.210 Fur dealer's license. (Section expires December 31, 1975.) Any person may, by paying the sum of ten dollars, obtain a license, which shall entitle the holder thereof to purchase, receive, or resell raw furs for profit in any county of the state until the first day of January next following the date of its issuance.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 16; 1955 c 36 § 77.32.210. Prior: 1947 c 275 § 110; Rem. Supp. 1947 § 5992-119.]

77.32.211 Fur dealer's license. (Effective January 1, 1976.) Any person may, by paying the sum of eleven dollars, obtain a license, which shall entitle the holder

thereof to purchase, receive, or resell raw furs for profit in any county of the state until the first day of January next following the date of its issuance. [1975 1st ex.s. c 15 § 30.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.225 Fishing guide license—Rules, records, reports. (Section expires December 31, 1975.) A fishing guide license shall be obtained by every person who offers services or who performs the services of a professional guide for others in the taking of game fish.

The fee for such license is seventy-five dollars for a resident and one hundred fifty dollars for a nonresident or alien which shall entitle the holder thereof to act as a fishing guide in any county of the state until the first day of January next following the date of its issuance.

The commission may adopt rules and regulations requiring records to be kept and reports to be made by fishing guides concerning the activities of their clients with respect to the time, manner, and place of taking any game fish by such clients, the quantities taken by them, and such other information as may be helpful in enforcing the provisions of the game code or the rules and regulations of the commission. Such rules and regulations may prescribe the form of such records and reports and may require fishing guides to keep such records current while performing their services, and to display the same, and may authorize the director to prepare and distribute to fishing guides the forms for such records and reports.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 17; 1970 ex.s. c 29 § 13; 1957 c 176 § 13.]

77.32.226 Fishing guide license—Rules, records, reports. (Effective January 1, 1976.) A fishing guide license shall be obtained by every person who offers services or who performs the services of a professional guide for others in the taking of game fish.

The fee for such license is seventy-six dollars for a resident and one hundred fifty dollars for a nonresident or alien which shall entitle the holder thereof to act as a fishing guide in any county of the state until the first day of January next following the date of its issuance.

The commission may adopt rules and regulations requiring records to be kept and reports to be made by fishing guides concerning the activities of their clients with respect to the time, manner, and place of taking any game fish by such clients, the quantities taken by them, and such other information as may be helpful in enforcing the provisions of the game code or the rules and regulations of the commission. Such rules and regulations may prescribe the form of such records and reports and may require fishing guides to keep such records current while performing their services, and to display the same, and may authorize the director to prepare and distribute to fishing guides the forms for such records and reports. [1975 1st ex.s. c 15 § 31.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

[1975 RCW Supp—p 614]

77.32.255 Duplicate licenses and permits. (Section expires December 31, 1975.) In the case of loss, mutilation or destruction of a license certificate or permit certificate issued under the provisions of Title 77 RCW, the director shall issue a duplicate thereof upon proof of the facts and payment of a fee of one dollar.

This section shall expire on December 31, 1975, and thereafter be of no further force and effect whatsoever. [1975 1st ex.s. c 15 § 18; 1970 ex.s. c 29 § 15.]

77.32.256 Duplicate licenses and permits. (Effective January 1, 1976.) In the case of loss, mutilation or destruction of a license certificate or permit certificate issued under the provisions of Title 77 RCW, the director shall issue a duplicate thereof upon proof of the facts and payment of a fee of two dollars. [1975 1st ex.s. c 15 § 32.]

Effective dates—1975 1st ex.s. c 15: See note following RCW 77.32.032.

77.32.290 Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal. In addition to any other penalties provided by law, the director shall revoke the hunting license of any person who is convicted of violating RCW 77.16.020 or 77.16.030 relating to elk, moose, cougar, antelope, mountain goat, mountain sheep, caribou, bear or deer. Forfeiture of bail on two occasions during any five-year period for violations of RCW 77.16.020 or 77.16.030 shall constitute the basis for a revocation under this section.

No hunting license shall thereafter be reissued to such person for a period of two years from the date of revocation unless the commission, after a hearing held at one of its regular meetings, authorizes the issuance of such license.

Any person who has had his license revoked or has been denied reissuance pursuant to this section may appeal such decision as provided in chapter 34.04 RCW. [1975 1st ex.s. c 6 § 1.]

Title 78

MINES, MINERALS, AND PETROLEUM

Chapters

78.48 Mine to market roads.

Chapter 78.48

MINE TO MARKET ROADS

Sections

78.48.010 through 78.48.080 Repealed.

78.48.010 through 78.48.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 79 PUBLIC LANDS

Chapters

79.01 Public lands act.

79.08 General provisions.

Chapter 79.01
PUBLIC LANDS ACT

Sections

- 79.01.132 Timber and valuable materials sold separately—Lump sum sales or scale sales—Installment purchases, when—Time limit on removal—Reversion—Extensions, payment and interest—Direct sale to applicant without notice, when.
- 79.01.200 Sale procedure—Sales at auction or by sealed bid—Minimum price—Exception as to minor sale of valuable materials at auction—Direct sale to applicant without notice, when.

79.01.132 Timber and valuable materials sold separately—Lump sum sales or scale sales—Installment purchases, when—Time limit on removal—Reversion—Extensions, payment and interest—Direct sale to applicant without notice, when. When any timber, fallen timber, stone, gravel, or other valuable material on state lands is sold separate from the land, it may be sold as a lump sum sale or as a scale sale: *Provided*, That upon the request of the purchaser, any lump sum sale over five thousand dollars appraised value shall be on the installment plan. Lump sum sales under five thousand dollars appraised value shall be paid for in cash. The initial deposits required in RCW 79.01.204, not to exceed twenty-five percent of the actual or projected purchase price, but in the case of lump sum sales over five thousand dollars not less than five thousand dollars, shall be made on the day of the sale. The purchaser shall notify the department of natural resources before any timber is cut and before removal or processing of any valuable materials on the sale area, at which time the department of natural resources may require, in the amount determined by the department, advance payment for the removal, processing, and/or cutting of timber or other valuable materials, or payment bonds or assignments of savings accounts acceptable to the department as adequate security. The amount of such advance payments and/or security shall at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for. The initial deposit shall be maintained until all contract obligations of the purchaser are satisfied: *Provided however*, That all or a portion of said initial deposit may be applied as the final payment for said materials in the event the department of natural resources determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

In all cases where timber, fallen timber, stone, gravel, or other valuable material is sold separate from the land, the same shall revert to the state if not removed from the land within the period specified in the sale contract. Said specified period shall not exceed five years from the date of the purchase thereof: *Provided*, That the specified periods in the sale contract for stone, sand, fill material, or building stone shall not exceed twenty years: *Provided further*, That in all cases where,

in the judgment of the department of natural resources, the purchaser is acting in good faith and endeavoring to remove such materials, the department of natural resources may extend the time for the removal thereof for any period not exceeding twenty years from the date of purchase for the stone, sand, fill material or building stone or for a total of ten years beyond the normal termination date specified in the original sale contract for all other material, upon payment to the state of a sum to be fixed by the department of natural resources, based on the estimated loss of income per acre to the state resulting from the granting of the extension but in no event less than fifty dollars per extension, plus interest on the unpaid portion of the contract. The interest rate shall be fixed, from time to time, by rule adopted by the board of natural resources and shall not be less than six percent per annum. The applicable rate of interest as fixed at the date of sale and the maximum extension payment shall be set forth in the contract. The method for calculating the unpaid portion of the contract upon which such interest shall be paid by the purchaser shall be set forth in the contract. The department of natural resources shall pay into the state treasury all sums received for such extension and the same shall be credited to the fund to which was credited the original purchase price of the material so sold: *And provided further*, That any sale of timber, fallen timber, stone, gravel, sand, fill material, or building stone of an appraised value of five hundred dollars or less may be sold directly to the applicant for cash at full appraised value without notice or advertising. [1975 1st ex.s. c 52 § 1; 1971 ex.s. c 123 § 1; 1969 ex.s. c 14 § 2; 1961 c 73 § 1; 1959 c 257 § 13; 1927 c 255 § 33; RRS § 7797-33. Prior: 1915 c 147 § 2; 1909 c 223 § 3; 1907 c 256 § 6; 1901 c 148 § 1; 1899 c 129 § 1; 1897 c 89 § 12; 1895 c 178 § 23. Formerly RCW 79.12.120.]

79.01.200 Sale procedure—Sales at auction or by sealed bid—Minimum price—Exception as to minor sale of valuable materials at auction—Direct sale to applicant without notice, when. All sales of land shall be at public auction, and all sales of valuable materials shall be at public auction or by sealed bid to the highest bidder, on the terms prescribed by law and as specified in the notice hereinbefore provided, and no land or materials shall be sold for less than its appraised value: *Provided*, That on public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only: *Provided further*, That when valuable material has been appraised at an amount not exceeding ten thousand dollars, the commissioner of public lands, when authorized by the board of natural resources, may arrange for the sale at public auction of said valuable material and for its removal under such terms and conditions as the commissioner may prescribe, after said commissioner shall have caused to be published ten days prior to sale a notice of such sale in a newspaper of general circulation located nearest to property to be sold: *And provided further*, That any sale of timber, fallen timber, stone, gravel, sand, fill material, or building stone of an appraised

value of five hundred dollars or less may be sold directly to the applicant for cash without notice or advertising. [1975 1st ex.s. c 45 § 1; 1971 ex.s. c 123 § 3; 1969 ex.s. c 14 § 4; 1961 c 73 § 3; 1959 c 257 § 21; 1933 c 66 § 1; 1927 c 255 § 50; RRS § 7797-50. Prior: 1923 c 19 § 1; 1913 c 36 § 1; 1909 c 223 § 4; 1907 c 152 § 1; 1897 c 89 § 14; 1895 c 178 § 28. Formerly RCW 79.12.340.]

**Chapter 79.08
GENERAL PROVISIONS**

Sections

79.08.015 Exchange of land under control of department of natural resources—Public notice—News release—Hearing—Procedure.

79.08.015 Exchange of land under control of department of natural resources—Public notice—News release—Hearing—Procedure. At least ten days but not more than twenty-five days before the department of natural resources presents a proposed exchange to the board of natural resources involving an exchange of any lands under the administrative control of the department of natural resources, the department shall hold a public hearing on the proposal in the county where the state land or the greatest proportion thereof is located. Ten days but not more than twenty-five days prior to such hearing, the department shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the state owned land is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the state land is located. The public notice and news release also shall identify lands involved in the proposed exchange and describe the purposes of the exchange and proposed use of the lands involved. A summary of the testimony presented at the hearings shall be prepared for the board's consideration when reviewing the department's exchange proposal. If there is a failure to substantially comply with the procedures set forth in this section, then the exchange agreement shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the exchange agreement. [1975 1st ex.s. c 107 § 2.]

Exchange of state land by parks and recreation commission, procedure: RCW 43.51.215.

SUBJECT INDEX—PUBLIC LAND ACTS OF SPECIAL OR HISTORICAL NATURE NOT CODIFIED IN RCW

Kitsap County, transfer of land from state for recreational purposes 1975 1st ex.s c 27

**Title 80
PUBLIC UTILITIES**

Chapters

80.36 Telephone and telegraph companies.

Chapter 80.36

TELEPHONE AND TELEGRAPH COMPANIES

Sections

80.36.225 Pay telephones—Calls to operator without charge or coin insertion to be provided.

80.36.225 Pay telephones—Calls to operator without charge or coin insertion to be provided. No later than December 31, 1980, all telephone companies doing business in this state and utilizing coin pay telephones shall provide a system whereby calls may be made to the operator without charge and without requiring the insertion of any coins into such pay telephone: *Provided*, That the commission may grant an extension of time on a showing of unjust and unreasonable hardship. [1975 c 21 § 1.]

Emergency calls, yielding line: Chapter 70.85 RCW.

**Title 81
TRANSPORTATION**

Chapters

81.53 Railroads—Crossings.

Chapter 81.53

RAILROADS—CROSSINGS

Sections

81.53.271 Crossing signals, warning devices—Petition, contents—Apportionment of installation and maintenance costs.
81.53.281 Crossing signals, warning devices—Grade crossing protective fund—Created—Transfer of funds—Federal funding—Allocations from, procedure—Recovery of costs.
81.53.295 Crossing signals, warning devices, etc.—Federal funds used to pay installation costs—State and local authority to pay remaining installation costs—Railroad to pay maintenance costs—Apportionment.
81.53.900 Effective date—1975 1st ex.s. c 189.

81.53.271 Crossing signals, warning devices—Petition, contents—Apportionment of installation and maintenance costs. The petition shall set forth by description the location of the crossing or crossings, the type of signal or other warning device to be installed, the necessity from the standpoint of public safety for such installation, the approximate cost of installation, and the approximate annual cost of maintenance. If the commission directs the installation of a grade crossing protective device, the cost of which is eligible for federal aid matching funds of at least sixty percent of the installation costs and such federal funds are used, both installation and maintenance costs of the device shall be apportioned in accordance with the provisions of RCW 81.53.295. Otherwise if installation is directed by the commission, it shall apportion the cost of installation and maintenance as provided in this section:

Installation: (1) Sixty percent to the grade crossing protective fund, created by RCW 81.53.281;

(2) Thirty percent to the city, town, county or state; and

(3) Ten percent to the railroad:

Provided, That, if the proposed installation is located at a new crossing requested by a city, town, county or state, forty percent of the cost shall be apportioned to the city, town, county or state, and none to the railroad. If the proposed installation is located at a new crossing requested by a railroad, then the entire cost shall be apportioned to the railroad. In the event the city, town, county, or state should concurrently petition the commission and secure an order authorizing the closure of an existing crossing or crossings in proximity to the crossing for which installation of signals or other warning devices shall have been directed, the apportionment to the petitioning city, town, county, or state shall be reduced by ten percent of the total cost for each crossing ordered closed and the apportionment from the grade crossing protective fund increased accordingly. This exception shall not be construed to permit a charge to the grade crossing protective fund in an amount greater than the total cost otherwise apportionable to the city, town, county, or state. No reduction shall be applied where one crossing is closed and another opened in lieu thereof, nor to crossings of a private nature.

Maintenance: (1) Twenty-five percent to the grade crossing protective fund, created by RCW 81.53.281; and

(2) Seventy-five percent to the railroad:

Provided, That if the proposed installation is located at a new crossing requested by a railroad, then the entire cost shall be apportioned to the railroad. [1975 1st ex.s. c 189 § 1; 1973 1st ex.s. c 77 § 1; 1969 c 134 § 2.]

81.53.281 Crossing signals, warning devices—Grade crossing protective fund—Created—Transfer of funds—Federal funding—Allocations from, procedure—Recovery of costs. There is hereby created in the state treasury a "grade crossing protective fund," to which shall be transferred all moneys appropriated for the purpose of carrying out the provisions of RCW 81.53.261, 81.53.271, 81.53.281 and 81.53.291. The amount of any transfer from the motor vehicle fund to the grade crossing protective fund and the amount of any appropriation (exclusive of any reappropriation of funds appropriated in the prior biennium) from the grade crossing protective fund for the installation of grade crossing protective devices in any biennium shall be reduced by an amount equal to sixty percent of the cost of the installation of any such device (installed and apportioned at the direction of the commission pursuant to RCW 81.53.271), and an amount equal to such reduction shall forthwith be transferred back to the motor vehicle fund, whenever the cost of installation is paid in part from federal aid matching funds and the total cost of installation is apportioned in accordance with the provisions of RCW 81.53.295: *Provided, That not more than twenty-five percent of the transfer from the motor vehicle fund and the appropriation from the*

grade crossing protective fund for installation purposes in any biennium shall be reduced as provided in this section as a result of the installation of grade crossing protective devices on any highway, road or street on the federal aid system: Provided further, That whenever the unobligated balance in the grade crossing protective fund available for the installation of grade crossing protective devices is reduced to one hundred thousand dollars in any biennium, the above provisions for reducing the appropriation from said fund and the transfers back to the motor vehicle fund shall be suspended and the one hundred thousand dollars remaining in the grade crossing protective fund shall remain available for expenditure as authorized by appropriation. At the time the commission makes each allocation of cost to said grade crossing protective fund, it shall certify that such cost shall be payable out of said fund. Upon completion of the installation of any such signal or other protective device, the railroad shall present its claim for reimbursement for the cost of installation from said fund of the amount allocated thereto by the commission. The annual cost of maintenance shall be presented and paid in a like manner. The commission is hereby authorized to recover administrative costs from said fund in an amount not to exceed three percent of the direct appropriation provided for any biennium, and in the event administrative costs exceed three percent of the appropriation, the excess shall be chargeable to regulatory fees paid by railroads pursuant to RCW 81.24-.010. [1975 1st ex.s. c 189 § 2; 1973 c 115 § 4; 1969 c 134 § 3.]

81.53.295 Crossing signals, warning devices, etc.—Federal funds used to pay installation costs—State and local authority to pay remaining installation costs—Railroad to pay maintenance costs—Apportionment. Whenever federal funds are available and are used to pay a portion of the cost of installing a grade crossing protective device at a railroad crossing of any state highway, city or town street, or county road at the then prevailing federal aid matching rate, the state or local authority having jurisdiction of such highway, street, or road shall pay the remaining cost of such installation. The railroad whose road is crossed by the highway, street, or road shall thereafter pay the entire cost of maintaining the device: *Provided, That if such device is installed at the direction of the commission pursuant to RCW 81.53.271 and results in a reduction in the amount of the appropriation to the grade crossing protective fund pursuant to RCW 81.53.281, then the cost of maintaining the device shall be apportioned by the commission:*

(1) Twenty-five percent to the grade crossing protective fund, created by RCW 81.53.281, and

(2) Seventy-five percent to the railroad. [1975 1st ex.s. c 189 § 3.]

81.53.900 Effective date—1975 1st ex.s. c 189. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing

public institutions, and shall take effect July 1, 1975. [1975 1st ex.s. c 189 § 4.]

Title 82 EXCISE TAXES

Chapters

- 82.03 Board of tax appeals.
- 82.04 Business and occupation tax.
- 82.08 Retail sales tax.
- 82.12 Use tax.
- 82.14 Counties, cities and metropolitan municipal corporations—Retail sales and use taxes.
- 82.16 Public utility tax.
- 82.20 Tax on conveyances.
- 82.24 Tax on cigarettes.
- 82.26 Tax on tobacco products.
- 82.32 General administrative provisions.
- 82.34 Pollution control facilities—Tax exemptions and credits.
- 82.38 Special fuel tax act.
- 82.44 Motor vehicle excise.
- 82.48 Aircraft excise.
- 82.50 Mobile homes, travel trailers and campers excise.

Chapter 82.03 BOARD OF TAX APPEALS

Sections

- 82.03.190 Appeal to board from denial of petition or notice of determination as to reduction or refund—Procedure.

82.03.190 Appeal to board from denial of petition or notice of determination as to reduction or refund—Procedure. Any person having received notice of a denial of a petition or a notice of determination made under RCW 82.32.160 and 82.32.170 may appeal, within thirty days from the date of the notice of such denial or determination, to the board of tax appeals. In the notice of appeal the taxpayer shall set forth the amount of the tax which he contends should be reduced or refunded and the reasons for such reduction or refund, in accordance with rules of practice and procedure prescribed by the board. The appeal shall be perfected by serving a copy of the notice of appeal upon the department of revenue within the time specified herein and by filing the original thereof with proof of service with the clerk of the board: *Provided, however,* That if the notice of appeal relates to an application made to the department of revenue under chapter 82.34 RCW, the taxpayer shall set forth the amount to which the taxpayer claims the credit or exemption should apply, and the grounds for such contention, in accordance with rules of practice and procedure prescribed by the board. If the taxpayer intends that the hearing before the board be held pursuant to the administrative procedure act (chapter 34.04 RCW), the notice of appeal shall also so state. In the event that the notice of appeal does not so state, the department may, within ten days from the date of its receipt of the notice of appeal, file with the

clerk of the board notice of its intention that the hearing be held pursuant to the administrative procedure act. [1975 1st ex.s. c 158 § 3; 1967 ex.s. c 26 § 48.]

Effective date—1975 1st ex.s. c 158: See note following RCW 82.34.050.

Chapter 82.04 BUSINESS AND OCCUPATION TAX

Sections

- 82.04.020 "Tax year", "taxable year".
- 82.04.050 "Sale at retail", "retail sale"
- 82.04.090 "Value proceeding or accruing"
- 82.04.120 "To manufacture"
- 82.04.190 "Consumer"
- 82.04.260 Tax on buyer and wholesaler of grains and dry peas—Flour manufacturers—Seafood products manufacturers—Fruit and vegetable processors—Aluminum manufacturers—Research and development organizations—Perishable meat products processors and wholesalers—Nuclear fuel assemblies—Travel agents.
- 82.04.280 Tax on printers, publishers, highway contractors, extracting or processing for hire, cold storage warehouse operation, insurance general agents, radio and television broadcasting, consumer as defined in RCW 82.04.190(6).
- 82.04.300 Exemptions—Based on monthly gross or yearly gross.
- 82.04.443 Credit for property taxes paid on business inventories—Definitions.
- 82.04.450 Value of products, how determined.
- 82.04.460 Business within and without state—Apportionment.
- 82.04.470 Resale certificate—Burden of proof.
- 82.04.480 Sales in own name—Sales as agent.
- 82.04.490 Tax payable monthly—Returns—Monthly estimate and quarterly returns, procedure.

82.04.020 "Tax year", "taxable year". "Tax year" or "taxable year" means either the calendar year, or the taxpayer's fiscal year when permission is obtained from the department of revenue to use a fiscal year in lieu of the calendar year. [1975 1st ex.s. c 278 § 39; 1961 c 15 § 82.04.020. Prior: 1955 c 389 § 3; prior: 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5; Rem. Supp. 1949 § 8370-5, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.04.050 "Sale at retail", "retail sale". "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property

purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), or (c) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the

renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities; (a) amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United

States, any instrumentality thereof, or a county or city housing authority. [1975 1st ex.s. c 291 § 5; 1975 1st ex.s. c 90 § 1; 1973 1st ex.s. c 145 § 1; 1971 ex.s. c 299 § 3; 1971 ex.s. c 281 § 1; 1970 ex.s. c 8 § 1. Prior: 1969 ex.s. c 262 § 30; 1969 ex.s. c 255 § 3; 1967 ex.s. c 149 § 4; 1965 ex.s. c 173 § 1; 1963 c 7 § 1; prior: 1961 ex.s. c 24 § 1; 1961 c 293 § 1; 1961 c 15 § 82.04.050; prior: 1959 ex.s. c 5 § 2; 1957 c 279 § 1; 1955 c 389 § 6; 1953 c 91 § 3; 1951 2nd ex.s. c 28 § 3; 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]

Application of 1975 amendments to preexisting contracts—1975 2nd ex.s. c 1: See note following RCW 82.12.010.

Effective date—1975 1st ex.s. c 291: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing institutions, and shall take effect immediately: *Provided*, That sections 8 and 26 through 43 of this amendatory act shall be effective on and after January 1, 1976; *Provided further*, That sections 2, 3, and 4, and subsections (1) and (2) of section 24 shall be effective on and after January 1, 1977; *And provided further*, That subsections (3) through (15) of section 24 shall be effective on and after January 1, 1978." [1975 1st ex.s. c 291 § 46.]

Reviser's note: The effective dates of the various sections of 1975 1st ex.s. c 291 as above set forth together with their RCW counterparts are as follows:

- (1) Section 8 amended RCW 82.04.443, (effective January 1, 1976);
- (2) Sections 26 through 43 were codified as chapter 84.38 RCW (effective January 1, 1976);
- (3) Section 2 was codified as RCW 70.12.025 (effective January 1, 1977);
- (4) Sections 3 and 4 amended RCW 70.32.010 and 70.33.040, respectively (effective January 1, 1977);
- (5) Subsections (1) and (2) of section 24 repealed RCW 70.12.010 and 70.32.090 (effective January 1, 1977);
- (6) Subsections (3) through (15) of section 24 repealed RCW 70.35.010 through 70.35.110 and 84.10.010 (effective January 1, 1978); and
- (7) The emergency clause applied to the remaining sections. The chapter was approved by the governor July 2, 1975.

Severability—1975 1st ex.s. c 291: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 291 § 45.]

Effective date—1975 1st ex.s. c 90: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 90 § 5.]

Effective date—1973 1st ex.s. c 145: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1973." [1973 1st ex.s. c 145 § 2.]

Effective dates—1971 ex.s. c 299: "This 1971 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect as follows:

- (1) Sections 1 through 12, 15 through 34 and 53 shall take effect July 1, 1971;
- (2) Sections 13, 14, and 77 and 78 shall take effect June 1, 1971; and
- (3) Sections 35 through 52 and 54 through 76 shall take effect as provided in section 53." [1971 ex.s. c 299 § 79.]

Severability—1971 ex.s. c 299: "If any phrase, clause, subsection or section of this 1971 amendatory act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this 1971 amendatory act without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid." [1971 ex.s. c 299 § 78.]

The foregoing annotations apply to RCW 60.28.040, 73.32.130, 82.04.050, 82.04.190, 82.04.280, 82.04.435, 82.08.050, 82.08.070, 82.08.150, 82.12.030, 82.12.040, 82.16.020, 82.24.020, 82.24.070, 82.26.020, 82.32.040, 82.32.050, 82.32.060, 82.32.080, 82.32.100, 82.32.190, 82.32.235, 82.32.350, 82.44.010, 82.44.030, 82.44.045, 82.50.010-82.50.902, 84.04.090, 84.28.090, 84.36.110, 84.36.120, 84.40.342, 84.40.344, 84.52.050 and 84.52.065.

Construction—Severability—1969 ex.s. c 255: See notes following RCW 35.58.272.

Effective date—1967 ex.s. c 149: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1967." [1967 ex.s. c 149 § 65.] This applies to the 1967 amendments to RCW 28A.45.035, 28A.45.040, 82.04.050, 82.04.130, 82.04.190, 82.04.230-82.04.290, 82.04.410, 82.04.440, 82.08.010-82.08.030, 82.12.020, 82.12.030, 82.16.020, 82.16.050, 82.32.090, 82.48.020, 82.50.010-82.50.050, 82.50.070, 82.50.101, 82.50.105, 82.50.110-82.50.140, 82.50.180-82.50.200, 83.44.010, 84.08.030, 84.36.010, 84.36.150, 84.36.171, 84.40.020, 84.40.040, 84.40.060, 84.40.130, 84.40.190, 84.40.340; new sections RCW 28A.45.105, 28A.45.120, 82.04.432, 82.50.185, 82.50.250, 82.50.260, 82.98.035, 84.36.176, 84.36.260, 84.40.185, 84.40.335; and the repeal of RCW 82.04.295, 82.04.296, 82.16.025, 82.16.026, 84.40.050, 84.40.140, 84.40.180 and 84.40.260.

Effective date—1965 ex.s. c 173: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1965." [1965 ex.s. c 173 § 33.] This applies to RCW 82.04.050, 82.04.100, 82.04.120, 82.04.190, 82.04.240, 82.04.260, 82.04.330, 82.04.400, 82.04.415, 82.04.425, 82.04.430, 82.04.440, 82.08.020, 82.08.030, 82.08.050, 82.08.150, 82.12.010-82.12.030, 82.16.010, 82.16.020, 82.16.050, 82.24.020, 82.24.070, 82.26.020, 82.32.060, 82.48.100, 82.50.030, 66.24.290, and 84.36.250.

82.04.090 "Value proceeding or accruing". "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The department of revenue may provide by regulation that the value proceeding or accruing from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due. [1975 1st ex.s. c 278 § 40; 1961 c 15 § 82.04.090. Prior: 1955 c 389 § 10; prior: 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.04.120 "To manufacture". "To manufacture" embraces 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 special made or custom made articles, and the generation or production of electrical energy for resale or consumption outside the state.

"To manufacture" shall not include activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen or canned outside this state. [1975 1st ex.s. c 291 § 6; 1965 ex.s. c 173 § 3; 1961 c 15 § 82.04.120. Prior: 1959 ex.s. c 3 § 2; 1955 c 389 § 13;

prior: 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

82.04.190 "Consumer". "Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of his business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(2) Any person engaged in any business activity taxable under RCW 82.04.290;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other

subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person. [1975 1st ex.s. c 90 § 2; 1971 ex.s. c 299 § 4; 1969 ex.s. c 255 § 4; 1967 ex.s. c 149 § 6; 1965 ex.s. c 173 § 4; 1961 c 15 § 82.04.190. Prior: 1959 ex.s. c 3 § 3; 1957 c 279 § 2; 1955 c 389 § 20; prior: 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]

Application of 1975 amendment to preexisting contracts—1975 2nd ex.s. c 1: See note following RCW 82.12.010.

Effective date—1975 1st ex.s. c 90: See note following RCW 82.04.050.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

Construction—Severability—1969 ex.s. c 255: See notes following RCW 35.58.272.

82.04.260 Tax on buyer and wholesaler of grains and dry peas—Flour manufacturers—Seafood products manufacturers—Fruit and vegetable processors—Aluminum manufacturers—Research and development organizations—Perishable meat products processors and wholesalers—Nuclear fuel assemblies—Travel agents. (1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the

completion of the manufacturing by that person: as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

(6) Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-tenths of one percent.

(7) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

(8) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of thirty-three one-hundredths of one percent.

(9) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

(10) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

(11) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent. [1975 1st ex.s. c 291 § 7; 1971 ex.s. c 281 § 5; 1971 ex.s. c 186 § 3; 1969 ex.s. c 262 § 36; 1967 ex.s. c 149 § 10; 1965 ex.s. c 173 § 6; 1961 c 15 § 82.04.260. Prior: 1959 c 211 § 2; 1955 c 389 § 46; prior: 1953 c 91 § 4; 1951 2nd ex.s. c 28 § 4; 1950 ex.s. c 5 § 1, part; 1949 c 228 § 1, part; 1943 c 156 § 1, part; 1941 c 178 § 1, part; 1939 c 225 § 1, part; 1937 c 227 § 1, part; 1935 c 180 § 4, part; Rem. Supp. 1949 § 8370-4, part.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Effective date—1971 ex.s. c 186: See note following RCW 82.04.110.

82.04.280 Tax on printers, publishers, highway contractors, extracting or processing for hire, cold storage warehouse operation, insurance general agents, radio and television broadcasting, consumer as defined in RCW 82.04.190(6). Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals or magazines; (2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire; (4) operating a cold storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6), as now or hereafter amended; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of forty-four one hundredths of one percent. [1975 1st ex.s. c 90 § 3; 1971 ex.s. c 299 § 5; 1971 ex.s. c 281 § 7; 1970 ex.s. c 8 § 2. Prior: 1969 ex.s. c 262 § 38; 1969 ex.s. c 255 § 5; 1967 ex.s. c 149 § 13; 1963 c 168 § 1; 1961 c 15 § 82.04.280; prior: 1959 ex.s. c 5 § 4; 1959 ex.s. c 3 § 4; 1955 c 389 § 48; prior: 1950 ex.s. c 5 § 1, part; 1949 c 228 § 1, part; 1943 c 156 § 1, part; 1941 c 178 § 1, part; 1939 c 228 § 1, part; 1937 c 227 § 1, part; 1935 c 180 § 4, part; Rem. Supp. 1949 § 8370-4, part.]

Application of 1975 amendment to preexisting contracts—1975 2nd ex.s. c 1: See note following RCW 82.12.010.

Effective date—1975 1st ex.s. c 90: See note following RCW 82.04.050.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

82.04.300 Exemptions—Based on monthly gross or yearly gross. This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.260, 82.04.270, 82.04.275, 82.04.280 and 82.04.290 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than three hundred dollars per month: *Provided*, That where one person engages in more than one business activity and the combined measures of the tax applicable to such businesses equal or exceed three hundred dollars per month, no exemption or deduction from the amount of tax is allowed by this section.

Any person claiming exemption under the provisions of this section may be required to file returns even though no tax may be due: *Provided, further*, That the department of revenue may allow exemptions, by general rule or regulation, in those instances in which quarterly, semiannual, or annual returns are permitted. Exemptions for such periods shall be equivalent in amount to the total of exemptions for each month of a reporting period. [1975 1st ex.s. c 278 § 41; 1961 c 293 § 3; 1961 c 15 § 82.04.300. Prior: 1959 ex.s. c 5 § 7; 1959 c 197 § 14; prior: 1945 c 249 § 2, part; 1943 c 156 § 4, part; 1941 c 178 § 6, part; 1939 c 225 § 5, part; 1937 c 227 § 4, part; 1935 c 180 § 11, part; Rem. Supp. 1945 § 8370-11, part.]

Construction—**Severability**—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.04.443 Credit for property taxes paid on business inventories—**Definitions**. For the purposes of this chapter:

"Business inventories" means all livestock and means personal property acquired or produced solely for the purpose of sale, or for the purpose of consuming such property in producing for sale a new article of tangible personal property of which such property becomes an ingredient or component. Business inventories shall not mean personal property acquired or produced for the purpose of lease or rental. It shall include inventories of finished goods and work in process.

"Successor" shall have the meaning given to it in RCW 82.04.180. [1975 1st ex.s. c 291 § 8; 1974 ex.s. c 169 § 4.]

Effective date—1975 1st ex.s. c 291: The effective date of the 1975 amendment to this section was January 1, 1976, see note following RCW 82.04.050.

Severability—1975 1st ex.s. c 291: See note following RCW 82.04.050.

82.04.450 Value of products, how determined. The value of products, including byproducts, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or byproducts by the seller, except:

(1) Where such products, including byproducts, are extracted or manufactured for commercial or industrial use;

(2) Where such products, including byproducts, are shipped, transported or transferred out of the state, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

In the above cases the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such values. [1975 1st ex.s. c 278 § 42; 1961 c 15 § 82.04.450. Prior: 1949 c 228 § 3; 1941 c 178 § 4; 1935 c 180 § 7; Rem. Supp. 1949 § 8370-7.]

Construction—**Severability**—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.04.460 Business within and without state—**Apportionment**. (1) Any person rendering services taxable under RCW 82.04.290 and maintaining places of business both within and without this state which contribute to the rendition of such services shall, for the purpose of computing tax liability under RCW 82.04.290, apportion to this state that portion of his gross income which is derived from services rendered within this state. Where such apportionment cannot be accurately made by separate accounting methods, the taxpayer shall apportion to this state that proportion of his total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.

(2) Notwithstanding the provision of subsection (1) of this section, persons doing business both within and without the state who receive gross income from service charges, as defined in RCW 63.14.010(8) (relating to amounts charged for granting the right or privilege to make deferred or installment payments) or who receive gross income from engaging in business as financial institutions within the scope of chapter 82.14A RCW (relating to city taxes on financial institutions) shall apportion or allocate gross income taxable under RCW 82.04.290 to this state pursuant to rules promulgated by the department consistent with uniform rules for apportionment or allocation developed by the states. [1975 1st ex.s. c 291 § 9; 1961 c 15 § 82.04.460. Prior: 1941 c 178 § 5; 1939 c 225 § 4; Rem. Supp. 1941 § 8370-8a.]

Effective dates—**Severability**—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

82.04.470 Resale certificate—**Burden of proof**. Unless a seller has taken from the purchaser a resale certificate signed by, and bearing the name and address and registration number of the purchaser to the effect that the property was purchased for resale, or unless the nature of the transaction is clearly shown as a sale at

wholesale by the books and records of the taxpayer in such other manner as the department of revenue shall by regulation provide, the burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it. [1975 1st ex.s. c 278 § 43; 1961 c 15 § 82.04.470. Prior: 1935 c 180 § 9; RRS § 8370-9.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.04.480 Sales in own name—Sales as agent. Every consignee, bailee, factor, or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and actually so selling, shall be deemed the seller of such tangible personal property within the meaning of this chapter; and further, the consignor, bailor, principal, or owner shall be deemed a seller of such property to the consignee, bailee, factor, or auctioneer.

The burden shall be upon the taxpayer in every case to establish the fact that he is not engaged in the business of selling tangible personal property but is acting merely as broker or agent in promoting sales for a principal. Such claim will be allowed only when the taxpayer's accounting records are kept in such manner as the department of revenue shall by general regulation provide. [1975 1st ex.s. c 278 § 44; 1961 c 15 § 82.04.480. Prior: 1935 c 180 § 10; RRS § 8370-10.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.04.490 Tax payable monthly—Returns—Monthly estimate and quarterly returns, procedure. The taxes imposed hereunder shall be due and payable in monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the monthly period in which tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of the tax for which he is liable for the preceding monthly period, sign and transmit the same to the department, together with a remittance for such amount in the form required: *Provided*, That any such taxpayer may elect to remit each month on such forms as the department of revenue shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the department on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

The department of revenue may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The department of revenue may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. [1975 1st ex.s. c 278 § 45; 1961 c 15 § 82.04.490. Prior: 1959 c 197 § 1; 1935 c 180 § 13; RRS § 8370-13.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.08 RETAIL SALES TAX

Sections	
82.08.030	Exemptions.
82.08.040	Consignee, factor, bailee, auctioneer deemed seller.
82.08.060	Collection of tax—Methods and schedules.
82.08.080	Vending machine sales.
82.08.090	Installment sales and leases.
82.08.100	Tax may be paid on cash receipts basis if books are so kept.
82.08.120	Rebating or absorption of tax by seller prohibited—Penalty.

82.08.030 Exemptions. The tax hereby levied shall not apply to the following sales:

(1) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapters 82.04, 82.16 or 82.28 RCW: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by chapter 82.12 RCW;

(2) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16 RCW, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter;

(3) The distribution and newsstand sale of newspapers;

(4) Sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(5) Sales of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and sales of motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of any such fuel upon which a refund of the motor vehicle fuel tax has been obtained shall be subject to the tax imposed by chapter 82.12 RCW;

(6) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any business defined in

subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11) of RCW 82.16.010;

(7) Auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

(8) Sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

(9) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(10) Sales of tangible personal property (other than the type referred to in subdivision (11) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by chapter 82.12 RCW;

(11) Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving;

(12) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without drivers: *Provided*, That the purchaser or user must be the holder of a carrier permit issued by the Interstate Commerce Commission and that the vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to nonresidents of this state for use outside of this state, even though delivery be made within this state, but only when (a) the vehicles or trailers will be taken from the

point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100, or (b) said motor vehicles and trailers will be registered and licensed immediately under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state;

(14) Sales to nonresidents of this state for use outside of this state of tangible personal property which becomes a component part of any machinery or other article of personal property belonging to such nonresident, in the course of installing, repairing, cleaning, altering, or improving the same and also sales of or charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving, of personal property of or for a nonresident, but this subsection (14) shall apply only when the seller agrees to, and does, deliver the property to the purchaser at a point outside this state, or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state;

(15) Sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the Federal Boating Act of 1958, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty-five days and (b) an appropriate exemption certificate supported by identification ascertaining residence as provided by the department of revenue and signed by the purchaser or his agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, one copy to be filed with the department of revenue with the regular report and a duplicate to be retained by the dealer.

(16) Sales of poultry for use in the production for sale of poultry or poultry products.

(17) Sales to nonresidents of this state for use outside of this state of machinery and implements for use in conducting a farming activity, when such machinery and implements will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the department of revenue shall require shall be made for each such sale, to be retained as a business record of the seller.

(18) Sales for use in states, territories and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

(19) Sales to municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or of labor and services rendered in respect to contracts for watershed protection and/or

flood prevention. This exemption shall be limited to that portion of the selling price which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended;

(20) Sales of semen for use in the artificial insemination of livestock;

(21) Sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser has applied for and received from the department of revenue a permit certifying (1) that he is a bona fide resident of a state or possession or Province of Canada other than the state of Washington, (2) that such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (3) that he does agree, when requested, to grant the department of revenue access to such records and other forms of verification at his place of residence to assure that such purchases are not first used substantially in the state of Washington.

Any person claiming exemption from retail sales tax under the provisions of this subsection must display a nonresident permit as herein provided, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each nontaxable sale.

Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of one dollar. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department for all permit fees collected, after deducting as a collection fee the sum of fifty cents for each permit issued.

Any person making fraudulent statements in order to secure a permit shall be guilty of perjury. Any person making tax exempt purchases by displaying a permit not his own, or a counterfeit permit, with intent to violate the provisions of this subsection shall be guilty of a misdemeanor and, in addition, may be subject to a penalty not to exceed the amount of the tax due on such purchases. Any vendor who makes sales without collecting the tax to a person who does not hold a valid permit, and any vendor who fails to maintain records of permit numbers as provided in this section shall be personally liable for the amount of tax due.

(22) Sales of form lumber to any person engaged in the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(23) Sales of, cost of, or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel and rock when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to sales of, cost of, or charges made for such labor and services, if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(24) Sales of wearing apparel to persons who themselves use such wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(25) Sales of pollen.

(26) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(27) The renting or leasing of motor vehicles and trailers to a nonresident of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and for purposes of this exemption the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state.

(28) Sales of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(29) Sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(30) Sales of insulin, prosthetic devices, and medically prescribed oxygen. [1975 1st ex.s. c 291 § 10; 1974 ex.s. c 185 § 1; 1971 ex.s. c 11 § 1; 1970 ex.s. c 65 § 6; 1967 ex.s. c 149 § 20; 1967 c 87 § 1; 1965 ex.s. c 173 § 14; 1963 ex.s. c 28 § 3; 1961 c 293 § 7; 1961 c 15 § 82.08-.030. Prior: 1959 ex.s. c 3 § 6; 1955 c 137 § 1; 1951 1st ex.s. c 9 § 2; 1949 c 228 § 5; 1945 c 249 § 5; 1943 c 156 § 7; 1939 c 225 § 9; 1935 c 180 § 19; Rem. Supp. 1949 § 8370-19.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Effective date—1974 ex.s. c 185: "This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1974." [1974 ex.s. c 185 § 3.]

Effective date—1971 ex.s. c 11: "The effective date of this 1971 amendatory act is July 1, 1971." [1971 ex.s. c 11 § 3.]

82.08.040 Consignee, factor, bailee, auctioneer deemed seller. Every consignee, bailee, factor, or auctioneer authorized, engaged, or employed to sell or call for bids on tangible personal property belonging to another, and so selling or calling, shall be deemed the seller of such tangible personal property within the meaning of this chapter and all sales made by such persons are subject to its provisions even though the sale would have been exempt from tax hereunder had it been made directly by the owner of the property sold. Every consignee, bailee, factor, or auctioneer shall collect and remit the amount of tax due under this chapter with respect to sales made or called by him: *Provided*, That if the owner of the property sold is engaged in the business of selling tangible personal property in this state the tax imposed under this chapter may be remitted by such owner under such rules and regulations as the department of revenue shall prescribe. [1975 1st ex.s. c 278 § 46; 1961 c 15 § 82.08.040. Prior: 1939 c 225 § 8; 1935 c 180 § 18; RRS § 8370-18.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.08.060 Collection of tax—Methods and schedules. The department of revenue shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected by the seller from the buyer under this chapter. The methods and schedules prescribed shall be adopted so as to eliminate the collection of fractions of one cent and so as to provide that the aggregate collections of all taxes by the seller shall, insofar as practicable, equal the amount of tax imposed by this chapter. Such schedules may provide that no tax need be collected from the buyer upon sales below a stated sum and may be amended from time to time to accomplish the purposes set forth herein. [1975 1st ex.s. c 278 § 47; 1961 c 15 § 82.08.060. Prior: 1951 c 44 § 2; 1941 c 76 § 4; 1935 c 180 § 22; Rem. Supp. 1941 § 8370-22.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.08.080 Vending machine sales. The department of revenue may authorize a seller to pay the tax levied under this chapter upon sales made through vending machines and similar devices or where sales are made under conditions of business such as to render impracticable the collection of the tax as a separate item and waive collection of the tax from the customer. Where sales are made by receipt of a coin or coins dropped into a receptacle that results in delivery of the merchandise in single purchases of smaller value than the minimum sale upon which a one cent tax may be collected from the purchaser, according to the schedule provided by the department under authority of RCW 82.08.060, and where the design of the sales device is such that multiple sales of items are not possible or cannot be detected so as practically to assess a tax, in such a case the selling price for the purposes of the tax imposed under RCW 82.08.020 shall be sixty percent of the gross receipts of the vending machine through which such sales are made. No such authority shall be granted except upon application to the department and unless the department, after hearing, finds that the conditions of the applicant's business are such as to render impracticable the collection of the tax in the manner otherwise provided. The department, by regulation, may provide that the applicant, under this section, furnish a proper bond sufficient to secure the payment of the tax. [1975 1st ex.s. c 278 § 48; 1963 c 244 § 2; 1961 c 15 § 82.08.080. Prior: 1937 c 227 § 8; 1935 c 180 § 24; RRS § 8370-24.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.08.090 Installment sales and leases. In the case of installment sales and leases of personal property, the department of revenue, by regulation, may provide for the collection of taxes upon the installments of the purchase price, or amount of rental, as of the time the same fall due. [1975 1st ex.s. c 278 § 49; 1961 c 15 § 82.08.090. Prior: 1959 ex.s. c 3 § 8; 1959 c 197 § 4; prior: 1941 c 178 § 9, part; 1939 c 225 § 12, part; 1935 c 180 § 25, part; Rem. Supp. 1941 § 8370-25, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.08.100 Tax may be paid on cash receipts basis if books are so kept. The department of revenue, by general regulation, may provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period. [1975 1st ex.s. c 278 § 50; 1961 c 15 § 82.08.100. Prior: 1959 ex.s. c 3 § 9; 1959 c 197 § 5; prior: 1941 c 178 § 9, part; 1939 c 225 § 12, part; 1935 c 180 § 25, part; Rem. Supp. 1941 § 8370-25, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.08.120 Rebating or absorption of tax by seller prohibited—Penalty. Whoever, excepting as expressly authorized by this chapter, refunds, remits, or rebates to a buyer, either directly or indirectly and by whatever means, all or any part of the tax levied by this chapter, or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the buyer by an adjustment of prices, or at a price including the tax, or in any other manner whatsoever shall be guilty of a misdemeanor. The violation of this section by any person holding a license granted by the state or any political subdivision thereof shall be sufficient grounds for the cancellation of the license of such person upon written notification by the department of revenue to the proper officer of the department granting the license that such person has violated the provisions of this section. Before any license shall be canceled hereunder, the licensee shall be entitled to a hearing before the department granting the license under such regulations as the department may prescribe. [1975 1st ex.s. c 278 § 51; 1961 c 15 § 82.08.120. Prior: 1939 c 225 § 13; 1935 c 180 § 27; RRS § 8370–27.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.12 USE TAX

Sections

82.12.010	Definitions.
82.12.020	Use tax imposed.
82.12.030	Exemptions.
82.12.050	Monthly, estimated, annual, etc., returns—Remittances—Reporting procedures and forms.
82.12.060	Installment sales, leases, bailments.
82.12.070	Tax may be paid on cash receipts basis if books are so kept.

82.12.010 Definitions. For the purposes of this chapter:

(1) "Value of the article used" shall mean the consideration, whether money, credit, rights, or other property, expressed in terms of money, paid or given or contracted to be paid or given by the purchaser to the seller for the article of tangible personal property, the use of which is taxable under this chapter. The term includes, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules and regulations as the department of revenue may prescribe.

In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible

according to the value of such use at the places of use of similar products of like quality and character under such rules and regulations as the department of revenue may prescribe: *Provided*, That in case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules and regulations as the department of revenue may prescribe.

In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

(2) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within this state;

(3) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(4) "Retailer" means every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter;

(5) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. [1975 2nd ex.s. c 1 § 1; 1975 1st ex.s. c 278 § 52; 1965 ex.s. c 173 § 17; 1961 c 293 § 15; 1961 c 15 § 82.12.010. Prior: 1955 c 389 § 24; 1951 1st ex.s. c 9 § 3; 1949 c 228 § 9; 1945 c 249 § 8; 1943 c 156 § 10; 1939 c 225 § 18; 1937 c 191 § 4; 1935 c 180 § 35; Rem. Supp. 1949 § 8370–35.]

Application to preexisting contracts: "In the event any person has entered into a contract prior to July 1, 1975 or has bid upon a contract prior to July 1, 1975 and has been awarded the contract after July 1, 1975, the additional taxes imposed by chapter 90, Laws of 1975 1st ex. sess., section 5, chapter 291, Laws of 1975 1st ex. sess. and this 1975 amendatory act shall not be required to be paid by such person in carrying on activities in the fulfillment of such contract." [1975 2nd ex.s. c 1 § 3; 1975 1st ex.s. c 90 § 4.]

Reviser's note: (1) Chapter 90, Laws of 1975 1st ex. sess. consists of amendments to RCW 82.04.050, 82.04.190 and 82.04.280;

(2) Section 5, chapter 291, Laws of 1975 1st ex. sess. amended RCW 82.04.050;

(3) "this 1975 amendatory act" [1975 2nd ex.s. c 1] consists of amendments to RCW 82.12.010, 82.12.020 and 1975 1st ex.s. c 90 § 4.

Severability—1975 2nd ex.s. c 1: "If any provision of this 1975 amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1975 2nd ex.s. c 1 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective date—1965 ex.s. c 173: The effective date of the above amendment was June 1, 1965, see note following RCW 82.04.050.

82.12.020 Use tax imposed. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280, subsections (2) or (7). This tax will not apply with respect to the use of any article of tangible personal property purchased, extracted, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property in this state. This tax shall apply to the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state. Except as provided in subdivision (2) of RCW 82.12.030, payment by one purchaser or user of tangible personal property of the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by such chapters. The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of four and one-half percent. [1975 2nd ex.s. c 1 § 2; 1971 ex.s. c 281 § 10; 1969 ex.s. c 262 § 32; 1967 ex.s. c 149 § 22; 1965 ex.s. c 173 § 18; 1961 c 293 § 9; 1961 c 15 § 82.12.020. Prior: 1959 ex.s. c 3 § 10; 1955 ex.s. c 10 § 3; 1955 c 389 § 25; 1949 c 228 § 7; 1943 c 156 § 8; 1941 c 76 § 6; 1939 c 225 § 14; 1937 c 191 § 1; 1935 c 180 § 31; Rem. Supp. 1949 § 8370-31.]

Application of 1975 amendment to preexisting contracts—1975 2nd ex.s. c 1: See note following RCW 82.12.010.

Severability—1975 2nd ex.s. c 1: See note following RCW 82.12.010.

82.12.030 Exemptions. The provisions of this chapter shall not apply:

(1) In respect to the use of any article of tangible personal property brought into the state by a nonresident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment and such tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and such original bailment was prior to June 9, 1961;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16 RCW;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days under such rules as the department of revenue shall adopt: *Provided*, That under circumstances determined to be justifiable by the department of revenue a second fifteen day period may be authorized consecutive with the first fifteen day period; and

for the purposes of this exemption the term "nonresident" as used herein, shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state; and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of motor vehicles pursuant to RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of motor vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82.16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity, if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also

to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of poultry in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to and used exclusively by a school in connection with its driver training program: *Provided*, That this exemption and the term "school" shall apply only to (a) the University of Washington, Washington State University, the state colleges and the state community colleges or (b) any public, private or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station) or (c) any public vocational school meeting the standards, courses and requirements established and prescribed or approved in accordance with the Community College Act of 1967 (chapter 8, Laws of 1967 first extraordinary session);

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 RCW or chapter 82.12 RCW;

(15) In respect to the use by residents of this state of motor vehicles and trailers acquired and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption shall not apply to members of the armed services called to active duty for training purposes for periods of less than six months and shall not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of any person from the armed services;

(16) In respect to the use of semen in the artificial insemination of livestock;

(17) In respect to the use of form lumber by any person engaged in the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof;

(18) In respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting,

crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(19) In respect to the use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(20) In respect to the use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

(21) In respect to the use of pollen.

(22) In respect to the use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(23) In respect to the use of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(24) In respect to the use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(25) In respect to the use of insulin, prosthetic devices, and medically prescribed oxygen. [1975 1st ex.s. c 291 § 11; 1974 ex.s. c 185 § 2; 1971 ex.s. c 299 § 10; 1971 ex.s. c 11 § 2; 1970 ex.s. c 65 § 7; 1967 ex.s. c 149 § 23; 1965 ex.s. c 173 § 19; 1963 ex.s. c 28 § 4; 1963 c 76 § 1; 1961 c 293 § 10; 1961 c 15 § 82.12.030. Prior: 1959 ex.s. c 3 § 11; 1955 c 389 § 26; 1955 c 137 § 2; 1951 1st ex.s. c 9 § 4; 1949 c 228 § 8; 1945 c 249 § 6; 1943 c 156 § 9; 1941 c 178 § 9a; 1939 c 225 § 15; 1937 c 191 § 2; 1935 c 180 § 32; Rem. Supp. 1949 § 8370-32.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Effective date—1974 ex.s. c 185: See note following RCW 82.08.030.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

Effective date—1971 ex.s. c 11: See note following RCW 82.08.030.

Nonresident members of armed forces, exemption from use tax on motor vehicle: RCW 46.16.480.

82.12.050 Monthly, estimated, annual, etc., returns—Remittances—Reporting procedures and forms. Each taxpayer subject to the provisions of this chapter shall, on or before the fifteenth day of the month succeeding the end of the monthly period in which the tax accrued, file a return with the department of revenue showing in detail the total quantity of tangible personal property used by him within the state during the preceding monthly period subject to the tax herein imposed, and such other information as the department may deem pertinent. Each taxpayer shall remit to the department with his return the amount of tax shown thereon to be due: *Provided*, That any such taxpayer may elect to remit each month on such forms as the department of revenue shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the department on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

The department of revenue may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The department of revenue may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

The department of revenue shall, by rule or regulation, establish procedures and forms for reporting consonant with efficient tax administration and accounting procedure to carry into effect the provisions of this chapter. [1975 1st ex.s. c 278 § 53; 1961 c 15 § 82.12.050. Prior: 1959 c 197 § 6; 1939 c 225 § 17; 1937 c 191 § 3; 1935 c 180 § 34; RRS § 8370-34.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.12.060 Installment sales, leases, bailments. In the case of installment sales and leases of personal property, the department, by regulation, may provide for the collection of taxes upon the installments of the purchase price, or amount of rental, as of the time the same fall due.

In the case of property acquired by bailment, the department, by regulation, may provide for payment of the tax due in installments based on the reasonable rental for the property as determined under RCW 82.12.010(1). [1975 1st ex.s. c 278 § 54; 1961 c 293 § 16; 1961 c 15 § 82.12.060. Prior: 1959 ex.s. c 3 § 13; 1959 c 197 § 8; prior: 1941 c 178 § 11, part; Rem. Supp. 1941 § 8370-34a, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.12.070 Tax may be paid on cash receipts basis if books are so kept. The department of revenue, by general regulation, may provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period. [1975 1st ex.s. c 278 § 55; 1961 c 15 § 82.12.070. Prior: 1959 ex.s. c 3 § 14; 1959 c 197 § 9; prior: 1941 c 178 § 11, part; Rem. Supp. 1941 § 8370-34a, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.14

COUNTIES, CITIES AND METROPOLITAN MUNICIPAL CORPORATIONS—RETAIL SALES AND USE TAXES

Sections

- 82.14.045 Sales and use taxes for public transportation systems.
82.14.047 Repealed.

82.14.045 Sales and use taxes for public transportation systems. (1) The legislative body of any city pursuant to RCW 35.92.060, of any county which has created an unincorporated transportation benefit area pursuant to RCW 36.57.100 and 36.57.110, of any public transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090, of any county transportation authority established pursuant to chapter 36.57 RCW, and of any metropolitan municipal corporation within a class AA county pursuant to chapter 35.58 RCW, may, by resolution or ordinance for the sole purpose of providing funds for the operation, maintenance or capital needs of public transportation systems and in lieu of the excise taxes authorized by RCW 35.95.040, as now or hereafter amended, submit an authorizing proposition to the voters or include such authorization in a proposition to perform the function of public transportation and if approved by a majority of persons voting thereon, fix and impose a sales and use tax in accordance with the terms of this chapter: *Provided*, That no such legislative body shall impose such a sales and use tax without submitting such an authorizing proposition to the voters and

obtaining the approval of a majority of persons voting thereon: *Provided further*, That where such a proposition is submitted by a county on behalf of an unincorporated transportation benefit area, it shall be voted upon by the voters residing within the boundaries of such unincorporated transportation benefit area and, if approved, the sales and use tax shall be imposed only within such area. Notwithstanding any provisions of this section to the contrary, any county in which a county public transportation plan has been adopted pursuant to RCW 36.57.070 and the voters of such county have authorized the imposition of a sales and use tax pursuant to the provisions of RCW 82.14.047, section 10, chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be authorized to fix and impose a sales and use tax as provided in this section at not to exceed the rate so authorized without additional approval of the voters of such county as otherwise required by this section.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such city, public transportation benefit area, county, or metropolitan municipal corporation as the case may be. The rate of such tax shall be one-tenth, two-tenths, or three-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax) and shall not exceed the rate authorized in the proposition approved by the voters unless such increase shall be similarly approved.

(2) (a) In the event a metropolitan municipal corporation shall impose a sales and use tax pursuant to this chapter no city, county which has created an unincorporated transportation benefit area, public transportation benefit area authority, or county transportation authority wholly within such metropolitan municipal corporation shall be empowered to levy and/or collect taxes pursuant to RCW 35.58.273, 35.95.040 and/or 82.14.045, as now or hereafter amended, but nothing herein shall prevent such city or county from imposing sales and use taxes pursuant to any other authorization.

(b) In the event a county transportation authority shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, public transportation benefit area, or metropolitan municipal corporation, located within the territory of the authority, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045, as now or hereafter amended.

(c) In the event a public transportation benefit area shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, or metropolitan municipal corporation, located wholly or partly within the territory of the public transportation benefit area, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040 or 82.14.045, as now or hereafter amended.

(3) Any local sales and use tax revenue collected pursuant to this section by any city or by any county for transportation purposes pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally generated tax revenues for the purposes of apportionment and distribution, in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended, of the proceeds of the motor vehicle excise tax authorized pursuant to RCW 35.58.273, as now or hereafter amended. [1975 1st ex.s. c 270 § 6; 1971 ex.s. c 296 § 2.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Legislative finding, declaration: "The legislature finds that adequate public transportation systems are necessary to the economic, industrial and cultural development of the urban areas of this state and the health, welfare and prosperity of persons who reside or are employed in such areas or who engage in business therein and such systems are increasingly essential to the functioning of the urban highways of the state. The legislature further finds and declares that fares and tolls for the use of public transportation systems cannot maintain such systems in solvent financial conditions and at the same time meet the need to serve those who cannot reasonably afford or use other forms of transportation. The legislature further finds and declares that additional and alternate means of financing adequate public transportation service are necessary for the cities, metropolitan municipal corporations and counties of this state which provide such service." [1971 ex.s. c 296 § 1.] This applies to RCW 82.14.045–82.14.060.

Severability—1971 ex.s. c 296: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 296 § 5.] This applies to RCW 82.14.045–82.14.060.

82.14.047 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 82.16 PUBLIC UTILITY TAX

Sections

82.16.070 Monthly, estimated, annual, etc., returns—Remittances—Reporting procedures and forms.

82.16.070 Monthly, estimated, annual, etc., returns—Remittances—Reporting procedures and forms. The taxes imposed hereunder shall be due and payable in monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued. The taxpayer on or before the fifteenth day of such month shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of the tax for which he is liable for the preceding monthly period, sign, and transmit the same to the department, together with a remittance for such amount in the form required in chapter 82.32 RCW: *Provided*, That any such taxpayer may elect to remit each month on such forms as the department of revenue shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the department on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due

for the period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, at least ninety percent of the tax actually collected or owing during the month.

The department of revenue may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The department of revenue may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

The department shall, by rule or regulation, establish procedures and forms for reporting consonant with efficient tax administration and accounting procedure to carry into effect the provisions of this chapter. [1975 1st ex.s. c 278 § 56; 1961 c 293 § 14; 1961 c 15 § 82.16.070. Prior: 1959 c 197 § 10; 1935 c 180 § 42; RRS § 8370–42.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.20 TAX ON CONVEYANCES

Sections

82.20.020 Documentary stamps to be affixed.
82.20.030 Cancellation of stamps.
82.20.040 Redemption of stamps—Limitation.
82.20.060 Other offenses—Penalty.

82.20.020 Documentary stamps to be affixed. The department of revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this chapter suitable stamps denoting the tax on any instrument, document, or paper, to which the same may be affixed, and shall prescribe such method for the affixing of the stamps as it may deem expedient. [1975 1st ex.s. c 278 § 57; 1961 c 15 § 82.20.020. Prior: 1935 c 180 § 55; RRS § 8370–55.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.20.030 Cancellation of stamps. Whenever any stamp is used for denoting any tax imposed by this chapter, except as hereinafter provided, the person using or affixing the same shall write or stamp thereon, the initials of his name and the date upon which it is attached or used, so that the stamp may not again be used. The department of revenue may prescribe such other method for the cancellation of the stamps as it may deem expedient. [1975 1st ex.s. c 278 § 58; 1961 c 15 § 82.20.030. Prior: 1935 c 180 § 56; RRS § 8370–56.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.20.040 Redemption of stamps—Limitation. The department of revenue may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law to denote the payment of any tax, as may have been spoiled, destroyed or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which, through mistake, have been improperly or unnecessarily used, or where the returns or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected. Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed or by refunding the amount of value to the owner thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless have been returned to the department, or until satisfactory proof has been made showing the reason why they cannot be returned. No claim for the redemption of or allowance for stamps shall be allowed unless presented within two years after the purchase of the stamps from the department. [1975 1st ex.s. c 278 § 59; 1961 c 15 § 82.20.040. Prior: 1935 c 180 § 57; RRS § 8370-57.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.20.060 Other offenses—Penalty. Each of the following acts is hereby declared to be a gross misdemeanor and punishable as such: (1) To take, sign, issue, or accept, or cause to be made, signed, issued, or accepted, any instrument of any kind without the full amount of the tax thereon being duly paid; (2) to fraudulently cut, tear, or remove from any instrument, upon which any tax is imposed by this chapter, any stamp or the impression of any stamp, die, plate, or other article provided, made, or used in the pursuance of this chapter; (3) to wilfully remove, or alter the cancellation or defacing marks of, or otherwise prepare any stamp, with intent to use, or cause the same to be used, after it has already been used, or knowingly or wilfully buy, sell, offer for sale, or give away, any such washed or restored stamp to any person for use, or knowingly use the same; (4) for any person other than the department of revenue or its duly authorized agent to sell any stamp provided for herein, not affixed to any conveyance taxed herein, whether such stamp is genuine or counterfeit. [1975 1st ex.s. c 278 § 60; 1961 c 15 § 82.20.060. Prior: 1935 c 180 § 59; RRS § 8370-59.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.24 TAX ON CIGARETTES

Sections

82.24.030	Stamps to be affixed—Meter machines authorized.
82.24.090	Records to be preserved—Reports.
82.24.110	Other offenses—Penalty.
82.24.120	Violations—Penalties and interest.
82.24.140	Forfeiture procedure—Seizures—Notice—Claimant's bond—Court proceedings.
82.24.180	Seized property may be returned.

82.24.190	Search and seizure.
82.24.210	Redemption of stamps.
82.24.220	Vending machines—Certificates.
82.24.260	Selling or disposing of unstamped cigarettes—Retailer to collect and remit tax—Liability.

82.24.030 Stamps to be affixed—Meter machines authorized. In order to enforce collection of the tax hereby levied, the department of revenue shall design and have printed stamps of such size and denominations as may be determined by the department, such stamps to be affixed on the smallest container or package that will be handled, sold, used, consumed, or distributed, to permit the department to readily ascertain by inspection, whether or not such tax has been paid. Every person shall cause to be affixed on every package of cigarettes on which a tax is due, stamps of an amount equaling the tax due thereon before he sells, offers for sale, uses, consumes, handles, removes, or otherwise disturbs and distributes the same: *Provided*, That where it is established to the satisfaction of the department that it is impractical to affix such stamps to the smallest container or package, the department may authorize the affixing of stamps of appropriate denomination to a large container or package.

The department may authorize the use of meter stamping machines for imprinting stamps, which imprinted stamps shall be in lieu of those otherwise provided for under this chapter, and if such use is authorized, shall provide reasonable rules and regulations with respect thereto. [1975 1st ex.s. c 278 § 61; 1961 c 15 § 82.24.030. Prior: 1959 c 270 § 3; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.090 Records to be preserved—Reports. Every wholesaler or retailer subject to the provisions of this chapter shall keep and preserve for a period of five years an accurate set of records, showing all transactions had with reference to the purchase and sale of any of the articles taxed herein and such persons shall also keep separately all invoices, and shall keep a record of all stamps purchased, and all such records and all stock of taxable articles on hand shall be open to inspection at all reasonable times by the department of revenue or its duly authorized agent.

All wholesalers shall within fifteen days after the first day of each month file with the department of revenue a report of all drop shipment sales made by them to retailers within this state during the preceding month, which report shall show the name and address of the retailer to whom the cigarettes were sold, the kind and quantity, and the date of delivery thereof. [1975 1st ex.s. c 278 § 62; 1961 c 15 § 82.24.090. Prior: 1941 c 178 § 14; 1939 c 225 § 24; 1935 c 180 § 84; Rem. Supp. 1941 § 8370-84.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.110 Other offenses—Penalty. Each of the following acts is a gross misdemeanor and punishable as such:

(1) To sell, except as a registered wholesaler or retailer engaged in interstate commerce as to the article being taxed herein, without the stamp first being affixed;

(2) To use or have in possession knowingly or intentionally any forged or counterfeit stamps;

(3) For any person other than the department of revenue or its duly authorized agent to sell any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(4) To violate any of the provisions of this chapter;

(5) To violate any lawful rule or regulation made and published by the department of revenue;

(6) To use any stamps more than once;

(7) To refuse to allow the department of revenue or any duly authorized agent thereof, on demand, to make full inspection of any place of business where any of the articles herein taxed are sold or otherwise hinder or prevent such inspection;

(8) For any retailer, except one permitted to maintain an unstamped stock to engage in interstate business as provided herein, to have in possession in any place of business any of the articles herein taxed, unless the same have the proper stamps attached;

(9) For any person to make, use, or present or exhibit to the department of revenue or any duly authorized agent thereof, any invoice for any of the articles herein taxed which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced;

(10) For any wholesaler or retailer or his agents or employees to fail to produce on demand of the department of revenue all invoices of all the articles herein taxed or stamps bought by him or received in his place of business within five years prior to such demand unless he can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond his control;

(11) For any person to receive in this state any shipment of any of the articles taxed herein, when the same are not stamped, for the purpose of avoiding payment of tax. It is presumed that persons other than dealers who purchase or receive shipments of unstamped cigarettes do so to avoid payment of the tax imposed herein.

All agents, employees, and others who aid, abet, or otherwise participate in any way in the violation of the provisions of this chapter or in any of the offenses herein described shall be guilty and punishable as principals, to the same extent as any wholesaler or retailer violating the provisions thereof. [1975 1st ex.s. c 278 § 63; 1961 c 15 § 82.24.110. Prior: 1941 c 178 § 15; 1935 c 180 § 86; Rem. Supp. 1941 § 8370-86.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.120 Violations—Penalties and interest. If any person, subject to the provisions of this chapter or any rules and regulations promulgated by the department of revenue under authority hereof, is found to have failed to affix the stamps required, or to have them

affixed as herein provided, or to pay any tax due hereunder, or to have violated any of the provisions of this chapter or rules and regulations promulgated by the department of revenue in the administration hereof, there shall be assessed and collected from such person, in addition to any tax that may be found due, a penalty equal to the amount of any tax found to be due plus interest thereon at the rate of one percent for each thirty days or portions thereof from the date the tax became due, and upon notice mailed to the last known address of the taxpayer said amount shall become due and payable in ten days, at which time the department or its duly authorized agent may make immediate demand upon such person for the payment of all such taxes and penalties. The department, for good reason shown, may remit all or any part of penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate of one percent for each thirty days or portion thereof. The keeping of any unstamped articles coming within the provisions of this chapter shall be prima facie evidence of intent to violate the provisions of this chapter. [1975 1st ex.s. c 278 § 64; 1961 c 15 § 82.24.120. Prior: 1949 c 228 § 15; 1939 c 225 § 25; 1935 c 180 § 87; Rem. Supp. 1949 § 8370-87.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.140 Forfeiture procedure—Seizures—Notice—Claimant's bond—Court proceedings. In all cases of seizure of any property made subject to forfeiture under the provisions of this chapter, which, in the opinion of the person making the seizure, is of the appraised value of one hundred dollars, or more, the said person shall proceed as follows:

(1) He shall cause a list containing a particular description of the property seized to be prepared in duplicate, and an appraisal thereof to be made by three sworn appraisers to be selected by him, who shall be respectable and disinterested citizens of this state, residing within the county where the seizure was made. Said list and appraisal shall be properly attested by the said person and the said appraisers, for which service each of the said appraisers shall be allowed the sum of one dollar per day for not exceeding two days, to be paid as other costs;

(2) If the property seized is believed, by the person making the seizure, to be of less value than one hundred dollars, no appraisal shall be made;

(3) The person making the seizure shall proceed to give notice thereof for five days, in writing, at three places in the county where the seizure is made. One of the notices shall be posted at the county court house; another at the place where the goods were seized; and the other at some public place. The notice shall describe the property seized, and the time and place and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized, and shall require any person claiming it to appear and make such claim in writing, within five days from the date of the first posting of such notice. Such

person making the seizure shall also deliver to the person from whom the property was seized, and also to the owner, if known, a copy of the said notice;

(4) Any person claiming the said property seized as contraband, within the time specified in the notice, may file with the department of revenue a claim, in writing, stating his interest in the property seized, and may execute a bond to the department of revenue in a penal sum equal to double the value of the property so seized, but in no case shall said bond be less than one hundred dollars, with sureties to be approved by the clerk of the superior court in the county in which the property is seized, conditioned that in case of condemnation of the property seized, the obligor shall pay to the department of revenue the full value of the property so seized, and all costs and expenses of the proceedings to obtain such condemnation, including a reasonable attorney's fee. And, upon delivery of such bond to the department of revenue, it shall transmit the same with the duplicate list or description of the property seized to the prosecuting attorney of the county in which such seizure was made, and said prosecuting attorney shall prosecute the case to secure the forfeiture of said property in the court having jurisdiction. Upon filing the bond aforesaid, the said property shall be delivered to the claimant pending the outcome of the case: *Provided*, That he shall at once affix the required stamps thereto;

(5) If no claim is interposed and no bond is filed within the time above specified, such property shall be forfeited, without further proceedings, and the same shall be sold as herein provided, and the proceeds of sale when received by the department of revenue shall be paid into the state treasury as are other funds collected: *Provided*, That in seizures of property of less value than one hundred dollars, the same may be advertised by the department of revenue with other quantities at Olympia or at any other city or town in which a branch office of the department of revenue is located and disposed of as hereinbefore provided;

(6) In proceedings to secure a confiscation of the property hereinbefore mentioned, where the value of the goods seized at one time is one hundred dollars, or less, the justice court of the place where the property is situated, shall have jurisdiction to try the cause. Where the value of the property seized at one time is more than one hundred dollars, then the superior court of the county where the property is seized shall have jurisdiction to try the cause.

The proceedings against property seized, according to the provisions of this chapter, shall be considered a proceeding in rem unless otherwise herein provided.

Within ten days after filing the bond provided for in subdivision (4) hereof, the claimant shall file a petition in the court having jurisdiction of the cause, and the department of revenue or other party authorized to prosecute the confiscation of said property, shall plead to it as if it were an ordinary action at law, and the same rules of pleading and procedure applicable to actions in the justice court or superior court shall be observed in this action, and the costs shall be adjudged as in other actions: *Provided, however*, That neither the state, nor the department of revenue, nor any other

person representing the state shall be liable for the costs in event the court shall not confiscate the property in controversy. [1975 1st ex.s. c 278 § 65; 1961 c 15 § 82.24.140. Prior: 1939 c 225 § 26; 1935 c 180 § 89; RRS § 8370-89. Formerly RCW 82.24.140, 82.24.150, 82.24.160, 82.24.170 and 82.24.200.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.180 Seized property may be returned. The department of revenue may return any property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions thereof.

When any property is seized, under the provisions of this chapter, the department may return such goods to the parties from whom they were seized if and when such parties affix the proper amount of stamps thereto, and pay to the department as penalty an amount equal to twenty-five percent of the amount of tax due and interest thereon at the rate of one percent for each thirty days or portion thereof from the date the tax became due, and in such cases, no advertisement shall be made or notices posted in connection with said seizure. [1975 1st ex.s. c 278 § 66; 1961 c 15 § 82.24.180. Prior: 1935 c 180 § 90; RRS § 8370-90.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.190 Search and seizure. When the department of revenue has good reason to believe that any of the articles taxed herein are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter or regulations issued under authority hereof, it may make affidavit of such fact, describing the place or thing to be searched, before any justice of the peace, mayor of any city, town or village, or judge of any court in this state, and such justice, mayor or judge shall issue a search warrant directed to the sheriff, any constable, police officer, or duly authorized agent of the department of revenue commanding him diligently to search any building, room in a building, place or vehicle as may be designated in the affidavit and search warrant, and to seize such tobacco so possessed and to hold the same until disposed of by law, and to arrest the person in possession or control thereof. If upon the return of such warrant, it shall appear that any of the articles taxed herein, unlawfully possessed, were seized, the same shall be sold as provided in this chapter. [1975 1st ex.s. c 278 § 67; 1961 c 15 § 82.24.190. Prior: 1949 c 228 § 16; 1935 c 180 § 91; Rem. Supp. 1949 § 8370-91.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.210 Redemption of stamps. The department of revenue may promulgate rules and regulations providing for the refund to dealers for the cost of stamps affixed to articles taxed herein, which by reason of damage become unfit for sale and are destroyed by the dealer or returned to the manufacturer or jobber. In the case of any articles to which stamps have been affixed,

and which articles have been sold and shipped to a regular dealer in such articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the stamps so affixed, less the affixing discount, upon condition that the seller in this state makes affidavit that the articles were sold and shipped outside of the state and that he has received from the purchaser outside the state a written acknowledgment that he has received such articles with the amount of stamps affixed thereto, together with the name and address of such purchaser. The department of revenue may redeem any unused stamps purchased from it at the face value thereof less the affixing discount. [1975 1st ex.s. c 278 § 68; 1961 c 15 § 82.24.210. Prior: 1949 c 228 § 17; 1941 c 178 § 17; 1935 c 180 § 92; Rem. Supp. 1949 § 8370-92.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.220 Vending machines—Certificates. Every person in this state who by means of a vending machine sells any of the articles taxed herein shall be required before engaging in such business to apply to and obtain from the department of revenue a certificate to engage in business as a retailer, and shall obtain a separate certificate for each machine used in vending or selling any of the articles taxed herein and each machine so used shall be considered a separate place of business. Any articles taxed herein vended by means of any such machine shall bear stamps as evidence that the tax herein imposed has been paid and the articles taxed herein contained in such machines shall be available for inspection by the department or its duly authorized agents at all times. [1975 1st ex.s. c 278 § 69; 1961 c 15 § 82.24.220. Prior: 1941 c 178 § 18; 1935 c 180 § 93; Rem. Supp. 1941 § 8370-93.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.24.260 Selling or disposing of unstamped cigarettes—Retailer to collect and remit tax—Liability. Any retailer who sells or otherwise disposes of any unstamped cigarettes other than (1) a federal instrumentality with respect to sales to authorized military personnel and (2) a federally recognized Indian tribal organization with respect to sales to enrolled members of the tribe shall collect from the buyer or transferee thereof the tax imposed on such buyer or transferee by RCW 82.24.020, 28A.47.440, and 73.32.130, and remit the same to the department after deducting from the tax collected the compensation he would have been entitled to under the provisions of this chapter, RCW 28A.47.440 and 73.32.130 if he had affixed stamps to the unstamped cigarettes. Such remittance shall be made at the same time and manner as remittances of the retail sales tax as required under chapters 82.08 and 82.32 RCW. In the event the retailer fails to collect the tax from the buyer or transferee, or fails to remit the same, the retailer shall be personally liable therefor, and shall be subject to the administrative provisions of RCW 82.24.230 with respect to the collection thereof by the department. The provisions of this section shall not relieve the buyer or possessor of unstamped cigarettes from

personal liability for the tax imposed by RCW 82.24.020, 28A.47.440 and 73.32.130.

Nothing in this section shall relieve a wholesaler or a retailer from the requirements of affixing stamps pursuant to RCW 82.24.040 and 82.24.050. [1975 1st ex.s. c 22 § 1; 1972 ex.s. c 157 § 7.]

Severability—1972 ex.s. c 157: See note following RCW 82.24.020.

Chapter 82.26

TAX ON TOBACCO PRODUCTS

Sections	
82.26.010	Definitions.
82.26.020	Tax imposed—Rate.
82.26.050	Certificate of registration required.
82.26.060	Books and records to be preserved—Entry and inspection by department.
82.26.080	Invoices of purchases to be procured by retailer, subjobber—Preservation—Inspection.
82.26.090	Records of shipments, deliveries from public warehouse of first destination—Preservation—Inspection.
82.26.110	When credit may be obtained for tax paid.

82.26.010 Definitions. As used in this chapter:

(1) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes as defined in RCW 82.24.010(4);

(2) "Manufacturer" means a person who manufactures and sells tobacco products;

(3) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers;

(4) "Subjobber" means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers;

(5) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers;

(6) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of this chapter, or for any other purposes whatsoever.

(7) "Wholesale sales price" means the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any discount or other reduction;

(8) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state;

(9) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine;

(10) "Retail outlet" means each place of business from which tobacco products are sold to consumers;

(11) "Department" means the state department of revenue. [1975 1st ex.s. c 278 § 70; 1961 c 15 § 82.26.010. Prior: 1959 ex.s. c 5 § 11.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.26.020 Tax imposed—Rate. (1) From and after June 1, 1971, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of forty-five percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

(2) A floor stocks tax is hereby imposed upon every distributor of tobacco products at the rate of twenty-five percent of the wholesale sales price of each tobacco product in his possession or under his control on July 1, 1959.

Each distributor, within twenty days after July 1, 1959 shall file a report with the department, in such form as the department may prescribe, showing the tobacco products on hand on July 1, 1959 and the amount of tax due thereon.

The tax imposed by this subdivision shall be due and payable within twenty days after July 1, 1959 and thereafter shall bear interest at the rate of one percent per month. [1975 1st ex.s. c 278 § 71; 1971 ex.s. c 299 § 77; 1965 ex.s. c 173 § 25; 1961 c 15 § 82.26.020. Prior: 1959 ex.s. c 5 § 12.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

82.26.050 Certificate of registration required. From and after July 1, 1959 no person shall engage in the business of a distributor or subjobber of tobacco products at any place of business without first having received from the department of revenue a certificate of registration as provided in RCW 82.32.030. [1975 1st ex.s. c 278 § 72; 1961 c 15 § 82.26.050. Prior: 1959 ex.s. c 5 § 15.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

[1975 RCW Supp—p 638]

82.26.060 Books and records to be preserved—Entry and inspection by department. Every distributor shall keep at each registered place of business complete and accurate records for that place of business, including itemized invoices, of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of tobacco products made, except sales to the ultimate consumer.

These records shall show the names and addresses of purchasers, the inventory of all tobacco products on hand on July 1, 1959, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products.

When a registered distributor sells tobacco products exclusively to the ultimate consumer at the address given in the certificate, no invoice of those sales shall be required, but itemized invoices shall be made of all tobacco products transferred to other retail outlets owned or controlled by that registered distributor. All books, records, and other papers and documents required by this section to be kept shall be preserved for a period of at least five years after the date of the documents, as aforesaid, or the date of the entries thereof appearing in the records, unless the department of revenue, in writing, authorizes their destruction or disposal at an earlier date. At any time during usual business hours the department, or its duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the tobacco products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, or any of its agents or employees, are denied free access or are hindered or interfered with in making such examination, the registration certificate of the distributor at such premises shall be subject to revocation by the department. [1975 1st ex.s. c 278 § 73; 1961 c 15 § 82.26.060. Prior: 1959 ex.s. c 5 § 16.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.26.080 Invoices of purchases to be procured by retailer, subjobber—Preservation—Inspection. Every retailer and subjobber shall procure itemized invoices of all tobacco products purchased. The invoices shall show the name and address of the seller and the date of purchase. The retailer and subjobber shall preserve a legible copy of each such invoice for five years from the date of purchase. Invoices shall be available for inspection by the department of revenue or its authorized agents or employees at the retailer's or subjobber's place of business. [1975 1st ex.s. c 278 § 74; 1961 c 15 § 82.26.080. Prior: 1959 ex.s. c 5 § 18.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.26.090 Records of shipments, deliveries from public warehouse of first destination—Preservation—Inspection. Records of all deliveries or shipments of tobacco products from any public warehouse of first destination in this state shall be kept by the warehouse and be available to the department of revenue for inspection. They shall show the name and address of the consignee, the date, the quantity of tobacco products delivered, and such other information as the department may require. These records shall be preserved for five years from the date of delivery of the tobacco products. [1975 1st ex.s. c 278 § 75; 1961 c 15 § 82.26.090. Prior: 1959 ex.s. c 5 § 19.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.26.110 When credit may be obtained for tax paid. Where tobacco products upon which the tax imposed by this chapter has been reported and paid, are shipped or transported by the distributor to retailers without the state, to be sold by those retailers, or are returned to the manufacturer by the distributor or destroyed by the distributor, credit of such tax may be made to the distributor in accordance with regulations prescribed by the department of revenue. [1975 1st ex.s. c 278 § 76; 1961 c 15 § 82.26.110. Prior: 1959 ex.s. c 5 § 21.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

registration certificate shall be personal and nontransferable and shall be valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public shall be required, but, for such additional certificates no fee shall be required. Each certificate shall be numbered and shall show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and shall be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the existing certificate, and a new certificate will be issued for the new place of business free of charge. No person shall engage in any business taxable hereunder without being registered in compliance with the provisions of this section, except that the department, by general regulation, may provide for the issuance of certificates of registration to temporary places of business without requiring the payment of any fee. [1975 1st ex.s. c 278 § 77; 1961 c 15 § 82.32.030. Prior: 1941 c 178 § 19, part; 1937 c 227 § 16, part; 1935 c 180 § 187, part; Rem. Supp. 1941 § 8370-187, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.32

GENERAL ADMINISTRATIVE PROVISIONS

Sections

82.32.030	Registration certificates.
82.32.105	Waiver or cancellation of interest or penalties.
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82.32.300	Department of revenue to administer.
82.32.310	Immunity of officers, agents, etc., of the department of revenue acting in good faith.
82.32.320	Revenue to state treasurer.
82.32.360	Conclusive effect of agreements.

82.32.030 Registration certificates. If any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he shall, whether taxable or not, under such rules and regulations as the department of revenue shall prescribe, apply for and obtain from the department, upon payment of a fee of one dollar, a registration certificate. Such

82.32.105 Waiver or cancellation of interest or penalties. If the department of revenue finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department of revenue shall waive or cancel any interest or penalties imposed under this chapter with respect to such tax. The department of revenue shall prescribe rules for the waiver or cancellation of interest or penalties imposed by this chapter. Notwithstanding the foregoing the amount of any interest which has been waived, canceled or refunded prior to May 1, 1965 shall not be reassessed according to the provisions of this chapter. [1975 1st ex.s. c 278 § 78; 1965 ex.s. c 141 § 8.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.110 Examination of books or records—Subpoenas—Contempt. The department of revenue or its duly authorized agent may examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the department of revenue.

The persons summoned may be required to testify and produce any books, papers, records, or data required by the department with respect to any tax, or the liability of any person therefor.

The director of the department of revenue, or any duly authorized agent thereof, shall have power to administer an oath to the person required to testify; and any person giving false testimony after the administration of such oath shall be guilty of perjury in the first degree.

If any person summoned as a witness before the department, or its authorized agent, fails or refuses to obey the summons, or refuses to testify or answer any material questions, or to produce any book, record, paper, or data when required to do so, he shall be guilty of contempt, and the department shall thereupon institute proceedings in the superior court of Thurston county, or of the county in which such person resides, to punish him as for contempt of court. [1975 1st ex.s. c 278 § 79; 1961 c 15 § 82.32.110. Prior: 1935 c 180 § 194; RRS § 8370-194.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.120 Oaths and acknowledgments. All officers empowered by law to administer oaths, the director of the department of revenue, and such officers as he may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by law or the rules and regulations of the department of revenue. [1975 1st ex.s. c 278 § 80; 1961 c 15 § 82.32.120. Prior: 1935 c 180 § 195; RRS § 8370-195.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.130 Notice and orders—Service. Any notice or order required by this title to be mailed to any taxpayer shall be sent by mail, addressed to the address of the taxpayer as shown by the records of the department of revenue, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. Failure of the taxpayer to receive such notice or order mailed shall not release the taxpayer from any tax or any increases or penalties thereon. [1975 1st ex.s. c 278 § 81; 1967 c 237 § 20; 1961 c 15 § 82.32.130. Prior: 1935 c 180 § 196; RRS § 8370-196.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective date—1967 c 237: The effective date of the above amendment was July 1, 1967, see RCW 34.04.921.

Savings—1967 c 237: RCW 34.04.931.

Severability—1967 c 237: RCW 34.04.901.

82.32.140 Taxpayer quitting business—Liability of successor. Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due; and any person who becomes a successor to such business shall become liable for the

full amount of the tax and withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the department of revenue showing payment in full of any tax due or a certificate that no tax is due and, if such tax is not paid by the taxpayer within ten days from the date of such sale, exchange, or disposal, the purchaser or successor shall become liable for the payment of the full amount of tax, and the payment thereof by such purchaser or successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such purchaser or successor from the taxpayer.

No successor shall be liable for any tax due from the person from whom he has acquired a business or stock of goods if he gives written notice to the department of revenue of such acquisition and no assessment is issued by the department of revenue within six months of receipt of such notice against the former operator of the business and a copy thereof mailed to such successor. [1975 1st ex.s. c 278 § 82; 1961 c 15 § 82.32.140. Prior: 1957 c 88 § 1; 1935 c 180 § 197; RRS § 8370-197.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.160 Correction of tax—Administrative procedure—Conference—Determination by department. Any person having been issued a notice of additional taxes, delinquent taxes, interest, or penalties assessed by the department of revenue, may within twenty days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department petition the department in writing for a correction of the amount of the assessment, and a conference for examination and review of the assessment. The petition shall set forth the reasons why the correction should be granted and the amount of the tax, interest, or penalties, which the petitioner believes to be due. The department shall promptly consider the petition and may grant or deny it. If denied, the petitioner shall be notified by mail thereof forthwith. If a conference is granted, the department shall fix the time and place therefor and notify the petitioner thereof by mail. After the conference the department may make such determination as may appear to it to be just and lawful and shall mail a copy of its determination to the petitioner. If no such petition is filed within the twenty day period the assessment covered by the notice shall become final.

The procedures provided for herein shall apply also to a notice denying, in whole or in part, an application for a pollution control tax exemption and credit certificate, with such modifications to such procedures established by departmental rules and regulations as may be necessary to accommodate a claim for exemption or credit. [1975 1st ex.s. c 158 § 4; 1967 ex.s. c 26 § 49; 1963 ex.s. c 28 § 8; 1961 c 15 § 82.32.160. Prior: 1939 c 225 § 29, part; 1935 c 180 § 199, part; RRS § 8370-199, part.]

Effective date—1975 1st ex.s. c 158: See note following RCW 82.34.050.

Effective date—1967 ex.s. c 26: The effective date of the above amendment was July 1, 1967, see note following RCW 82.01.050.

Purpose—Savings—1967 ex.s. c 26: See notes following RCW 82.01.050.

82.32.200 Stay of collection—Bond. When any assessment or additional assessment has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods as the department of revenue may by general regulation provide, of the whole or any part thereof, by filing with the department a bond in an amount, not exceeding twice the amount on which stay is desired, and with sureties as the department deems necessary, conditioned for the payment of the amount of the assessments, collection of which is stayed by the bond, together with the interest thereon at the rate of one percent of the amount of such assessment for each thirty days or portion thereof from the due date thereof until paid. [1975 1st ex.s. c 278 § 83; 1961 c 15 § 82.32.200. Prior: 1935 c 180 § 201; RRS § 8370–201.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.230 Agent of the department of revenue may execute. In the discretion of the department of revenue, a warrant of like terms, force, and effect may be issued and directed to any agent of the department authorized to collect taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty, which shall be added to the amount of the warrant. [1975 1st ex.s. c 278 § 84; 1961 c 15 § 82.32.230. Prior: 1949 c 228 § 25, part; 1937 c 227 § 20, part; 1935 c 180 § 202, part; Rem. Supp. 1949 § 8370–202, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.235 Notice and order to withhold and deliver property due or owned by taxpayer—Bond—Judgment by default. In addition to the remedies provided in this chapter the department is hereby authorized to issue to any person, or to any political subdivision or department of the state, a notice and order to withhold and deliver property of any kind whatsoever when there is reason to believe that there is in the possession of such person, political subdivision or department, property which is or shall become due, owing, or belonging to any taxpayer against whom a warrant has been filed.

The notice and order to withhold and deliver shall be served by the sheriff of the county wherein the service is made, or by his deputy, or by any duly authorized representative of the department. Any person, or any political subdivision or department upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice.

In the event there is in the possession of any such person or political subdivision or department, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the department of revenue or its duly authorized representative upon demand to be held in trust by the department for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, there shall be furnished a good and sufficient bond satisfactory to the department conditioned upon final determination of liability.

Should any person or political subdivision fail to make answer to an order to withhold and deliver within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against such person or political subdivision for the full amount claimed by the department in the notice to withhold and deliver, together with costs. [1975 1st ex.s. c 278 § 85; 1971 ex.s. c 299 § 22; 1963 ex.s. c 28 § 11.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

82.32.240 Tax constitutes debt—Priority of lien. Any tax due and unpaid and all increases and penalties thereon, shall constitute a debt to the state and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies.

In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, involving any taxpayer, the claim of the state for said taxes and all increases and penalties thereon shall be a lien upon all real and personal property of the taxpayer, and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and in all such cases it shall be the duty of all administrators, executors, guardians, receivers, trustees in bankruptcy or assignees for the benefit of creditors, to notify the department of revenue of such administration, receivership or assignment within thirty days from the date of their appointment and qualification.

The lien provided for by this section shall attach as of the date of the assignment for the benefit of creditors or of the initiation of the probate, insolvency, or bankruptcy proceedings: *Provided*, That this sentence shall not be construed as affecting the validity or priority of any earlier lien that may have attached previously in favor of the state under any other section of this title.

Any administrator, executor, guardian, receiver or assignee for the benefit of creditors not giving the notification as provided for above shall become personally liable for payment of the taxes and all increases and penalties thereon. [1975 1st ex.s. c 278 § 86; 1961 c 15 § 82.32.240. Prior: 1949 c 228 § 26; 1935 c 180 § 203; Rem. Supp. 1949 § 8370–203.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.260 Payment condition to dissolution or withdrawal of corporation. In the case of any corporation organized under the laws of this state, the courts shall not enter or sign any decree of dissolution, nor shall the secretary of state file in his office any certificate of dissolution, and in the case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state, the secretary of state shall withhold the issuance of any certificate of withdrawal, until proof, in the form of a certificate from the department of revenue, has been furnished by the applicant for such dissolution or withdrawal, that every license fee, tax, increase, or penalty has been paid or provided for. [1975 1st ex.s. c 278 § 87; 1961 c 15 § 82.32.260. Prior: 1935 c 180 § 204; RRS § 8370-204.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.270 Accounting period prescribed. The taxes imposed hereunder, and the returns required therefor, shall be upon a calendar year basis; but, if any taxpayer in transacting his business, keeps books reflecting the same on a basis other than the calendar year, he may, with consent of the department of revenue, make his returns, and pay taxes upon the basis of his accounting period as shown by the method of keeping the books of his business. [1975 1st ex.s. c 278 § 88; 1961 c 15 § 82.32.270. Prior: 1935 c 180 § 205; RRS § 8370-205.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.290 Unlawful acts—Penalties. It shall be unlawful for any person to engage in business without having obtained a certificate of registration as provided herein; or to engage in business after his certificate of registration has been revoked by order of the department of revenue; or to tear down or remove any order or notice posted by the department; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or part thereof; or for any person to aid or abet another in any attempt to evade the payment of such tax or any part thereof; or for the president, vice president, secretary, treasurer, or other officer of any company to make or permit to be made for any company any false return, or any false statement in any return, with intent to evade payment of any tax hereunder; or for the president, vice president, secretary, treasurer, or other officer of any company to carry on the business of any company which has not obtained a certificate of registration or whose certificate of registration has been revoked by order of the department; or for any purchaser to fraudulently sign a resale certificate without intent to resell the property purchased; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the department or its duly authorized agent; or to fail or refuse to permit the inspection or appraisal of any property by the department or its duly authorized agent; or to refuse to offer testimony or produce any record as required.

[1975 RCW Supp—p 642]

Any person violating any of the provisions of this section shall be guilty of a gross misdemeanor.

In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of perjury in the second degree; and any company for which a false return, or a return containing a false statement, as aforesaid, is made, shall be punished, upon conviction thereof, by a fine of not more than one thousand dollars. All penalties or punishments provided in this section shall be in addition to all other penalties provided by law. [1975 1st ex.s. c 278 § 89; 1961 c 15 § 82.32.290. Prior: 1935 c 180 § 207; RRS § 8370-207.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.300 Department of revenue to administer. The administration of this and chapters 82.04 through 82.28 RCW of this title is vested in the department of revenue which shall prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed thereunder.

The department of revenue shall make and publish rules and regulations, not inconsistent therewith, necessary to enforce their provisions, which shall have the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees shall be fixed by the department and shall be charged to the proper appropriation for the department.

The department shall exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper. [1975 1st ex.s. c 278 § 90; 1961 c 15 § 82.32.300. Prior: 1935 c 180 § 208, part; RRS § 8370-208, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.310 Immunity of officers, agents, etc., of the department of revenue acting in good faith. When recovery is had in any suit or proceeding against an officer, agent, or employee of the department of revenue for any act done by him or for the recovery of any money exacted by or paid to him and by him paid over to the department, in the performance of his official duty, and the court certifies that there was probable cause for the act done by such officer, agent, or employee, or that he acted under the direction of the department or an officer thereof, no execution shall issue against such officer, agent, or employee, but the amount so recovered shall, upon final judgment, be paid by the department as an expense of operation. [1975 1st ex.s. c 278 § 91; 1961 c 15 § 82.32.310. Prior: 1935 c 180 § 208, part; RRS § 8370-208, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.320 Revenue to state treasurer. The department of revenue, on the next business day following the receipt of any payments hereunder, shall transmit them to the state treasurer, taking his receipt therefor. [1975 1st ex.s. c 278 § 92; 1961 c 15 § 82.32.320. Prior: 1935 c 180 § 209; RRS § 8370-209.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.32.360 Conclusive effect of agreements. Upon approval of such agreement, evidenced by execution thereof by the department of revenue and the person so agreeing, the agreement shall be final and conclusive as to tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or of misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon, or the agreement modified, by any officer, employee, or agent of the state, or the taxpayer, and

(2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded. [1975 1st ex.s. c 278 § 93; 1961 c 15 § 82.32.360. Prior: 1945 c 251 § 2; Rem. Supp. 1945 § 8370-226.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.34

POLLUTION CONTROL FACILITIES—TAX EXEMPTIONS AND CREDITS

Sections

- 82.34.050 Original acquisition of facility exempt from sales and use taxes—Election to take tax credit in lieu of exemption.
- 82.34.110 Administrative and judicial review.

82.34.050 Original acquisition of facility exempt from sales and use taxes—Election to take tax credit in lieu of exemption. (1) The original acquisition of a facility by the holder of a certificate shall be exempt from sales tax imposed by chapter 82.08 RCW and use tax imposed by chapter 82.12 RCW when the due date for payment of such taxes is subsequent to the effective date of the certificate: *Provided*, That the exemption of this section shall not apply to servicing, maintenance, repairs, and replacement of parts after a facility is complete and placed in operation. Sales and use taxes paid by a holder of a certificate with respect to expenditures incurred for acquisition of a facility prior to the issuance of a certificate covering such facility may be claimed as a tax credit as provided in subsection (2) of this section.

(2) Subsequent to July 30, 1967 the holder of the certificate may, in lieu of accepting the tax exemption provided for in this section, elect to take a tax credit in the total amount of the exemption for the facility covered

by such certificate against any future taxes to be paid pursuant to chapters 82.04, 82.12 and 82.16 RCW: *Provided*, That on and after July 30, 1967 if such person elects to take a tax credit for a facility under this subsection he may not take further credit under RCW 82.04.435. [1975 1st ex.s. c 158 § 1; 1967 ex.s. c 139 § 5.]

Effective date—1975 1st ex.s. c 158: "The provisions of this amendatory act shall be applicable with respect to applications for a pollution control tax exemption and credit certificate made to the department of revenue on or after January 1, 1975." [1975 1st ex.s. c 158 § 5.]

82.34.110 Administrative and judicial review. Administrative and judicial review of a decision of the control agency or the department shall be in accordance with the applicable provisions of chapters 34.04, 43.21B, 82.03, and 82.32 RCW, as now or hereafter amended. [1975 1st ex.s. c 158 § 2; 1967 ex.s. c 139 § 11.]

Effective date—1975 1st ex.s. c 158: See note following RCW 82.34.050.

Chapter 82.38

SPECIAL FUEL TAX ACT

Sections

- 82.38.030 Tax imposed—Collection.

82.38.030 Tax imposed—Collection. (1) There is hereby levied and imposed upon special fuel users a tax of nine cents per gallon or each one hundred cubic feet of compressed natural gas measured at standard pressure and temperature on the use (within the meaning of the word use as defined herein) of special fuel in any motor vehicle: *Provided*, That in order to encourage experimentation with nonpolluting fuels, no tax shall be imposed upon the use of natural gas as herein defined or on liquified petroleum gas, commonly called propane, which is used in any motor vehicle until July 1, 1977.

(2) Said tax shall be collected by the special fuel dealer and shall be paid over to the department as hereinafter provided: (a) With respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles or into storage facilities used for the fueling of motor vehicles at unbonded service stations in this state; or (b) in all other transactions where the purchaser indicates in writing to the special fuel dealer prior to or at the time of the delivery that the entire quantity of the special fuel covered by the delivery is for use by him for a taxable purpose as a fuel in a motor vehicle.

(3) Said tax shall be paid over to the department by the special fuel user as hereinafter provided: (a) With respect to special fuel upon which the tax has not previously been imposed which was acquired in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle in this state; or (b) in all transactions with a special fuel dealer in this state where a written statement has not been furnished to the special fuel dealer as set forth in subsection (2)(b) of this section.

It is expressly provided that delivery of special fuel may be made without collecting the tax otherwise imposed, when such deliveries are made by a bonded special fuel dealer to special fuel users who are authorized by the department as hereinafter provided, to purchase fuel without payment of tax to the bonded special fuel dealer. [1975 1st ex.s. c 62 § 1; 1973 1st ex.s. c 156 § 1; 1972 ex.s. c 135 § 2; 1971 ex.s. c 175 § 4.]

Chapter 82.44 MOTOR VEHICLE EXCISE

Sections

- 82.44.040 Schedule to be prepared—Basis of tax. (Effective until January 1, 1977.)
- 82.44.040 Schedule to be prepared—Basis of tax. (Effective January 1, 1977.)
- 82.44.045 Schedule to include campers—Appraisal. (Effective January 1, 1977.)
- 82.44.060 Payment of tax—Abatement for fractional year—Transfer of ownership. (Effective January 1, 1977.)
- 82.44.120 Refunds—Claims—Time limitation.
- 82.44.150 Apportionment and distribution of motor vehicle excise taxes generally.

"Registration year", defined—"Last day of the month", defined: RCW 46.16.006.

82.44.040 Schedule to be prepared—Basis of tax. (Effective until January 1, 1977.) The department of revenue and association of county assessors of the state shall prepare and, on or before December 1st of each year, furnish to the county auditor of each county in the state a schedule for use in the collection of the excise tax imposed by this chapter. Such schedule shall be based upon such information as may be available to them pertaining to the fair market value of motor vehicles. Such vehicles shall be classified therein into a convenient number of classes on the basis of make, type, year of manufacture, or any other reasonable basis, and to the value of vehicles within the classes as thus determined shall be applied the rate of tax prescribed in RCW 82.44.020. In determining fair market value, the department of revenue and county assessors may use any guidebook, report, or compendium of recognized standing in the automotive industry. The schedule shall show, so far as possible, the amount of excise tax for vehicles within each class and shall sufficiently describe the various motor vehicles included within each classification to enable the county auditor to ascertain readily the amount of tax applicable to any particular motor vehicle. [1975 1st ex.s. c 278 § 94; 1961 c 15 § 82.44.040. Prior: 1955 c 189 § 1; 1943 c 144 § 4; Rem. Supp. 1943 § 6312-118; prior: 1937 c 228 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

82.44.040 Schedule to be prepared—Basis of tax. (Effective January 1, 1977.) (1) The department of revenue, in consultation with the department of motor vehicles shall prepare at least once each year a schedule for use in the collection of the excise tax imposed by this chapter. Such schedule shall be based upon such information as may be available to them pertaining to the fair market value of motor vehicles. Such vehicles shall

be classified into a convenient number of classes on the basis of price, make, type, year of manufacture, or any other reasonable basis, and to the value of vehicles within the classes as thus determined shall be applied the rate of tax prescribed in RCW 82.44.020. In determining fair market value, the department of revenue may use any guidebook, report, or compendium of recognized standing in the automotive industry. The schedule shall show, so far as possible, the amount of excise tax for vehicles within each class and shall sufficiently describe the various motor vehicles included within each classification to enable the department of motor vehicles and its agents to ascertain readily the amount of tax applicable to any particular motor vehicle. [1975 1st ex.s. c 118 § 12; 1975 1st ex.s. c 278 § 94; 1961 c 15 § 82.44.040. Prior: 1955 c 189 § 1; 1943 c 144 § 4; Rem. Supp. 1943 § 6312-118; prior: 1937 c 228 § 3.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

82.44.045 Schedule to include campers—Appraisal. (Effective January 1, 1977.) The department of revenue and the department of motor vehicles shall include campers on the schedule prepared by them as required under RCW 82.44.040, and any unlisted campers shall be appraised in the same manner as motor vehicles as provided in RCW 82.44.050. [1975 1st ex.s. c 118 § 13; 1971 ex.s. c 299 § 52.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Effective date—1971 ex.s. c 299: See RCW 82.50.901.

Severability—1971 ex.s. c 299: See note following RCW 82.04.050.

82.44.060 Payment of tax—Abatement for fractional year—Transfer of ownership. (Effective January 1, 1977.) The excise tax hereby imposed shall be due and payable to the department of motor vehicles or its agents at the time of registration of a motor vehicle. Whenever an application is made to the department of motor vehicles or its agents for a license for a motor vehicle there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of the excise tax imposed by this chapter prorated to comply with the effective date of the annual schedule prepared pursuant to RCW 82.44.040, and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. The excise tax hereby imposed shall be collected for each registration year: *Provided*, That the excise tax upon a motor vehicle licensed for the first time in this state after the last day of any registration month shall only be levied for the remaining months of the registration year including the month in which the motor vehicle is being licensed: *Provided further*, That the tax shall in no case be less than two dollars.

A motor vehicle shall be deemed licensed for the first time in this state when such vehicle was not previously

licensed by this state for the registration year immediately preceding the registration year in which the application for license is made and the vehicle has not been registered in another jurisdiction in the intervening period.

No additional tax shall be imposed under this chapter upon any vehicle upon the transfer of ownership thereof if the tax imposed with respect to such vehicle has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs. [1975 1st ex.s. c 118 § 14; 1963 c 199 § 4; 1961 c 15 § 82.44.060. Prior: 1957 c 269 § 15; 1955 c 139 § 25; 1943 c 144 § 6; Rem. Supp. 1943 § 6312-120; prior: 1937 c 228 § 5.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Effective date—1963 c 199: The effective date of the above amendment was January 1, 1964.

82.44.120 Refunds—Claims—Time limitation.

Whenever any person has paid a motor vehicle license fee, and together therewith has paid an excise tax imposed under the provisions of this chapter, and the director of motor vehicles determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then he shall also be entitled to a refund of the entire excise tax collected under the provisions of this chapter. In case the director determines that any person is entitled to a refund of only a part of the license fee so paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected and the state treasurer shall determine the amount of such refund by reference to the applicable excise tax schedule prepared by the department of revenue and the association of county assessors.

In case no claim is to be made for the refund of the license fee or any part thereof but claim is made by any person that he has paid an erroneously excessive amount of excise tax, the department of motor vehicles shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that such person is entitled to a refund in such amount.

No refund of excise tax shall be allowed under the first paragraph of this section unless application for a refund of license fee is filed with the director of motor vehicles within the period provided by law, and no such refund shall be allowed under the second paragraph of this section unless filed with the department of motor vehicles within thirteen months after such claimed excessive excise tax was paid.

Any person authorized by the utilities and transportation commission to operate a motor vehicle for the conveyance of freight or passengers for hire as a common carrier or as a contract carrier, and so operating such vehicle partly within and partly outside of this state during any calendar year, shall be entitled to a refund of that portion of the full excise tax for such vehicle for such year that the mileage actually operated by such vehicle outside the state bears to the total mileage

so operated both within and outside of the state: *Provided*, If only one-half of the full excise fee was paid, the unpaid one-half shall be deducted from the amount of refund so determined: *Provided further*, If only a one-half fee was paid, and the vehicle was operated in this state more than fifty percent of the total miles operated, a balance of the tax is due equal to an amount which is the same percentage of the full excise fee as is the percentage of mileage the vehicle was operated in this state minus the one-half fee previously paid, and any balance due, is payable on or before the first day of June of the year in which the amount of the excise fee due the state has been determined, and until any such balance has been paid no identification plate or permit shall be thereafter issued for such vehicle or any other vehicle owned by the same person. Any claim for such refund shall be filed with the department of motor vehicles at Olympia not later than December 31st of the calendar year following the year for which refund is claimed and any claim filed after said date shall not be allowed. When a claim is filed the applicant must therewith furnish to the department his affidavit, verified by oath, of the mileage so operated by such vehicle during the preceding year, within the state, outside of the state, and the total of all mileage so operated.

If the department approves the claim it shall notify the state treasurer to that effect, and the treasurer shall make such approved refunds and the other refunds herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

Any person making any false statement, in the affidavit herein mentioned, under which he obtains any amount of refund to which he is not entitled under the provisions of this section, shall be guilty of a gross misdemeanor. [1975 1st ex.s. c 278 § 95; 1974 ex.s. c 54 § 4; 1967 c 121 § 2; 1963 c 199 § 5; 1961 c 15 § 82.44.120. Prior: 1949 c 196 § 18; 1945 c 152 § 3; 1943 c 144 § 11; Rem. Supp. 1949 § 6312-125.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Severability—Construction—Transitional sections—Effective dates—1974 ex.s. c 54: See notes following RCW 82.44.070.

82.44.150 Apportionment and distribution of motor vehicle excise taxes generally.

Reviser's note: The purported amendment to this section to take effect June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

Chapter 82.48 AIRCRAFT EXCISE

Sections

82.48.090 Refund of excessive tax payment.

82.48.090 Refund of excessive tax payment. In case a claim is made by any person that he has paid an erroneously excessive amount of excise tax under this chapter, he may apply to the department of revenue for a refund of the claimed excessive amount. The department shall review such application, and if it determines that an excess amount of tax has actually been paid by the taxpayer, such excess amount shall be refunded to

the taxpayer by means of a voucher approved by the department of revenue and by the issuance of a state warrant drawn upon and payable from such funds as the legislature may provide for that purpose. No refund shall be allowed, however, unless application for the refund is filed with the department of revenue within ninety days after the claimed excessive excise tax was paid. [1975 1st ex.s. c 278 § 96; 1961 c 15 § 82.48.090. Prior: 1949 c 49 § 9; Rem. Supp. 1949 § 11219-41.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.50 MOBILE HOMES, TRAVEL TRAILERS AND CAMPERS EXCISE

Sections

- 82.50.170 Refund procedure—Penalty for false statement (as amended by 1975 1st ex.s. c 9).
82.50.170 Refund procedure—Penalty for false statement (as amended by 1975 1st ex.s. c 278).

TAXATION OF TRAVEL TRAILERS AND CAMPERS

- 82.50.400 Tax imposed—Collection—Transfer of ownership. (Effective January 1, 1977.)
82.50.410 Rate—Minimum payable. (Effective January 1, 1977.)
82.50.440 Tax receipt—Records.
82.50.460 Notice of amount of tax payable, contents—Notice of delinquency—Request for distraint. (Effective January 1, 1977.)
82.50.471 Late payments—Interest charge—Waiver—Lien.

"Registration year", defined—"Last day of the month", defined: RCW 46.16.006.

82.50.170 Refund procedure—Penalty for false statement (as amended by 1975 1st ex.s. c 9). In case a claim is made by any person that he has erroneously paid the tax or a part thereof or any charge hereunder, he may apply in writing to the department of motor vehicles for a refund of the amount of the claimed erroneous payment within thirteen months of the time of payment of the tax on such a form as is prescribed by the department. The department shall review such application for refund, and, if it determines that an erroneous payment has been made by the taxpayer, it shall certify the amount to be refunded to the state treasurer that such person is entitled to a refund in such amount, and the treasurer shall make such approved refund herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

Any person making any false statement in the affidavit herein mentioned, under which he obtains any amount of refund to which he is not entitled under the provisions of this section, shall be guilty of a gross misdemeanor. [1975 1st ex.s. c 9 § 1; 1974 ex.s. c 54 § 9; 1961 c 15 § 82.50.170. Prior: 1955 c 139 § 17.]

82.50.170 Refund procedure—Penalty for false statement (as amended by 1975 1st ex.s. c 278). In case a claim is made by any person that he has erroneously paid the tax or a part thereof or any charge hereunder, he may apply in writing to the department of revenue for a refund of the amount of the claimed erroneous payment within ninety days of the time of payment of the tax on such a form as is prescribed by the department of revenue. The department of revenue shall review such application for refund, and, if it determines that an erroneous payment has been made by the taxpayer, it shall certify the amount to be refunded to the state treasurer that such person is entitled to a refund in such amount, and the treasurer shall make such approved refund herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

Any person making any false statement in the affidavit herein mentioned, under which he obtains any amount of refund to which he is not entitled under the provisions of this section, shall be guilty of a gross misdemeanor. [1975 1st ex.s. c 278 § 97; 1974 ex.s. c 54 § 9; 1961 c 15 § 82.50.170. Prior: 1955 c 139 § 17.]

Reviser's note: RCW 82.50.170 was amended twice during the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Severability—Construction—Transitional sections—Effective dates—1974 ex.s. c 54: See notes following RCW 82.44.070.

TAXATION OF TRAVEL TRAILERS AND CAMPERS

82.50.400 Tax imposed—Collection—Transfer of ownership. (Effective January 1, 1977.) An annual excise tax is imposed on the owner of any travel trailer or camper for the privilege of using such travel trailer or camper in this state. The tax shall be collected for each registration year by the department of motor vehicles or the county auditor of the county in which the travel trailer or camper is located at the time payment is made and shall be due on and after the first day of the registration year or on the date the travel trailer or camper is first purchased or brought into this state, and paid on or before the first day of each registration year or thirty days after the travel trailer or camper is first purchased or brought into this state, whichever is later. No additional tax shall be imposed under this chapter upon any travel trailer or camper upon the transfer of ownership thereof, if the tax imposed by this chapter with respect to such travel trailer or camper has already been paid for the registration year or fractional part thereof in which such transfer occurs. [1975 1st ex.s. c 118 § 15; 1971 ex.s. c 299 § 55.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Effective date—1971 ex.s. c 299: See RCW 82.50.901(3).

Severability—1971 ex.s. c 299: See note following RCW 82.04.050.

82.50.410 Rate—Minimum payable. (Effective January 1, 1977.) The rate and measure of tax imposed by this chapter for each registration year shall be one percent of the fair market value of the travel trailer or camper, as determined in the manner provided in this chapter: *Provided*, That the excise tax upon a travel trailer or camper used for the first time in this state after the last day of any registration month shall only be levied for the remaining months of the registration year including the month in which the travel trailer or camper is first used: *Provided further*, That the minimum amount of tax payable shall be two dollars.

A travel trailer or camper shall be deemed used for the first time in this state when such vehicle was not previously licensed by this state for the registration year or any part thereof immediately preceding the registration year in which application for license is made. [1975 1st ex.s. c 118 § 16; 1972 ex.s. c 144 § 2; 1971 ex.s. c 299 § 56.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

82.50.440 Tax receipt—Records. The county auditor or the department of motor vehicles upon payment of the tax hereunder shall issue a receipt which shall include such information as may be required by the director, including the name of the taxpayer and a description of the travel trailer or camper, which receipt shall be printed by the department of motor vehicles in such form as it deems proper and furnished by the department to the various county auditors of the state. The county auditor shall keep a record of the excise taxes paid hereunder during the calendar year. [1975 1st ex.s. c 9 § 2; 1971 ex.s. c 299 § 59.]

82.50.460 Notice of amount of tax payable, contents—Notice of delinquency—Request for distraint. (Effective January 1, 1977.) Prior to the end of any registration year of a vehicle, the director shall cause to be mailed to the owners of travel trailers or campers, of record, notice of the amount of tax payable during the succeeding registration year. Said notice shall contain a legal description of the travel trailer or camper, prominent notice of penalties, due dates, and such other information as may be required by the director. If payment is not made prior to the beginning of the registration year, the director may forward a notification of delinquency to the county sheriff of the county wherein the travel trailer or camper is located, requesting distraint of said travel trailer or camper. [1975 1st ex.s. c 118 § 17; 1971 ex.s. c 299 § 61.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

82.50.471 Late payments—Interest charge—Waiver—Lien. If any excise tax due hereunder is not paid when due and payable, the unpaid tax shall bear interest at the rate of six percent per annum from the time such tax is due and payable: *Provided*, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars: *And provided further*, The director may waive the interest on the unpaid excise tax when the interest exceeds five dollars and the department of motor vehicles determines that the cost of processing the collection of the interest exceeds the amount of interest due.

The tax hereunder shall be a specific lien on the travel trailer or camper from and after the date it first becomes due hereunder, and shall include all charges authorized by this chapter, which lien shall have priority to and be fully paid and satisfied before any recognition, mortgage, judgment, debt, obligation or responsibility to or with which the travel trailer or camper may become charged or liable, after July 1, 1975, and no sale or transfer of any travel trailer or camper shall in any way affect the lien for such excise tax upon the travel trailer or camper. [1975 1st ex.s. c 9 § 3.]

Reviser's note: Section 3, chapter 9, Laws of 1975 1st ex.s. was enacted as a new section and did not contain a clause expressly amending any existing section of the law. The section has accordingly been codified as RCW 82.50.471. Note however, that the title to the act [1975 1st ex.s. c 9] expressed an intention to amend RCW 82.50.470.

Title 83 INHERITANCE AND GIFT TAXES

Chapters

- 83.04** Property and persons subject to inheritance tax—Lien.
- 83.05** Transfers by power of appointment.
- 83.12** Alien estates and reciprocity with other states.
- 83.14** Settlement of death tax disputes with other states.
- 83.16** Valuations, credits, and exemptions.
- 83.24** Determination of tax without probate.
- 83.28** Procedure to fix tax on estate.
- 83.32** Procedure to fix tax on property previously transferred.
- 83.36** Department of revenue's powers.
- 83.44** Payment of inheritance tax—Enforcement—Compromise.
- 83.48** Quieting title against tax liability.
- 83.56** Gift taxes.
- 83.60** Gifts of powers of appointment.

Chapter 83.04 PROPERTY AND PERSONS SUBJECT TO INHERITANCE TAX—LIEN

Sections

- 83.04.023 Lien of tax.

83.04.023 Lien of tax. Unless the tax is sooner paid in full, it shall be a lien upon the gross estate of the decedent for ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the department of revenue is satisfied that the tax liability of an estate has been fully discharged or provided for, it may, under regulations prescribed by it, issue its certificate, releasing any or all property of such estate from the lien herein imposed. The limitation period shall in each case be extended for a period of time equal to the period of pendency of litigation of questions affecting the determination of the amount of tax due, provided a lis pendens has been filed with the county auditor.

Any part of the gross estate as is sold, pursuant to an order of the court for the payment of charges against the estate and the expenses of its administration, shall be divested of such lien and such lien shall be transferred to the proceeds. A mortgage on property pursuant to an order of court for payment of charges against the estate and expenses of administration shall constitute a lien upon said property prior and superior to the inheritance tax lien which inheritance tax lien shall attach to the proceeds. [1975 1st ex.s. c 278 § 98; 1961 c 292 § 6. Prior: 1961 c 15 § 83.04.010, part; prior: 1949 c 218 § 1, part; 1945 c 184 § 1, part; 1937 c 106 § 1, part; 1935 c 180 § 104, part; 1917 c 146 § 1, part; 1907 c 217 § 1, part; 1901 c 55 § 1, part; Rem. Supp. 1949 § 11201, part. Formerly RCW 83.44.090.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.05

TRANSFERS BY POWER OF APPOINTMENT

Sections

- 83.05.010 Definitions.
 83.05.040 Donee to give notice of exercise, termination of power—Liability for failure.
 83.05.050 Bond or security for payment of tax—Alternatives.
 83.05.060 Refund of excess payment of tentative tax.

83.05.010 Definitions. As used in this chapter:

"Grantor" means any person who creates a power of appointment.

"Donee" means any person given the power to exercise the appointment.

"Property" means any property subject to the power of appointment which is within the jurisdiction of this state.

"Trustee" means any person, including a donee, who holds the property or the title thereto in trust or otherwise.

"Ultimate beneficiary" means any person who becomes entitled to the property through exercise of the power, or by reason of nonexercise of the power, or by reason of renouncement of the power by the donee, or by reason of renouncement or waiver by the person appointed to receive the property.

"Greatest possible tax" means a tentative tax computed on an assumed devolution of the property to an ultimate beneficiary within the limitations of the power who would be taxable at the highest rates provided by the inheritance tax laws of this state.

"Final tax" means the tax determined under the inheritance tax laws of this state when the power is exercised or terminated.

"Department" means the department of revenue of this state. [1975 1st ex.s. c 278 § 99; 1961 c 15 § 83.05.010. Prior: 1951 c 185 § 1. Formerly RCW 83.04.090.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.05.040 Donee to give notice of exercise, termination of power—Liability for failure. Upon the exercise or termination of the power, prior to furnishing the bond or other security for the tax as hereinafter provided, it shall be the duty of the donee to immediately notify the department of revenue thereof, together with the name and address of the ultimate beneficiary and his relationship to the grantor. If the donee fails to so notify the department, which failure results in loss of tax, he shall be liable for such tax. [1975 1st ex.s. c 278 § 100; 1961 c 15 § 83.05.040. Prior: 1951 c 185 § 4. Formerly RCW 83.04.120.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.05.050 Bond or security for payment of tax—Alternatives. Unless the greatest possible tax is paid in full within thirty days after receipt of the property by the trustee or within thirty days after the death of the grantor, whichever occurs last, a surety company bond shall be executed in favor of the state of Washington by the trustee and filed with the department of revenue,

which bond shall be binding on his successors or representatives, in an amount equal to the greatest possible tax, conditioned that upon the exercise or termination of the power the department will be notified and the final tax paid in full: *Provided*, That the trustee may elect to pay a tentative tax based on the probabilities of devolution of the property, and file a bond only for the difference between the tentative tax paid and the greatest possible tax. The department, in its discretion, may accept other adequate security in lieu of any bond or payment of tentative tax. If at any time the department has cause to believe that the bond or security furnished is inadequate to insure payment of the final tax, it may require such further security from the remaining property as it deems necessary. If the trustee fails or refuses to pay such tax, or furnish a bond or adequate security, the greatest possible tax shall immediately become due and payable, and may be enforced against the property by the department through foreclosure proceedings. Any bond executed by the trustee as above provided shall not be released or exonerated without written consent of the department. [1975 1st ex.s. c 278 § 101; 1961 c 15 § 83.05.050. Prior: 1951 c 185 § 5. Formerly RCW 83.04.130.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.05.060 Refund of excess payment of tentative tax. In the event any tentative tax paid as provided heretofore is determined to be in excess of the final tax, a refund for the excess shall be granted by the department of revenue, without interest. [1975 1st ex.s. c 278 § 102; 1961 c 15 § 83.05.060. Prior: 1951 c 185 § 6. Formerly RCW 83.04.140.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.12

ALIEN ESTATES AND RECIPROCITY WITH OTHER STATES

Sections

- 83.12.020 Exemptions prorated.

83.12.020 Exemptions prorated. Where there is property belonging to decedent both within the state of Washington and without the state of Washington exemptions allowed under the inheritance tax provisions of this title shall be prorated, and that portion allowed in the state of Washington shall be in that proportion that the value of the property within the state of Washington bears to all the property within and without the state of Washington. In order to secure an exemption where the property is thus situated, the representative must file with the inheritance tax division of the department of revenue a certified copy of the inventory of all the properties without the state of Washington, and upon his failure so to do, no exemptions will be allowed in this state, whether there is property within this state or without this state. [1975 1st ex.s. c 278 § 103; 1961 c 15 § 83.12.020. Prior: 1939 c 202 § 3(107m); 1935 c 180 § 107(m); RRS § 11202-1m.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

**Chapter 83.14
SETTLEMENT OF DEATH TAX DISPUTES WITH
OTHER STATES**

Sections	
83.14.010	Definitions.
83.14.030	Agreement for amount in full payment.
83.14.040	Board of arbitration—Powers and duties—Procedure—Compensation—Expenses.
83.14.050	Agreement for amount in full payment after proceedings commenced—Assessments—Additional amounts due.

83.14.010 Definitions. For the purposes of this chapter:

(1) "Executor" means an executor of a will or administrator of the estate of the decedent, but does not include an ancillary administrator nor an administrator with the will annexed if an executor named in the will has been appointed and has qualified in another state.

(2) "Taxing official" means the state department of revenue and the designated authority of a reciprocal state charged with the duty of collecting its death taxes.

(3) "Death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax", "transfer tax", "succession tax", "estate tax", "death duty", "death dues", or otherwise.

(4) "Interested person" means any person who may be entitled to receive or who has received any property or interest which may be required to be considered in computing the death taxes of any state involved in the dispute.

(5) "State" means the District of Columbia and any state, territory or possession of the United States.

(6) "This state" means the state of Washington.

(7) "Board" means board of arbitration. [1975 1st ex.s. c 278 § 104; 1961 c 15 § 83.14.010. Prior: 1959 c 46 § 1.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.14.030 Agreement for amount in full payment. In any case in which an election is made and not rejected, as provided in RCW 83.14.020, the state department of revenue may enter into a written agreement with the other taxing officials involved and with the executor to accept a sum certain in full payment of any death taxes, together with interest and penalties, which may be due this state, provided the agreement fixes the amount of death taxes with interest and penalties to be paid to the other states involved in the dispute. [1975 1st ex.s. c 278 § 105; 1961 c 15 § 83.14.030. Prior: 1959 c 46 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.14.040 Board of arbitration—Powers and duties—Procedure—Compensation—Expenses.

When it appears by the written admission of the executor and the tax official of each state involved in the dispute that an agreement contemplated in RCW 83.14.030 cannot be reached or, in all events, if one year has elapsed from the date of the election without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

(1) When this state and one other state only are involved in the dispute, the state department of revenue and the taxing official of the other state shall each appoint a member of a board of arbitration and those members shall appoint the third member of the board. If this state and more than one other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in three states not involved in the dispute and each of these authorities shall appoint one member of the board of arbitration. The board shall select one of its members as chairman.

(2) The board shall hold hearings at such places as it deems necessary, upon reasonable notice to the executor, ancillary administrators, all interested persons and the taxing officials of the state involved, all of whom are entitled to be heard.

(3) The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents and issue commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena of the board may be punished by any court of record in the same manner as if the subpoena had been issued by such court.

(4) Whenever practicable the board shall apply the rules of evidence then prevailing in the federal courts under the federal rules of civil procedure.

(5) The board, by the decision of its majority, shall determine the domicile of the decedent at the time of his death. The decision of the board is final and conclusive and binds this state and all its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purposes. If the board does not render a decision within one year from the time that it is fully constituted, all authority of the board shall cease and the bar to court proceedings set forth in RCW 83.14.020 shall no longer exist.

(6) The decision of the board and the record of its proceeding shall be filed with the authority having jurisdiction to assess death taxes in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess death taxes in each of the other states involved if the decedent had been found to be domiciled therein.

(7) The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among such members, the taxing officials involved, and the executor. If such an agreement cannot be reached, the compensation and expenses shall be determined by such taxing officials and, if they cannot agree,

by the appropriate probate court of the state determined to be the domicile of the decedent. Such amount so determined shall be borne by the decedent's estate and shall be deemed an administration expense thereof. [1975 1st ex.s. c 278 § 106; 1961 c 15 § 83.14.040. Prior: 1959 c 46 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.14.050 Agreement for amount in full payment after proceedings commenced—Assessments—Additional amounts due. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding as provided in RCW 83.14.040, the state department of revenue, at any time prior to the conclusion of such action or proceeding, may in any case enter into a written agreement with the other taxing officials involved and with the executor to accept a sum certain in full payment of any death tax, together with interest and penalties, which may be due this state, provided the agreement fixes the amount of death taxes with interest and penalties to be paid the other states involved in the dispute. Upon the filing of the agreement with the authority which would have jurisdiction to assess the death taxes of this state if the decedent died domiciled in this state, an assessment shall be made as provided in such agreement, and such assessment shall finally and conclusively fix the amount of death taxes due this state. If the aggregate amount payable under such agreement or under an agreement made in accordance with the provisions of RCW 83.14.030 to the states involved in the dispute is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to the state department of revenue of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to the state department of revenue under such agreement bears to such aggregate amount. [1975 1st ex.s. c 278 § 107; 1961 c 15 § 83.14.050. Prior: 1959 c 46 § 5.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.16

VALUATIONS, CREDITS, AND EXEMPTIONS

Sections

- 83.16.020 Estates for life—Vested remainders.
83.16.070 Property previously taxed.

83.16.020 Estates for life—Vested remainders. When the estate of a deceased person is subject to an inheritance tax, and there is an annuity, life estate, or an estate for a term of years given to one or more persons and the remainder to another or others, the entire estate shall be appraised as other estates are required to be appraised by the laws of this state. The value of the annuity, life or term estate shall be determined in accordance with the rules, methods, and standards of mortality and value that are set forth in tables to be

furnished by the insurance commissioner of this state upon request of the department of revenue based upon such mortality tables as is from time to time required by law for use by life insurance companies in this state in determining nonforfeiture values under ordinary life insurance policies, except that the rate of interest used in computing the present value of the annuity, life or term estate shall be three and one-half percent per annum, and the value of the remainder interest shall be determined by deducting such computed value from the value of the entire property. After the values shall have been determined as provided in this section, the tax shall be computed and collected in the same manner that the tax on other estates is computed and collected: *Provided*, That any person owning the beneficial interest in the remainder may defer the payment of the tax thereon until he comes into possession of the same by filing in the office of the county clerk within thirty days after the determination of the tax, a good and sufficient surety company bond to the state, or such other security as is deemed by the department of revenue to be adequate, in a sum equal to the amount of the tax conditioned that he will pay such tax in full within sixty days after coming into possession of the estate. The bond shall not operate to defer payment of the tax unless it is approved by the department of revenue, and if it shall appear to the department at any time that a bond previously filed and approved has become insufficient it may require a new bond to be filed. If the person owning the beneficial interest in the remainder shall fail to file a bond within the time herein provided, or if he shall fail to file a new bond when directed by the department, the tax shall immediately become due and payable. [1975 1st ex.s. c 278 § 108; 1961 c 15 § 83.16.020. Prior: 1953 c 136 § 1; 1939 c 202 § 6, part; 1917 c 146 § 2, part; 1901 c 55 § 8, part; RRS § 11205, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Insurance commissioner to publish tables of average life expectancy, values of annuities, life and term estates: RCW 48.02.160.

83.16.070 Property previously taxed. As used in this section:

"Property" includes property which can be identified as having been acquired in exchange for or with the proceeds of property previously taxed.

"Property previously taxed" means property transferred by a present decedent to any person who is a class A transferee, as defined by the inheritance tax laws of this state, with respect to the present decedent, where the property had previously been transferred to the present decedent by a prior decedent, whose death occurred not more than five years prior to that of the present decedent, and in relation to whom the present decedent was a class A transferee, and where an inheritance tax was paid to this state on such transfer.

There shall be allowed as an exemption in the estate of the present decedent an amount equal to that portion of the property previously taxed which is exclusive of the proportion of deductions chargeable against and any exemption allowed against the property previously

taxed in the estate of the prior decedent and the proportion of deductions chargeable against the property previously taxed in the present decedent's estate, which shall be determined under rules prescribed by the department of revenue. For the purpose of computing such exemption, the value of each item of the property previously taxed shall be the gross value thereof as of the date of death of the prior decedent or as of the date of death of the present decedent, whichever is lower. [1975 1st ex.s. c 278 § 109; 1961 c 15 § 83.16.070. Prior: 1953 c 137 § 1; 1939 c 202 § 2; 1931 c 134 § 4; RRS § 11202a.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.24

DETERMINATION OF TAX WITHOUT PROBATE

Sections

83.24.010 Determination of tax without administration.

83.24.010 Determination of tax without administration. When any person dies leaving property within the jurisdiction of the state of Washington, which shall pass by the statutes of inheritance of this or any other state, or by deed, grant, sale or gift made in contemplation of the death of the grantor or donor, or by deed, grant, sale or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor, to any person in trust or otherwise, and there has been no application for letters of administration of the estate of such deceased person, or when administration of any estate has been completed without an adjudication of the inheritance tax, the liability of such property for the payment of an inheritance tax may be determined without administration in the manner hereinafter provided.

Any person interested in such property may file an affidavit with the inheritance tax division of the department of revenue and request a determination of the questions arising under the inheritance tax provisions of this title. Such affidavit shall contain the name and date of death of decedent, the description and estimated value of all property involved, the names and places of residence of all persons interested in the same, and such other facts as are necessary for a determination of such questions.

Upon the receipt of such affidavit, and after such investigation as is necessary to determine the fair market value of all of the property becoming subject to the inheritance tax laws, the department of revenue through its inheritance tax division shall determine the amount of inheritance tax due, if any.

Where the department of revenue, through its inheritance tax division, has determined that no tax is due, or that the amount of tax as determined has been fully paid, it may issue its release and receipt, but such release shall be only as to the assets of the estate shown and disclosed by such affidavit and supplementary exhibits filed in such proceedings.

In any such case, the department of revenue may compromise such tax and issue a satisfaction therefor,

without probate proceedings, where the necessary facts are furnished and filed by affidavit, but such release shall be only as to the assets of the estate shown and disclosed by such proceedings. [1975 1st ex.s. c 278 § 110; 1961 c 292 § 12; 1961 c 15 § 83.24.010. Prior: 1929 c 205 § 4, part; 1917 c 146 § 5, part; RRS § 11216, part. Formerly RCW 83.24.010 and 83.24.040.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.28

PROCEDURE TO FIX TAX ON ESTATE

Sections

83.28.010 Powers of department of revenue and director.
83.28.020 Examination by department of revenue.

83.28.010 Powers of department of revenue and director. All the powers of a referee of the superior court having jurisdiction of the estate of a decedent shall be vested in the department of revenue and its director shall have jurisdiction to require the attendance before him of the executor or administrator of said estate or any person interested therein or any other person whom he may have reason to believe possesses knowledge of the estate of said decedent or knowledge of any property transferred by said decedent within the meaning of the inheritance tax provisions of this title or knowledge of any facts that will aid the department of revenue or the court in the determination of said tax, but no person shall be required to attend at any place outside of the county in which such decedent resided at the time of his death or in which letters of administration could lawfully issue upon the estate of such decedent. [1975 1st ex.s. c 278 § 111; 1961 c 15 § 83.28.010. Prior: 1939 c 202 § 3(107a); 1935 c 180 § 107(a); RRS § 11202-1a.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.28.020 Examination by department of revenue. For the purpose of compelling the attendance of such person or persons, and for the purpose of appraising any property or interest subject to or liable for any inheritance tax hereunder, and for the purpose of determining the amount of tax due thereon, the department of revenue is hereby authorized to issue subpoenas compelling the attendance of witnesses before said department. The department may examine and take evidence of such witnesses or of such executor or administrator or other person under oath concerning such property and the value thereof, and concerning the property or the estate of such decedent subject to probate. Any person or persons who shall be subpoenaed by the said department to appear and testify or to produce books and papers and who shall refuse and neglect to appear and produce books relative to such appraisal shall be guilty of contempt. [1975 1st ex.s. c 278 § 112; 1961 c 15 § 83.28.020. Prior: 1939 c 202 § 3(107b); 1935 c 180 § 107(b); RRS § 11202-1b.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.32
PROCEDURE TO FIX TAX ON PROPERTY
PREVIOUSLY TRANSFERRED

Sections

83.32.010 Citation by department of revenue.

83.32.010 Citation by department of revenue. If it shall appear that any transfer has been made within the meaning of the inheritance tax provisions of this title, and the taxability thereof and the liability for such tax and the amount thereof have not been determined and that no proceedings are pending in any court in this state wherein the taxability of such transfer and liability therefor and the amount thereof may be determined, the department of revenue shall issue a citation ordering and directing the persons who may appear liable therefor or known to own any interest in or part of the property transferred to appear before the director or other duly authorized agent of the department of revenue in any county in which, under the law, letters of administration could issue upon the estate of the decedent, at a time and place in said citation named not less than ten days nor more than thirty days from the issuance of such citation to be examined under oath by said director of the department of revenue or agent concerning property transferred and the character and value thereof. [1975 1st ex.s. c 278 § 113; 1961 c 15 § 83.32.010. Prior: 1939 c 202 § 3(107h); 1935 c 180 § 107(h); RRS § 11202-1h.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.36
DEPARTMENT OF REVENUE'S POWERS

Sections

83.36.010 Powers in general.
 83.36.020 Examination of books and documents—Secrecy enjoined—Penalty.
 83.36.030 Access to books and records.
 83.36.040 List of heirs.
 83.36.050 Copies of reports and papers by fiduciaries.
 83.36.060 Notice of transfer of real estate by trustees, executors and administrators.

83.36.010 Powers in general. The department of revenue shall take charge of and exercise general supervision of the enforcement and collection of the direct and collateral inheritance taxes under this title, and in the discharge of such duty the department of revenue may institute and prosecute such suits or proceedings in the courts of the state as may be necessary and proper, appearing therein for such purpose; and it shall be the duty of the several prosecuting attorneys to render assistance therein when called upon by the department of revenue so to do.

The department of revenue shall make and publish rules and regulations not inconsistent with the inheritance tax provisions of this title, necessary in enforcing its provisions, which rules and regulations shall have the same force and effect as if specifically included herein, unless declared invalid by the judgment of a court of record not appealed from.

[1975 RCW Supp—p 652]

The department of revenue shall keep a record in which shall be entered memoranda of all the proceedings had in each case, and shall also keep an itemized account showing the amount of such taxes collected, in detail, charging the state treasurer therewith. [1975 1st ex.s. c 278 § 114; 1961 c 15 § 83.36.010. Prior: (i) 1939 c 206 § 5, part, subdivision Third; 1935 c 127 § 1, part, subdivision Third; 1923 c 170 § 1; 1921 c 7 § 50; 1907 c 220 § 1, part, subdivision Third; 1905 c 115 § 2, part, subdivision Third; RRS § 11091 (second), part. (ii) 1945 c 184 § 5, part; 1935 c 180 § 111, part; 1907 c 217 § 10, part; Rem. Supp. 1945 § 11217, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.36.020 Examination of books and documents—Secrecy enjoined—Penalty. Whenever the department of revenue shall have reasonable cause to believe that a tax is due under the inheritance tax provisions of this title, upon any transfer of any property, and that any person, firm, institution, company, association or corporation has possession, custody or control of any books, accounts, papers, or documents relating to or evidencing such transfer, the department of revenue or his duly authorized agent, is hereby authorized and empowered to inspect the books, records, accounts, papers and documents of any such person, firm, institution, company, association or corporation, including the stock transfer book of any corporation, and to administer oaths to and examine any such person or any officer or agent of such firm, institution, company, association or corporation, for the purpose of acquiring any information deemed necessary or desirable by said director or his assistants, for the proper enforcement of the inheritance tax provisions of this title, and for the collection of the full amount of the tax which may be due the state hereunder. Any and all information and records acquired by said director, or his assistants, shall be deemed and held by said director and said director's assistants and each of them, as confidential, and shall not be divulged, disclosed or made known by them or any of them except insofar as may be necessary for the enforcement of the provisions of the inheritance tax provisions of this title. Any director of the department of revenue or assistant director of the department of revenue, or ex-director or ex-assistant director, or inheritance tax attorney, or ex-inheritance tax attorney, or assistant inheritance tax attorney, or ex-assistant inheritance tax attorney, who shall divulge, disclose, or make known any information acquired by such inspection and examination aforesaid, except insofar as the same may be necessary for the enforcement of the provisions of the inheritance tax provisions of this title, shall be guilty of a gross misdemeanor. [1975 1st ex.s. c 278 § 115; 1961 c 15 § 83.36.020. Prior: 1939 c 202 § 3(107r); 1935 c 180 § 107(r); RRS § 11202-1r.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.36.030 Access to books and records. An officer or agent of any firm, institution, company, association or corporation having or keeping an office within this

state, who has in his custody or under his control any book, record, account, paper or document of such firm, institution, company, association or corporation, and any person having in his custody or under his control such book, record, account, paper or document who refuses to give to the department of revenue, or said inheritance tax attorney, or any of said assistant inheritance tax attorneys, lawfully demanding as provided in this section, during office hours to inspect or take a copy of the same, or any part thereof, for the purposes provided in RCW 83.36.020, a reasonable opportunity so to do, shall be liable to a penalty of not less than one thousand dollars nor more than twenty thousand dollars, and in addition thereto shall be liable for the amount of the taxes, interest and penalties due under the inheritance tax provisions of this title on such transfer, and the said penalties and liabilities for the violation of this section may be enforced in an action brought by the department of revenue in any court of competent jurisdiction. [1975 1st ex.s. c 278 § 116; 1961 c 15 § 83.36.030. Prior: 1939 c 202 § 3(107s); 1935 c 180 § 107(s); RRS § 11202-1s.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.36.040 List of heirs. Upon the filing of any petition for letters of administration or for the probate of any will, the petitioner shall file with the clerk of the court a statement in such form as the department of revenue may prescribe, which statement shall contain a list of heirs, legatees or devisees of said estate, if known, and the relationship which each bears to the decedent, together with a statement of the location, nature and probable value of the entire estate, and an estimate of the amount or value of each distributive share, the residence and date of death of decedent, and shall state whether such deceased died testate or intestate, and the clerk of the court shall not accept such petition for filing unless the same is accompanied by such statement. The clerk of the court shall immediately forward such statement to the department of revenue. [1975 1st ex.s. c 278 § 117; 1961 c 15 § 83.36.040. Prior: 1919 c 29 § 1; 1907 c 217 § 13; 1905 c 114 § 2; 1901 c 55 § 15; RRS § 11213.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.36.050 Copies of reports and papers by fiduciaries. Administrators, executors and trustees of the estates subject to the inheritance tax shall, when demanded by the department of revenue, send certified copies of such parts of their reports as may be demanded by it, and upon refusal of said parties to comply with such demand, it is the duty of the clerk of the court to furnish such copies, and the expense of making the same shall be charged against the estate as are other costs in probate, and such administrator, executor, or trustee, shall also upon request of the department of revenue, furnish copies of all deeds, mortgages, trust agreements, insurance policies, and other instruments in writing that within his judgment are necessary for the determination of the inheritance taxes due the state of Washington,

and shall also furnish to the department of revenue an inheritance tax report in such form as prescribed by the department of revenue, listing under oath the debts and expenses of administration which are allowable as deductions, and including such other information under oath, concerning the inheritance tax liability of the estate as may be required. [1975 1st ex.s. c 278 § 118; 1961 c 15 § 83.36.050. Prior: 1945 c 184 § 5, part; 1935 c 180 § 111, part; 1907 c 217 § 10, part; 1901 c 55 § 18, part; Rem. Supp. 1945 § 11217, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.36.060 Notice of transfer of real estate by trustees, executors and administrators. Whenever any of the real estate of which any decedent may die seized shall pass to any body politic or corporate, or to any person or persons, or in trust for them, or some of them, it shall be the duty of the executor, administrator, or trustee of said decedent to give information thereof in writing to the department of revenue within three months after they undertake the execution of their expected duties, or if the fact be not known to them within that period, then within three months after the same shall have come to their knowledge. [1975 1st ex.s. c 278 § 119; 1961 c 15 § 83.36.060. Prior: 1935 c 180 § 121; RRS § 11211c.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.44 PAYMENT OF INHERITANCE TAX— ENFORCEMENT—COMPROMISE

Sections

83.44.030	Tax on corporate stock—How paid.
83.44.040	Devise or bequest to fiduciary in lieu of commission— Excess liable to tax.
83.44.050	When legatee or devisee must pay tax—Lien.
83.44.070	Compromise when liability doubtful.

83.44.030 Tax on corporate stock—How paid. If a foreign executor, administrator or trustee shall assign any corporate stock, or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to such tax, the tax shall be paid to the state treasurer on or before the transfer thereof, otherwise, the corporation permitting its stock to be so transferred on its books shall be liable to pay such tax. No safe deposit company, bank or other institution, person or persons, holding any securities, property or assets of any nonresident decedent, shall deliver or transfer the same to any nonresident executor, administrator or representative of such decedent, until after a notice in writing of the time and place of such transfer shall have been duly given the department of revenue at least ten days prior thereto, and the tax imposed by the inheritance tax provisions of this title paid thereon, and every such safe deposit company, bank or other institution, person or persons, shall be liable for the payment of such tax. [1975 1st ex.s. c 278 § 120; 1961 c 15 § 83.44.030. Prior: 1907 c 217 § 8; 1901 c 55 § 14; RRS § 11212.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.44.040 Devise or bequest to fiduciary in lieu of commission—Excess liable to tax. Whenever a decedent appoints one or more executors or trustees and in lieu of their allowance or commission, makes a bequest or devise of property to them which would otherwise be liable to said tax, or appoints them his residuary legatees, and said bequests, devises, or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to such tax, and the court having jurisdiction of their accounts, upon its own motion, or on the application of the department of revenue, shall fix such compensation. [1975 1st ex.s. c 278 § 121; 1961 c 15 § 83.44.040. Prior: 1907 c 217 § 5; 1901 c 55 § 9; RRS § 12207.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.44.050 When legatee or devisee must pay tax—Lien. Whenever any legacies subject to said tax are charged upon or payable out of any real estate, the heir or devisee, before paying the legacies, shall deduct said tax therefrom and pay it to the executor, administrator, trustee or state treasurer, and the same shall remain a charge and be a lien upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator, trustee or department of revenue, in the same manner as the payment of the legacy itself could be enforced. [1975 1st ex.s. c 278 § 122; 1961 c 15 § 83.44.050. Prior: 1907 c 217 § 6; 1901 c 55 § 10; RRS § 11208.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.44.070 Compromise when liability doubtful. Whenever an estate charged, or sought to be charged with the inheritance tax, is of such a nature, or is so disposed, that the liability of the estate is doubtful, or the value thereof cannot, with reasonable certainty, be ascertained under the provisions of law, the department of revenue may compromise with the beneficiaries or representatives of such estates, and compound the tax thereon; but said settlement must be approved by the superior court having jurisdiction of the estate, and after such approval, the payment of the amount of the taxes so agreed upon shall discharge the lien against the property of the estate. [1975 1st ex.s. c 278 § 123; 1961 c 15 § 83.44.070. Prior: 1907 c 217 § 9; 1901 c 55 § 17; RRS § 11215.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.48

QUIETING TITLE AGAINST TAX LIABILITY

Sections

83.48.010 Actions authorized—Procedure.

[1975 RCW Supp—p 654]

83.48.010 Actions authorized—Procedure. Actions may be brought against the state by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under the inheritance tax provisions of this title, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under the inheritance tax provisions of this title. No such action shall be maintained where any proceedings are pending in any court or before the department of revenue or the director thereof in this state wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the state in said action shall be served upon the department of revenue by delivering a copy thereof to the director.

Upon the filing of the complaint the court shall enter an order directing the department of revenue to hear said matter and to report to the court thereon, and shall direct notice of such time and place to be given for such hearing as the court shall deem proper, and shall refer said matter to said department, which shall have all of the powers of a referee of said court, including the powers prescribed in RCW 83.28.020. The procedure subsequent to said reference to said department shall conform to the provisions of RCW 83.28.030, 83.28.040, 83.28.050, 83.28.060 and 83.28.070. Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of the inheritance tax provisions of this title, the court shall grant affirmative relief to the state in said action and judgment shall be rendered therein in favor of the state, ascertaining and determining the amount of said tax and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor. If the court shall determine that such property or estate is not liable to be charged with any tax under the provisions of the inheritance tax provisions of this title, it shall enter its decree quieting title to such property against any and all such taxes, and discharging such person or persons from liability therefor. [1975 1st ex.s. c 278 § 124; 1961 c 15 § 83.48.010. Prior: 1939 c 202 § 3(107k); 1935 c 180 § 107(k); RRS § 11202-1k. Formerly RCW 83.48.010, 83.48.020, 83.48.030 and 83.48.040.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.56 GIFT TAXES

Sections

83.56.080 Valuation of property other than money.
83.56.090 Returns—Date of filing.
83.56.100 Donor to keep records and make returns.
83.56.110 Payment of tax—Disposition of revenue.
83.56.130 Recordation of certificate of nonpayment attaches lien to realty.
83.56.140 Release of lien.
83.56.150 Determination of correct tax.
83.56.170 Interest on deficiency assessments.

- 83.56.180 Jeopardy assessment.
- 83.56.200 Time limited for making assessment.
- 83.56.210 Suspension of statute of limitations.
- 83.56.220 Interest on delinquent taxes.
- 83.56.240 Credit or refund for overpayment—Claim—Time limit.
- 83.56.250 Liability of transferee or fiduciary—Statute of limitations—Injunctions prohibited.
- 83.56.270 Powers and duties of fiduciary.
- 83.56.280 Civil penalty for failure to file return.
- 83.56.310 Rules and regulations.
- 83.56.320 Compromise or waiver of interest assessed.

83.56.080 Valuation of property other than money. If the gift is made in property other than money, the amount thereof shall be its true and fair value in money, less any encumbrance thereon at the time such gift is made, and such value shall be determined by the department of revenue, and any party in interest may, within thirty days, appeal to the superior court from such determination. If the gift is made by transfer of property in trust or otherwise and constitutes a present or future interest less than a fee simple interest therein, the value thereof shall be computed in the same manner as provided by statute for the determination of inheritance taxes on like interests at the time the gift is made. [1975 1st ex.s. c 278 § 125; 1961 c 15 § 83.56.080. Prior: 1941 c 119 § 6; Rem. Supp. 1941 § 11218-16.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.090 Returns—Date of filing. Any individual who within any calendar year makes any transfers by gift (except those which are not to be included in the total amount of gifts for such year) shall make a return under oath which shall set forth such information as is required by the department of revenue.

The return shall be filed with the department of revenue of the state of Washington on or before the fifteenth day of April following the close of the calendar year in which the gift is made. [1975 1st ex.s. c 278 § 126; 1961 c 15 § 83.56.090. Prior: 1957 c 285 § 3; 1941 c 119 § 7; Rem. Supp. 1941 § 11218-17.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.100 Donor to keep records and make returns.

(1) Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the department of revenue may from time to time prescribe;

(2) Whenever it is necessary in the judgment of the department of revenue it may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the department of revenue deems sufficient to show whether or not such person is liable to tax under this chapter. [1975 1st ex.s. c 278 § 127; 1961 c 15 § 83.56.100. Prior: 1941 c 119 § 8; Rem. Supp. 1941 § 11218-18.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.110 Payment of tax—Disposition of revenue.

The tax imposed by this chapter shall be paid by the donor to the department of revenue on or before the fifteenth day of April following the close of the calendar year in which the gift is made.

All moneys paid to the department of revenue under this chapter shall forthwith be transmitted to the state treasurer and credited to the general fund. [1975 1st ex.s. c 278 § 128; 1961 c 15 § 83.56.110. Prior: 1957 c 285 § 4; 1941 c 119 § 9; Rem. Supp. 1941 § 11218-19.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.130 Recordation of certificate of nonpayment attaches lien to realty. In any case in which any tax, interest, or penalty imposed by this chapter is not paid when due, the department of revenue may file for record in the office of the county auditor of any county a certificate giving the name of the donor and the donee or either of them and the amount of taxes, interest and penalties due. From the time of the recording of any such certificate the amount of the tax, interest and penalties therein set forth shall constitute a lien upon any real property then owned or thereafter acquired by any donor or donee named in such certificate located in the county in which said certificate is recorded, which lien shall have the same force, effect and priority as a lien created by the recording of a judgment. Said lien shall continue, however, for ten years after the time the tax becomes delinquent or until the tax is paid, the property sold for the nonpayment thereof until the lien is released or otherwise extinguished. [1975 1st ex.s. c 278 § 129; 1961 c 15 § 83.56.130. Prior: 1941 c 119 § 10a; Rem. Supp. 1941 § 11218-21.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.140 Release of lien. If the department of revenue is satisfied that the gift tax liability of any person has been provided for or will be provided for or that no gift tax liability exists, it may issue its certificate releasing any property of such person from the lien imposed by this chapter. [1975 1st ex.s. c 278 § 130; 1961 c 15 § 83.56.140. Prior: 1941 c 119 § 10b; Rem. Supp. 1941 § 11218-22.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.150 Determination of correct tax. As soon as practicable after the return is filed the department of revenue shall examine it and shall determine the correct amount of the tax. [1975 1st ex.s. c 278 § 131; 1961 c 15 § 83.56.150. Prior: 1941 c 119 § 11; Rem. Supp. 1941 § 11218-23.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.170 Interest on deficiency assessments. Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the department of revenue, and shall be collected as a part of the tax, at

the rate of six percent per annum from the due date of the tax to the date the deficiency is assessed, or, in case of waiver under RCW 83.56.160(4), to the thirtieth day after the filing of such waiver or the date the deficiency is assessed, whichever is the earlier. [1975 1st ex.s. c 278 § 132; 1961 c 15 § 83.56.170. Prior: 1941 c 119 § 21; Rem. Supp. 1941 § 11218-33.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.180 Jeopardy assessment. (1) If the department of revenue believes that the assessment or collection of a deficiency will be jeopardized by delay, it shall immediately assess such deficiency (together with all interest, additional amounts or additions to the tax provided for by law) and notice and demand shall be made by the department of revenue for the payment thereof;

(2) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed, then the department of revenue shall mail a notice within sixty days after the making of the assessment;

(3) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of this chapter prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the superior court;

(4) When a jeopardy assessment has been made, the donor, within ten days after notice and demand for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the department of revenue a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the department of revenue deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the superior court which has become final, together with interest thereon as provided herein;

(5) If the bond is given before the donor has filed his petition with the superior court the bond shall contain a further condition that if a petition is not filed within the period provided in this chapter, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of six percent per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection;

(6) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the department of revenue determines that the amount assessed is greater than the amount which should have been assessed then when the decision of the superior court is

rendered the bond shall, at the request of the donor, be proportionately reduced;

(7) When the petition has been filed with the superior court and when the amount which should have been assessed has been determined by a decision of the court which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the department of revenue, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded by the state of Washington. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the department of revenue. [1975 1st ex.s. c 278 § 133; 1961 c 15 § 83.56.180. Prior: 1941 c 119 § 14; Rem. Supp. 1941 § 11218-26.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.200 Time limited for making assessment. (1) Except as otherwise herein provided, the amount of taxes imposed by this chapter shall be assessed within one year after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed;

(2) In the case of false or fraudulent return with intent to evade tax or of failure to file return the tax may be assessed or a proceeding in court for the collection of such tax may be begun without assessment at any time;

(3) Where the assessment of any tax imposed by this chapter has been made within the statutory period of limitation properly applicable thereto such tax may be collected by distraint or by a proceeding in court, but only if begun (a) within six years after the assessment of the tax, or (b) prior to the expiration of any period for collection agreed upon in writing by the department of revenue and the donor. [1975 1st ex.s. c 278 § 134; 1961 c 15 § 83.56.200. Prior: 1941 c 119 § 16; Rem. Supp. 1941 § 11218-27.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.210 Suspension of statute of limitations. The running of the statute of limitations provided herein on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of notice) be suspended for the period during which the department of revenue is prohibited from making the assessment or beginning distraint or a proceeding in court, and for sixty days thereafter. [1975 1st ex.s. c 278 § 135; 1961 c 15 § 83.56.210. Prior: 1941 c 119 § 17; Rem. Supp. 1941 § 11218-29.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.220 Interest on delinquent taxes. (1) Where the amount determined by the donor as the tax imposed by this chapter, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest, upon the unpaid amount at the rate of one percent per month from the due date until it is paid;

(2) Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under RCW 83.56.230(1), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in subsection (1) of this section, interest at the rate of one percent per month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid;

(3) Where a deficiency, or any interest assessed in connection therewith under RCW 83.56.170 or any addition to the tax provided for in this chapter, is not paid in full within ten days from the date of notice and demand from the department of revenue, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one percent a month from the date of such notice and demand until it is paid;

(4) If a bond is filed, as provided in RCW 83.56.180, the provisions of subsection (1) of this section shall not apply to the amount covered by the bond;

(5) If the part of the deficiency, the time for payment of which is extended as provided in RCW 83.56.160(9) is not paid in accordance with the terms of the extensions, there shall be collected, as a part of the tax, interest on such amount at the rate of one percent per month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period;

(6) If the amount included in the notice and demand from the department of revenue under RCW 83.56.180(7) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of one percent a month from the date of such notice and demand until it is paid. [1975 1st ex.s. c 278 § 136; 1961 c 15 § 83.56.220. Prior: 1941 c 119 § 23; Rem. Supp. 1941 § 11218-35.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.240 Credit or refund for overpayment—Claim—Time limit. (1) Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded by the state of Washington to the taxpayer;

(2) Limitation on allowance. (a) No such credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer; (b) The amount of the credit or refund shall not exceed

the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund;

(3) If the department of revenue has mailed to the taxpayer a notice of deficiency under RCW 83.56.160(1) and if the taxpayer files a petition with the superior court within the time prescribed in such section, no credit or refund in respect of the tax for the calendar year in respect of which the department of revenue has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovering of any part of such tax shall be instituted in any court except: (a) As to the overpayments determined by a decision of the court which has become final; and (b) as to any amount collected in excess of an amount computed in accordance with the decision of the court which has become final; and (c) as to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive;

(4) If the court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the department of revenue determined the deficiency, the court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the court has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition, whichever is earlier. [1975 1st ex.s. c 278 § 137; 1961 c 15 § 83.56.240. Prior: 1941 c 119 § 27; Rem. Supp. 1941 § 11218-39.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.250 Liability of transferee or fiduciary—Statute of limitations—Injunctions prohibited. (1) The amount of the following liabilities shall, except as hereinafter provided, be assessed, collected and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this chapter (including the provisions in case of a delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(a) The liability, at law or in equity, of a transferee of property of a donor, in respect to the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this chapter;

(b) The liability of a fiduciary in respect of the payment of any such tax from the estate of the donor;

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax;

(2) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(a) Within one year after the expiration of the period of limitation for assessment against the donor;

(b) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (a), then within one year after return of execution in such proceedings;

(3) For the purpose of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred;

(4) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after mailing of the notice under RCW 83.56.160(1) to the transferee or fiduciary, be suspended for the period during which the department of revenue is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the superior court, until the decision of the court becomes final, and for sixty days thereafter);

(5) No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (a) the amount of the liability, at law or in equity of a transferee of property of a donor in respect of any gift tax, or (b) the amount of the liability of a fiduciary under this chapter, in respect of any such tax;

(6) As used in this section, the term "transferee" includes donee, heir, legatee, devisee, and distributee;

(7) In the absence of notice to the department of revenue under RCW 83.56.270(2) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this chapter, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this chapter even if such person is deceased, or is under legal disability, or, in the case of a corporation, has terminated its existence. [1975 1st ex.s. c 278 § 138; 1961 c 15 § 83.56.250. Prior: 1941 c 119 § 25; Rem. Supp. 1941 § 11218-37. Formerly RCW 83.56.250 and 83.56.260.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.270 Powers and duties of fiduciary. (1) Upon notice to the department of revenue that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties and privileges of the donor in respect of a tax imposed by this chapter (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated;

(2) Upon notice to the department of revenue that any person is acting in a fiduciary capacity for a person subject to the liability of the tax imposed under this chapter, the said fiduciary shall assume on behalf of such person, the powers, rights, duties, and all the privileges of such person (except, however, that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated;

[1975 RCW Supp—p 658]

(3) Notice shall be given in accordance with the regulations prescribed by the department of revenue. [1975 1st ex.s. c 278 § 139; 1961 c 15 § 83.56.270. Prior: 1941 c 119 § 26; Rem. Supp. 1941 § 11218-38.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.280 Civil penalty for failure to file return. In case of any failure to make and file a return required by this chapter, within the time prescribed by law or by the department of revenue in pursuance of law, twenty-five percent of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was not due to wilful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. [1975 1st ex.s. c 278 § 140; 1961 c 15 § 83.56.280. Prior: 1941 c 119 § 18; Rem. Supp. 1941 § 11218-30.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.310 Rules and regulations. The department of revenue shall prescribe and publish all needful rules and regulations for the enforcement of this chapter. [1975 1st ex.s. c 278 § 141; 1961 c 15 § 83.56.310. Prior: 1941 c 119 § 28; Rem. Supp. 1941 § 11218-40.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.56.320 Compromise or waiver of interest assessed. The department of revenue may, for good cause shown, compromise or waive any interest assessed under the provisions of this chapter. [1975 1st ex.s. c 278 § 142; 1961 c 15 § 83.56.320. Prior: 1955 c 119 § 1.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 83.60

GIFTS OF POWERS OF APPOINTMENT

Sections

83.60.010	Definitions.
83.60.040	Donee to give notice of exercise, termination of power—Liability for failure.
83.60.050	Bond or security for payment of tax—Alternatives.
83.60.060	Refund of excess payment of tentative tax.

83.60.010 Definitions. As used in this chapter:

"Donor" means any person who creates a power of appointment.

"Donee" means any person given the power to exercise the appointment.

"Property" means any property subject to the power of appointment which is within the jurisdiction of this state.

"Trustee" means any person, including a donee, who holds the property or the title thereto in trust or otherwise.

"Ultimate beneficiary" means any person who becomes entitled to the property through exercise of the power, or by reason of nonexercise of the power, or by reason of renouncement of the power by the donee, or by reason of renouncement or waiver by the person appointed to receive the property.

"Greatest possible tax" means a tentative tax computed on an assumed devolution of the property to an ultimate beneficiary within the limitations of the power, who would be taxable at the highest rates provided by the gift tax laws of this state.

"Final tax" means the tax determined under the gift tax laws of this state when the power is exercised or terminated.

"Due date" means the fifteenth day of March following the close of the calendar year in which any gift is made.

"Department" means the department of revenue of this state. [1975 1st ex.s. c 278 § 143; 1961 c 15 § 83.60.010. Prior: 1951 c 185 § 10. Formerly RCW 83.56.031.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.60.040 Donee to give notice of exercise, termination of power—Liability for failure. Upon the exercise or termination of the power, prior to furnishing the bond or other security for the tax as hereinafter provided, it shall be the duty of the donee to immediately notify the department of revenue thereof, together with the name and address of the ultimate beneficiary and his relationship to the donor. If the donee fails to so notify the department of revenue, which failure results in loss of tax, he shall be liable for such tax. [1975 1st ex.s. c 278 § 144; 1961 c 15 § 83.60.040. Prior: 1951 c 185 § 13. Formerly RCW 83.56.034.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.60.050 Bond or security for payment of tax—Alternatives. Unless the greatest possible tax is paid in full on or before the due date, a surety company bond shall be executed in favor of the state of Washington by the trustee and filed with the department of revenue, which bond shall be binding on his successors or representatives in an amount equal to the greatest possible tax, conditioned that upon the exercise or termination of the power the department of revenue will be notified and the final tax paid in full: *Provided*, That the trustee may elect to pay a tentative tax based on the probabilities of devolution of the property, and file a bond only for the difference between the tentative tax paid and the greatest possible tax. The department, in its discretion, may accept other adequate security in lieu of any bond or payment of tax. If at any time the department has cause to believe that the bond or security furnished is inadequate to insure payment of the final tax, it may require such further security from the remaining property as it deems necessary. If the trustee fails or refuses to pay such tax, or furnish a bond or adequate security, the greatest possible tax shall immediately become due and payable, and may be enforced against the property

by the department of revenue through foreclosure proceedings. Any bond executed by the trustee as above provided shall not be released or exonerated without written consent of the department of revenue. [1975 1st ex.s. c 278 § 145; 1961 c 15 § 83.60.050. Prior: 1951 c 185 § 14. Formerly RCW 83.56.035.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

83.60.060 Refund of excess payment of tentative tax. In the event any tentative tax paid as provided heretofore is determined to be in excess of the final tax, a refund for the excess shall be granted by the department of revenue, without interest. [1975 1st ex.s. c 278 § 146; 1961 c 15 § 83.60.060. Prior: 1951 c 185 § 15. Formerly RCW 83.56.036.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Title 84 PROPERTY TAXES

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Chapter 84.08 GENERAL POWERS AND DUTIES OF DEPARTMENT OF REVENUE

Sections

- 84.08.010 Powers of department of revenue—General supervision—Rules and processes—Visitation of counties.
- 84.08.020 Additional powers—To advise county and local officers—Books and blanks—Reports.
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 84.08.130 Appeals from county board of equalization to board of tax appeals.
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 84.08.190 Assessors to meet with department of revenue.

84.08.010 Powers of department of revenue—General supervision—Rules and processes—Visitation of counties. The department of revenue shall:

(1) Exercise general supervision and control over the administration of the assessment and tax laws of the state, over county assessors, and county boards of equalization, and over boards of county commissioners, county treasurers and county auditors and all other county officers, in the performance of their duties relating to taxation, and perform any act or give any order or direction to any county board of equalization or to any county assessor or to any other county officer as to the valuation of any property, or class or classes of property in any county, township, city or town, or as to any other matter relating to the administration of the assessment and taxation laws of the state, which, in the department's judgment may seem just and necessary, to the end that all taxable property in this state shall be listed upon the assessment rolls and valued and assessed according to the provisions of law, and equalized between persons, firms, companies and corporations, and between the different counties of this state, and between the different taxing units and townships, so that equality of taxation and uniformity of administration shall be secured and all taxes shall be collected according to the provisions of law.

(2) Formulate such rules and processes for the assessment of both real and personal property for purposes of taxation as are best calculated to secure uniform assessment of property of like kind and value in the various taxing units of the state, and relative uniformity between properties of different kinds and values in the same taxing unit. The department of revenue shall furnish to each county assessor a copy of the rules and processes so formulated. The department of revenue may, from time to time, make such changes in the rules and processes so formulated as it deems advisable to accomplish the purpose thereof, and it shall inform all county assessors of such changes.

(3) Visit the counties in the state, unless prevented by necessary official duties, for the investigation of the methods adopted by the county assessors and county boards of commissioners in the assessment and equalization of taxation of real and personal property; carefully examine into all cases where evasion of property taxation is alleged, and ascertain where existing laws are defective, or improperly or negligently administered. [1975 1st ex.s. c 278 § 147; 1961 c 15 § 84.08.010. Prior: 1939 c 206 §§ 4, part and 5, part; 1935 c 127 § 1, part; 1931 c 15 § 1, part; 1927 c 280 § 5, part; 1925 c 18 § 5, part; 1921 c 7 §§ 50, 53; 1907 c 220 § 1, part; 1905 c 115 § 2, part; RRS §§ 11091 (first), part and 11091 (second), part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.020 Additional powers—To advise county and local officers—Books and blanks—Reports. The department of revenue shall:

(1) Confer with, advise and direct assessors, boards of equalization, county boards of commissioners, county treasurers, county auditors and all other county and township officers as to their duties under the law and statutes of the state, relating to taxation, and direct what proceedings, actions or prosecutions shall be instituted to support the law relating to the penalties, liabilities and punishment of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property, and the collection of taxes, and cause complaint to be made against any of such public officers in the proper county for their removal from office for official misconduct or neglect of duty. In the execution of these powers and duties the said department or any member thereof may call upon prosecuting attorneys or the attorney general, who shall assist in the commencement and prosecution for penalties and forfeiture, liabilities and punishments for violations of the laws of the state in respect to the assessment and taxation of property.

(2) Prescribe all forms of books and blanks to be used in the assessment and collection of taxes, and change such forms when prescribed by law, and recommend to the legislature such changes as may be deemed most economical to the state and counties, and such recommendation shall be accompanied by carefully prepared bill or bills for this end.

(3) Require county, city and town officers to report information as to assessments of property, equalization of taxes, the expenditure of public funds for all purposes, and other information which said department of revenue may request. [1975 1st ex.s. c 278 § 148; 1961 c 15 § 84.08.020. Prior: 1939 c 206 § 5, part; 1935 c 127 § 1, part; 1921 c 7 §§ 50, 53; 1907 c 220 § 1, part; 1905 c 115 § 2, part; RRS § 11091 (second), part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.040 Additional powers—To keep valuation records—Access to files of other public offices. The department of revenue shall secure, tabulate, and keep records of valuations of all classes of property throughout the state, and for that purpose, shall have access to all records and files of state offices and departments and county and municipal offices and shall require all public officers and employees whose duties make it possible to ascertain valuations, including valuations of property of public service corporations for rate making purposes to file reports with the department of revenue, giving such information as to such valuation and the source thereof: *Provided*, That the nature and kind of the tabulations, records of valuation and requirements from public officers, as stated herein, shall be in such form, and cover such valuations, as the department of revenue shall prescribe. [1975 1st ex.s. c 278 § 149; 1961

c 15 § 84.08.040. Prior: 1939 c 206 § 4, part; 1931 c 15 § 1, part; 1927 c 280 § 5, part; 1925 c 18 § 5, part; 1921 c 7 §§ 50, 53; RRS § 11091 (first), part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.060 Additional powers—Power over county boards of equalization—Reconvening. The department of revenue shall have power to direct and to order any county board of equalization to raise or lower the valuation of any taxable property, or to add any property to the assessment list, or to perform or complete any other duty required by statute. The department of revenue may require any such board of equalization to reconvene after its adjournment for the purpose of performing any order or requirement made by the department of revenue and may make such orders as it shall determine to be just and necessary. The department may require any county board of equalization to reconvene at any time for the purpose of performing or completing any duty or taking any action it might lawfully have performed or taken at any of its previous regular July, November or April meetings. If such board of equalization shall fail or refuse forthwith to comply with any such order or requirement of the department of revenue, the department of revenue shall have power to take any other appropriate action, or to make such correction or change in the assessment list, and such corrections and changes shall be a part of the record of the proceedings of the said board of equalization: *Provided*, That in all cases where the department of revenue shall raise the valuation of any property or add property to the assessment list, it shall give notice either for the same time and in the same manner as is now required in like cases of county boards of equalization, or if it shall deem such method of giving notice impracticable it shall give notice by publication thereof in a newspaper of general circulation within the county in which the property affected is situated once each week for two consecutive weeks, and the department of revenue shall not proceed to raise such valuation or add such property to the assessment list until a period of five days shall have elapsed subsequent to the date of the last publication of such notice. Such notice shall give the legal description of each tract of land involved, or a general description in case of personal property; the tax record-owner thereof; the assessed value thereof determined by the county board of equalization in case the property is on the assessment roll; and the assessed value thereof as determined by the department of revenue and shall state that the department of revenue proposes to increase the assessed valuation of such property to the amount stated and to add such property to the assessment list at the assessed valuation stated. The necessary expense incurred by the department of revenue in making such reassessment and/or adding such property to the assessment list shall be borne by the county or township in which the property as reassessed and/or so added to the assessment list is situated and shall be paid out of the proper funds of such county upon the order of the department of revenue. [1975 1st ex.s. c 278 § 150; 1961 c 15 § 84.08.060. Prior: 1939 c 206 § 4,

part; 1931 c 15 § 1, part; 1927 c 280 § 5, part; 1925 c 18 § 5, part; 1921 c 7 §§ 50, 53; RRS § 11091 (first), part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.070 Rules and regulations authorized. The department of revenue shall make such rules and regulations as may be necessary to carry out the powers granted by this chapter, and for conducting hearings and other proceedings before it. [1975 1st ex.s. c 278 § 151; 1961 c 15 § 84.08.070. Prior: 1939 c 206 § 4, part; 1931 c 15 § 1, part; 1927 c 280 § 5, part; 1925 c 18 § 5, part; 1921 c 7 §§ 50, 53; RRS § 11091 (first), part. FORMER PART OF SECTION: 1935 c 123 § 18 now codified as RCW 84.12.390.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.080 Department to decide questions of interpretation. The department of revenue shall, with the advice of the attorney general, decide all questions that may arise in reference to the true construction or interpretation of this title, or any part thereof, with reference to the powers and duties of taxing district officers, and such decision shall have force and effect until modified or annulled by the judgment or decree of a court of competent jurisdiction. [1975 1st ex.s. c 278 § 152; 1961 c 15 § 84.08.080. Prior: 1925 ex.s. c 130 § 111; 1897 c 71 § 92; 1895 c 176 § 20; 1893 c 124 § 95; RRS § 11272.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.090 Biennial reports—Drafts of legislative bills. The department of revenue shall make diligent investigation concerning the revenue laws and systems of other states and countries, so far as the same may be known by reports and statistics and can be ascertained by correspondence, and with the aid of information thus obtained, together with the experience and observation of our own laws and the operation thereof, recommend to the governor, in a biennial report at least sixty days before the meeting of the legislature, such amendments, changes and modification of our revenue laws as seem proper and requisite to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of public revenue in the most economical manner. All such recommendations shall be accompanied by suitable bill or bills necessary to carry into effect such recommendations. This report shall also show in tabulated form the whole amount of taxes collected in the state for all purposes, classified as state, county and municipal, with the sources thereof, the amount lost, the cause of the loss and such other pertinent statistics, matter and information concerning revenue and taxation as may be deemed of public interest. [1975 1st ex.s. c 278 § 153; 1961 c 15 § 84.08.090. Prior: 1905 c 115 § 4; No RRS.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.110 Department to compile tax laws. The department of revenue shall compile the laws of this state relating to assessment and collection of taxes, with such annotations, instructions and references to the decisions of the courts concerning the same as it may deem proper. It shall cause the same to be printed and distributed to the several county assessors, deputy county assessors, prosecuting attorneys, county commissioners, in the state, and to such other officers and persons as may request the same. [1975 1st ex.s. c 278 § 154; 1961 c 15 § 84.08.110. Prior: 1907 c 220 § 3; RRS § 11096.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.120 Duty to obey orders of department of revenue. It shall be the duty of every public officer to comply with any lawful order, rule or regulation of the department of revenue made under the provisions of this title, and whenever it shall appear to the department of revenue that any public officer or employee whose duties relate to the assessment or equalization of assessments of property for taxation or to the levy or collection of taxes has failed to comply with the provisions of this title or with any other law relating to such duties or the rules of the department made in pursuance thereof, the department after a hearing on the facts may issue its order directing such public officer or employee to comply with such provisions of law or of its rules, and if such public officer or employee for a period of ten days after service on him of the department's order shall neglect or refuse to comply therewith, the department of revenue may apply to a judge of the superior court or court commissioner of the county in which said public officer or employee holds office for an order returnable within five days from the date thereof to compel such public officer or employee to comply with such provisions of law or of the department's order, or to show cause why he should not be compelled so to do, and any order issued by the judge pursuant thereto shall be final. The remedy herein provided shall be cumulative and shall not exclude the department of revenue from exercising any power or rights otherwise granted. [1975 1st ex.s. c 278 § 155; 1961 c 15 § 84.08.120. Prior: 1939 c 206 § 7; 1927 c 280 § 12; 1925 c 18 § 12; RRS § 11102.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.130 Appeals from county board of equalization to board of tax appeals. Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the board of tax appeals by filing with the county auditor a notice of appeal in duplicate within ten days after the action of such board of equalization, which notice shall specify the actions complained of, and said auditor shall forthwith transmit one of said notices to the board of tax appeals; and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization. The board of tax appeals shall require the board appealed from to certify the minutes

of its proceedings resulting in such action and all evidence taken in connection therewith, and may receive further evidence, and shall make such order as in its judgment is just and proper. [1975 1st ex.s. c 278 § 156; 1961 c 15 § 84.08.130. Prior: 1939 c 206 § 6; 1927 c 280 § 6; 1925 c 18 § 6; RRS § 11092.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.140 Appeals from levy of taxing district to department of revenue. Any taxpayer feeling aggrieved by the levy or levies of any taxing district except levies authorized by a vote of the people of the district may appeal therefrom to the department of revenue as hereinafter provided. Such taxpayer, upon the execution of a bond, with two or more sufficient sureties to be approved by the county auditor, payable to the state of Washington, in the penal sum of two hundred dollars and conditioned that if the petitioner shall fail in his appeal for a reduction of said levy or levies he will pay the taxable costs of the hearings hereinafter provided, not exceeding the amount of such bond, may file a written complaint with the county auditor wherein such taxing district is located not later than ten days after the making and entering of such levy or levies, setting forth in such form and detail as the department of revenue shall by general rule prescribe, his objections to such levy or levies. Upon the filing of such complaint, the county auditor shall immediately transmit a certified copy thereof, together with a copy of the budget or estimates of such taxing district as finally adopted, including estimated revenues and such other information as the department of revenue shall by rule require, to the department of revenue. The department of revenue shall fix a date for a hearing on said complaint at the earliest convenient time after receipt of said record, which hearing shall be held in the county in which said taxing district is located, and notice of such hearing shall be given to the officials of such taxing district, charged with determining the amount of its levies, and to the taxpayer on said complaint by registered mail at least five days prior to the date of said hearing. At such hearings all interested parties may be heard and the department of revenue shall receive all competent evidence. After such hearing, the department of revenue shall either affirm or decrease the levy or levies complained of, in accordance with the evidence, and shall thereupon certify its action with respect thereto to the county auditor, who, in turn, shall certify it to the taxing district or districts affected, and the action of the department of revenue with respect to such levy or levies shall be final and conclusive. [1975 1st ex.s. c 278 § 157; 1961 c 15 § 84.08.140. Prior: 1927 c 280 § 8; 1925 c 18 § 8; RRS § 11098.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.08.190 Assessors to meet with department of revenue. For the purpose of instruction on the subject of taxation, the county assessors of the state shall meet with the department of revenue at the capital of the

state, or at such place within the state as they may determine at their previous meeting, on the second Monday of October of each year or on such other date as may be fixed by the department of revenue. Each assessor shall be paid by the county of his residence his actual expenses in attending such meeting, upon presentation to the county auditor of proper vouchers. [1975 1st ex.s. c 278 § 158; 1961 c 15 § 84.08.190. Prior: 1939 c 206 § 16, part; 1925 ex.s. c 130 § 57, part; 1911 c 12 § 1; RRS § 11140, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.10 PROPERTY TAX COMMITTEE

Section

84.10.010 Repealed. (Effective January 1, 1978.)

84.10.010 Repealed. (Effective January 1, 1978.)
See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 84.12 ASSESSMENT AND TAXATION OF PUBLIC UTILITIES

Sections

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84.12.200 Definitions. For the purposes of this chapter and unless otherwise required by the context:

(1) "Department" without other designation means the department of revenue of the state of Washington.

(2) "Railroad company" shall mean and include any person owning or operating a railroad, street railway, suburban railroad or interurban railroad in this state, whether its line of railroad be maintained at the surface, or above or below the surface of the earth, or by whatever power its vehicles are transported; or owning any station, depot, terminal or bridge for railroad purposes, as owner, lessee or otherwise.

(3) "Motor vehicle transportation company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by motor propelled vehicles over any public street and/or highway in this state, between fixed termini or

over a regular route, and engaged in the business of transporting persons and/or property for compensation as owner, lessee or otherwise.

(4) "Airplane company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by aircraft, and engaged in the business of transporting persons and/or property for compensation, as owner, lessee or otherwise.

(5) "Electric light and power company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the generation, transmission or distribution of electricity in this state, and engaged in the business of furnishing, transmitting, distributing or generating electrical energy for light, heat or power for compensation as owner, lessee or otherwise.

(6) "Telegraph company" shall mean and include any person owning, controlling, operating or managing any telegraph or cable line in this state, with appliances for the transmission of messages, and engaged in the business of furnishing telegraph service for compensation, as owner, lessee or otherwise.

(7) "Telephone company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the transmission of communication by telephone in this state through owned or controlled exchanges and/or switchboards, and engaged in the business of furnishing telephonic communication for compensation as owner, lessee or otherwise.

(8) "Gas company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the manufacture, transportation, or distribution of natural or manufactured gas in this state, and engaged for compensation in the business of furnishing gas for light, heat, power or other use, as owner, lessee or otherwise.

(9) "Pipe line company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance or transportation of oils, natural or manufactured gas and/or other substances, except water, by pipe line in this state, and engaged in such business for compensation, as owner, lessee or otherwise.

(10) "Water company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the supply, storage, distribution, diversion or carriage of water in this state, and engaged in the business of furnishing water for power, irrigation, manufacturing, domestic or other uses for compensation, as owner, lessee or otherwise.

(11) "Heating company" shall mean and include any person owning, controlling, operating or managing real

or personal property, used or to be used for or in connection with or to facilitate the generation and/or distribution of steam or hot water for heat, power, manufacturing or other purposes in this state, and engaged principally in business of furnishing, distributing, supplying or generating steam or hot water for heat, power, manufacturing or other purposes for compensation, as owner, lessee or otherwise.

(12) "Toll bridge company" shall mean and include any person owning, controlling, operating, or managing real or personal property, used for or in connection with or to facilitate the conveyance or transportation of persons and/or property over a bridge or bridge approach over any stream, river or body of water within, or partly within this state, and operated as a toll bridge for compensation, as owner, lessee, or otherwise.

(13) "Steamboat company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by vessel or ferry, upon the waters within this state, including the rivers and lakes and Puget Sound, between fixed termini or over a regular route, and engaged in the business of transporting persons and/or property for compensation as owner, lessee or otherwise.

(14) "Logging railroad company" shall mean and include any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of forest products by rail in this state, and engaged in the business of transporting forest products either as private carrier or carrier for hire.

(15) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, corporation, trust, or any other group acting as a unit, whether mutual, cooperative or otherwise, and/or trustees or receivers appointed by any court.

(16) "Company" shall mean and include any railroad company, motor vehicle transportation company, airplane company, electric light and power company, telegraph company, telephone company, gas company, pipe line company, water company, heating company, toll bridge company, steamboat company, or logging railroad company; and the term "companies" shall mean and include all of such companies.

(17) "Operating property" shall mean and include all property, real and personal, owned by any company, or held by it as occupant, lessee or otherwise, including all franchises and lands, buildings, rights-of-way, water powers, motor vehicles, wagons, horses, aircraft, aerodromes, hangars, office furniture, water mains, gas mains, pipe lines, pumping stations, tanks, tank farms, holders, reservoirs, telephone lines, telegraph lines, transmission and distribution lines, dams, generating plants, poles, wires, cables, conduits, switch boards, devices, appliances, instruments, equipment, machinery, vessels, ferries, landing slips, docks, roadbeds, tracks, terminals, rolling stock equipment, appurtenances and all other property of a like or different kind, situate within the state of Washington, used by the company in the conduct of its operations; and, in case of personal

property used partly within and partly without the state, it shall mean and include a proportion of such personal property to be determined as in this chapter provided.

(18) "Nonoperating property" shall mean all physical property owned by any company, other than that used during the preceding calendar year in the conduct of its operations. It shall include all lands and/or buildings wholly used by any person other than the owning company. In cases where lands and/or buildings are used partially by the owning company in the conduct of its operations and partially by any other person not assessable under this chapter under lease, sublease, or other form of tenancy, the operating and nonoperating property of the company whose property is assessed hereunder shall be determined by the department of revenue in such manner as will, in its judgment, secure the separate valuation of such operating and nonoperating property upon a fair and equitable basis. The amount of operating revenue received from tenants or occupants of property of the owning company shall not be considered material in determining the classification of such property. [1975 1st ex.s. c 278 § 159; 1961 c 15 § 84.12.200. Prior: 1935 c 123 § 1; 1925 ex.s. c 130 § 36; 1907 c 131 § 2; 1907 c 78 § 2; RRS § 11156-1. Formerly RCW 84.12.010 and 84.12.020, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.220 Jurisdiction to determine operating, nonoperating property. In all matters relating to assessment and taxation the department of revenue shall have jurisdiction to determine what is operating property and what is nonoperating property. [1975 1st ex.s. c 278 § 160; 1961 c 15 § 84.12.220. Prior: 1935 c 123 § 2; RRS § 11156-2. Formerly RCW 84.12.020, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.230 Annual reports to be filed. Each company doing business in this state shall annually on or before the 15th day of March, make and file with the department of revenue an annual report, in such manner, upon such form, and giving such information as the department may direct. At the time of making such report each company shall also be required to furnish to the department the annual reports of the board of directors, or other officers to the stockholders of the company, duplicate copies of the annual reports made to the interstate commerce commission and to the utilities and transportation commission of this state and duplicate copies of such other reports as the department may direct. [1975 1st ex.s. c 278 § 161; 1961 c 15 § 84.12.230. Prior: 1935 c 123 § 3; 1925 ex.s. c 130 § 39; 1907 c 131 § 5; 1907 c 78 § 5; 1897 c 71 § 40; 1893 c 124 § 40; 1891 c 140 § 27; 1890 p 541 § 27; RRS § 11156-3. Formerly RCW 84.12.030.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.240 Access to books and records. The department of revenue shall have access to all books, papers, documents, statements and accounts on file or of record

in any of the departments of the state; and it shall have the power to issue subpoenas, signed by the director of the department or any duly authorized employee and served in a like manner as a subpoena issued from courts of record, to compel witnesses to appear and give evidence and to produce books and papers. The director of the department or any employee officially designated by the department is authorized to administer oaths to witnesses. The attendance of any witness may be compelled by attachment issued out of any superior court upon application to said court by the director or any duly authorized employee of the department, upon a proper showing that such witness has been duly served with a subpoena and has refused to appear before the said department. In case of the refusal of a witness to produce books, papers, documents, or accounts, or to give evidence on matters material to the hearing, the department may institute proceedings in the proper superior court to compel such witness to testify or to produce such books or papers, and to punish him for such failure or refusal. All process issued by the department shall be served by the sheriff of the proper county or by a duly authorized agent of the department and such service, if made by the sheriff, shall be certified by him to the department of revenue without any compensation therefor. Persons appearing before the department in obedience to a subpoena shall receive the same compensation as witnesses in the superior court. The records, books, accounts and papers of each company shall be subject to visitation, investigation or examination by the department, or any employee thereof officially designated by the department. All real and/or personal property of any company shall be subject to visitation, investigation, examination and/or listing at any and all times by the department, or any person officially designated by the director. [1975 1st ex.s. c 278 § 162; 1973 c 95 § 9; 1961 c 15 § 84.12.240. Prior: 1935 c 123 § 4; 1925 ex.s. c 130 § 37; 1907 c 131 § 3; 1907 c 78 § 3; RRS § 11156-4. Formerly RCW 84.12.080.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.250 Depositions may be taken. The department of revenue, in any matter material to the valuation, assessment or taxation of the operating property of any company, may cause the deposition of witnesses residing without the state or absent therefrom, to be taken upon notice to the company interested in like manner as the depositions of witnesses are taken in civil actions in the superior court. [1975 1st ex.s. c 278 § 163; 1961 c 15 § 84.12.250. Prior: 1935 c 123 § 5; 1925 ex.s. c 130 § 38; 1907 c 131 § 4; 1907 c 78 § 4; RRS § 11156-5. Formerly RCW 84.12.090.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.260 Default valuation by department of revenue—Penalty—Estoppel. If any company, or any of its officers or agents shall refuse or neglect to make any report required by this chapter, or by the department of revenue, or shall refuse to permit an inspection and examination of its records, books, accounts, papers or

property requested by the department of revenue, or shall refuse or neglect to appear before the department of revenue in obedience to a subpoena, the department of revenue shall inform itself to the best of its ability of the matters required to be known, in order to discharge its duties with respect to valuation and assessment of the property of such company, and the department shall add to the value so ascertained twenty-five percent as a penalty for such failure or refusal and such company shall be estopped to question or impeach the assessment of the department in any hearing or proceeding thereafter. [1975 1st ex.s. c 278 § 164; 1961 c 15 § 84.12.260. Prior: 1935 c 123 § 6; 1925 ex.s. c 130 § 41; 1907 c 131 § 7; 1907 c 78 § 6; 1891 c 140 § 37; 1890 p 544 § 36; RRS § 11156-6. Formerly RCW 84.12.100.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.270 Annual assessment—Sources of information. The department of revenue shall annually make an assessment of the operating property of all companies; and between the fifteenth day of March and the first day of July of each of said years shall prepare an assessment roll upon which it shall enter and assess the true cash value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. For the purpose of determining the true cash value of such property the department of revenue may inspect the property belonging to said companies and may take into consideration any information or knowledge obtained by it from such examination and inspection of such property, or of the books, records and accounts of such companies, the statements filed as required by this chapter, the reports, statements or returns of such companies filed in the office of any board, office or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the assessed valuation of any and all property of such companies, whether operating or nonoperating property, and whether situated within or outside the state, and any other facts, evidence or information that may be obtainable bearing upon the value of the operating property: *Provided*, That in no event shall any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character and true cash value of the operating property of such company. [1975 1st ex.s. c 278 § 165; 1961 c 15 § 84.12.270. Prior: 1939 c 206 § 19; 1935 c 123 § 7; 1925 ex.s. c 130 § 43; 1907 c 131 § 8; 1907 c 78 § 7; 1891 c 140 §§ 28-31; 1890 p 541 §§ 26-33; RRS § 11156-7. Formerly RCW 84.12.040.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.300 Valuation of interstate utility—Apportionment of system value to state. In determining the value of the operating property within this state of any company, the properties of which lie partly within and partly without this state, the department of revenue may, among other things, take into consideration the

value of the whole system as a unit, and for such purpose may determine, insofar as the same is reasonably ascertainable, the salvage value, the actual cost new, the cost of reproduction new less depreciation and plus appreciation, the par value, actual value and market value of the company's outstanding stocks and bonds during one or more preceding years, the past, present and prospective gross and net earnings of the whole system as a unit.

In apportioning such system value to the state, the department of revenue shall consider relative costs, relative reproduction cost, relative future prospects and relative track mileage and the distribution of terminal properties within and without the state and such other matters and things as the department may deem pertinent.

The department may also take into consideration the actual cost, cost of reproduction new, and cost of reproduction new less depreciation, earning capacity and future prospects of the property, located within the state and all other matters and things deemed pertinent by the department of revenue. [1975 1st ex.s. c 278 § 166; 1961 c 15 § 84.12.300. Prior: 1935 c 123 § 9; 1925 ex.s. c 130 § 44; 1907 c 78 § 8; RRS § 11156-9. Formerly RCW 84.12.060.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.310 Deduction of nonoperating property. For the purpose of determining the system value of the operating property of any such company, the department of revenue shall deduct from the actual cash value of the total assets of such company, the actual cash value of all nonoperating property owned by such company. For such purpose the department of revenue may require of the assessors of the various counties within this state a detailed list of such company's properties assessed by them, together with the assessable or assessed value thereof: *Provided*, That such assessed or assessable value shall be advisory only and not conclusive on the department of revenue as to the value thereof. [1975 1st ex.s. c 278 § 167; 1961 c 15 § 84.12.310. Prior: 1935 c 123 § 10; RRS § 11156-10. Formerly RCW 84.12.070.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.330 Assessment roll—Notice of valuation. Upon the assessment roll shall be placed after the name of each company a general description of the operating property of the company, which shall be considered sufficient if described in the language of subdivision (17) of RCW 84.12.200, as applied to said company, following which shall be entered the actual cash value of the operating property as determined by the department of revenue. No assessment shall be invalidated by reason of a mistake in the name of the company assessed, or the omission of the name of the owner or by the entry as owner of a name other than that of the true owner. When the department of revenue shall have prepared the assessment roll and entered thereon the actual cash value of the operating property of the company,

as herein required, it shall notify the company by mail of the valuation determined by it and entered upon said roll. [1975 1st ex.s. c 278 § 168; 1961 c 15 § 84.12.330. Prior: 1935 c 123 § 12; 1925 ex.s. c 130 § 44; 1907 c 78 § 8; 1891 c 140 § 35; 1890 p 543 § 35; RRS § 11156-12. Formerly RCW 84.12.110.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.340 Hearings on assessment, time and place of. At any time between the tenth and twenty-fifth days of July, inclusive, following the making of the assessment, every company shall be entitled on its own motion, presented to the department of revenue before the tenth day of July, to a hearing and to present evidence before the department of revenue, relating to the value of its operating property and to the value of other taxable property in the counties in which its operating property is situate. Upon request in writing for such hearing, the department shall appoint a time and place therefor, within the period aforesaid, the hearing to be conducted in such manner as the department shall direct. Hearings provided for in this section may be held at such times and in such places throughout the state as the department may deem proper or necessary, may be adjourned from time to time and from place to place and may be conducted by the department of revenue or by such member or members thereof as may be duly delegated to act for it. Testimony taken before less than the entire department of revenue shall be reported and a transcript thereof filed with the department of revenue prior to its decision. [1975 1st ex.s. c 278 § 169; 1961 c 15 § 84.12.340. Prior: 1953 c 162 § 1; 1939 c 206 § 20; 1935 c 123 § 13; RRS § 11156-13. Formerly RCW 84.12.130.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.360 Basis of apportionment. The actual cash value of the operating property assessed to a company, as fixed and determined by the state board of equalization, shall be apportioned by the department of revenue to the respective counties and to the taxing districts thereof wherein such property is located in the following manner:

(1) Property of steam, suburban, and interurban railroad companies, telegraph companies and pipe line companies—upon the basis of that proportion of the value of the total operating property within the state which the mileage of track, as classified by the department of revenue (in case of railroads), mileage of wire (in the case of telegraph companies) and mileage of pipe line (in the case of pipe line companies) within each county or taxing district bears to the total mileage thereof within the state, at the end of the calendar year last past. For the purpose of such apportionment the department may classify railroad track.

(2) Property of street railroad companies, motor vehicle transportation companies, telephone companies, electric light and power companies, gas companies, water companies, heating companies and toll bridge companies—upon the basis of relative value of the

operating property within each county and taxing district to the value of the total operating property within the state to be determined by such factors as the department of revenue shall deem proper.

(3) Planes or other aircraft of airplane companies and watercraft of steamboat companies—upon the basis of such factor or factors of allocation, to be determined by the department of revenue, as will secure a substantially fair and equitable division between counties and other taxing districts.

All other property of airplane companies and steamboat companies—upon the basis set forth in subdivision (2) hereof.

The basis of apportionment with reference to all public utility companies above prescribed shall not be deemed exclusive and the department of revenue in apportioning values of such companies may also take into consideration such other information, facts, circumstances, or allocation factors as will enable it to make a substantially just and correct valuation of the operating property of such companies within the state and within each county thereof. [1975 1st ex.s. c 278 § 170; 1961 c 15 § 84.12.360. Prior: 1955 c 120 § 1; 1935 c 123 § 15; 1925 ex.s. c 130 § 47; 1917 c 25 § 1; 1907 c 78 § 11; 1891 c 140 § 33; 1890 p 541 § 30; RRS § 11156-15. Formerly RCW 84.12.150.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.370 Certification to county assessors—Entry upon tax rolls. When the state board of equalization shall have determined the equalized assessed value of the operating property of each company in each of the respective counties and in the taxing districts thereof, as hereinabove provided, the department of revenue shall certify such equalized assessed value to the county assessor of the proper county. The county assessor shall enter the company's real operating property upon the real property tax rolls and the company's personal operating property upon the personal property tax rolls of his county, together with the values so apportioned, and the same shall be and constitute the assessed valuation of the operating property of the company in such county and the taxing districts therein for that year, upon which taxes shall be levied and collected in the same manner as on the general property of such county. [1975 1st ex.s. c 278 § 171; 1961 c 15 § 84.12.370. Prior: 1935 c 123 § 16; RRS § 11156-16. Formerly RCW 84.12.160.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.12.390 Rules and regulations. The department of revenue shall have the power to make such rules and regulations, not inconsistent herewith, as may be convenient and necessary to enforce and carry out the provisions of this chapter. [1975 1st ex.s. c 278 § 172; 1961 c 15 § 84.12.390. Prior: 1935 c 123 § 18; RRS § 11156-18. Formerly RCW 84.08.070, part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.16 ASSESSMENT AND TAXATION OF PRIVATE CAR COMPANIES

Sections	
84.16.010	Definitions.
84.16.020	Annual statement of private car companies.
84.16.030	Annual statement of railroad companies.
84.16.032	Access to books and records.
84.16.034	Depositions may be taken, when.
84.16.036	Default valuation by department of revenue—Penalty—Estoppel.
84.16.040	Annual assessment—Sources of information.
84.16.050	Basis of valuation—Apportionment of system value to state.
84.16.090	Assessment roll—Notice of valuation.
84.16.100	Hearings, time and place of.
84.16.130	Certification to county assessors—Apportionment to taxing districts—Entry upon tax rolls.

84.16.010 Definitions. For the purposes of this chapter and unless otherwise required by the context:

(1) The term "department" without other designation means the department of revenue of the state of Washington.

(2) The term "private car company" or "company" shall mean and include any person, copartnership, association, company or corporation owning, controlling, operating or managing stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars or any other kind of cars, used for transportation of property, by or upon railroad lines running in, into or through the state of Washington when such railroad lines are not owned or leased by such person, copartnership, association, company or corporation; or owning, controlling, operating or managing sleeping cars, parlor cars, buffet cars, tourist cars or any other kind of cars, used for transportation of persons by or upon railroads on lines running in, into or through the state of Washington, when such railroad lines are not owned or leased by such person, copartnership, association, company or corporation and upon which an extra charge in addition to the railroad transportation fare is made.

(3) The term "operating property" shall mean and include all rolling stock and car equipment owned by any private car company, or held by it as occupant, lessee or otherwise, including its franchises used and reasonably necessary in carrying on the business of such company; and in the case of rolling stock and car equipment used partly within and partly without the state, shall mean and include a proportion of such rolling stock and car equipment to be determined as in this chapter provided; and all such property shall, for the purposes of this chapter be deemed personal property. [1975 1st ex.s. c 278 § 173; 1961 c 15 § 84.16.010. Prior: 1933 c 146 § 1; RRS § 11172-1; prior: 1907 c 36 § 1.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.020 Annual statement of private car companies. Every private car company shall annually on or before the first day of May, make and file with the department of revenue in such form and upon such blanks as the department of revenue may provide and furnish, a statement, for the year ending December thirty-first

next preceding, under the oath of the president, secretary, treasurer, superintendent or chief officer of such company, containing the following facts:

(1) The name of the company, the nature of the business conducted by the company, and under the laws of what state or country organized; the location of its principal office; the name and post office address of its president, secretary, auditor, treasurer, superintendent and general manager; the name and post office address of the chief officer or managing agent or attorney in fact in Washington.

(2) The total number of cars of every class used in transacting business on all lines of railroad, within the state and outside the state; together with the original cost and the fair average value per car of all cars of each of such classes.

(3) The total number of miles of railroad main track over which such cars were used within this state and within each county in this state.

(4) The total number of car miles made by all cars on each of the several lines of railroad in this state, and the total number of car miles made by all cars on all railroads within and without the state during the year.

(5) A statement in detail of the entire gross receipts and net earnings of the company during the year within the state and of the entire system, from all sources.

(6) Such other facts or information as the department of revenue may require in the form of return prescribed by it.

The department of revenue shall have power to prescribe directions, rules and regulations to be followed in making the report required herein. [1975 1st ex.s. c 278 § 174; 1961 c 15 § 84.16.020. Prior: 1933 c 146 § 2; RRS § 11172-2; prior: 1907 c 36 § 2.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.030 Annual statement of railroad companies.

The president or other officer of every railroad company whose lines run in, into or through this state, shall, on or before the first day of April in each year, furnish to the department of revenue a statement, verified by the affidavit of the officer making the same, showing as to every private car company respectively, the name of the company, the class of car and the total number of miles made by each class of cars, and the total number of miles made by all cars on its lines, branches, sidings, spurs or warehouse tracks, within this state during the year ending on the thirty-first day of December next preceding. [1975 1st ex.s. c 278 § 175; 1961 c 15 § 84.16.030. Prior: 1933 c 146 § 3; RRS § 11172-3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.032 Access to books and records. The department of revenue shall have access to all books, papers, documents, statements and accounts on file or of record in any of the departments of the state; and shall have the power, by summons signed by director and served in a like manner as a subpoena issued from courts of record, to compel witnesses to appear and give evidence and to produce books and papers. The director or any

employee officially designated by the director is authorized to administer oaths to witnesses. The attendance of any witness may be compelled by attachment issued out of any superior court upon application to said court by the department, upon a proper showing that such witness has been duly served with a summons and has refused to appear before the said department. In case of the refusal of a witness to produce books, papers, documents or accounts or to give evidence on matters material to the hearing, the department may institute proceedings in the proper superior court to compel such witness to testify, or to produce such books or papers and to punish him for the refusal. All summons and process issued by the department shall be served by the sheriff of the proper county and such service certified by him to the department of revenue without any compensation therefor. Persons appearing before the department in obedience to a summons, shall, in the discretion of the department, receive the same compensation as witnesses in the superior court. The records, books, accounts and papers of each company shall be subject to visitation, investigation or examination by the department, or any employee thereof officially designated by the director. All real and/or personal property of any company shall be subject to visitation, investigation, examination and/or listing at any and all times by the department, or any person employed by the department. [1975 1st ex.s. c 278 § 176; 1973 c 95 § 10; 1961 c 15 § 84.16.032. Prior: 1933 c 146 § 4; RRS § 11172-4; prior: 1907 c 36 § 6. Formerly RCW 84.16.060.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.034 Depositions may be taken, when. The department of revenue in any matter material to the valuation, assessment or taxation of the property of any company, may cause the deposition of witnesses residing without the state or absent therefrom, to be taken upon notice to the company interested in like manner as the deposition of witnesses are taken in civil actions in the superior court. [1975 1st ex.s. c 278 § 177; 1961 c 15 § 84.16.034. Prior: 1933 c 146 § 5; RRS § 11172-5. Formerly RCW 84.16.070.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.036 Default valuation by department of revenue—Penalty—Estoppel. If any company, or its officer or agent, shall refuse or neglect to make any report required by this chapter, or by the department of revenue, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts, papers or property requested by the department of revenue, or shall refuse or neglect to appear before the department in obedience to a summons, the department shall inform itself the best it may of the matters to be known, in order to discharge its duties with respect to valuation and assessment of the property of such company; and the department shall add to the value so ascertained twenty-five percent as a penalty for the failure or refusal of such company to make its report and such company shall be estopped to question or impeach the

assessment of the department of revenue in any hearing or proceeding thereafter. [1975 1st ex.s. c 278 § 178; 1961 c 15 § 84.16.036. Prior: 1933 c 146 § 6; RRS § 11172-6; prior: 1907 c 36 §§ 5, 6. Formerly RCW 84.16.080.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.040 Annual assessment—Sources of information. The department of revenue shall annually make an assessment of the operating property of each private car company; and between the first day of May and the first day of July of each of said years shall prepare an assessment roll upon which it shall enter and assess the true cash value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. For the purpose of determining the true cash value of such property the department of revenue may take into consideration any information or knowledge obtained by it from an examination and inspection of such property, or of the books, records and accounts of such companies, the statements filed as required by this chapter, the reports, statements or returns of such companies filed in the office of any board, office or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the assessed valuation of any and all property of such companies, whether operating property or nonoperating property, and whether situated within or without the state, and any other facts, evidences or information that may be obtainable bearing upon the value of the operating property: *Provided*, That in no event shall any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character and true cash value of the operating property of such company. [1975 1st ex.s. c 278 § 179; 1961 c 15 § 84.16.040. Prior: 1939 c 206 § 22; 1933 c 146 § 7; RRS § 11172-7; prior: 1907 c 36 § 7.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.050 Basis of valuation—Apportionment of system value to state. The department of revenue may, in determining the actual cash value of the operating property to be placed on the assessment roll value the entire property as a unit. If the company owns, leases, operates or uses property partly within and partly without the state, the department of revenue may determine the value of the operating property within this state by the proportion that the value of such property bears to the value of the entire operating property of the company, both within and without this state. In determining the operating property which is located within this state the department of revenue may consider and base such determination on the proportion which the number of car miles of the various classes of cars made in this state bears to the total number of car miles made by the same cars within and without this state, or to the total number of car miles made by all cars of the various classes within and without this state. If the value of the

operating property of the company cannot be fairly determined in such manner the department of revenue may use any other reasonable and fair method to determine the value of the operating property of the company within this state. [1975 1st ex.s. c 278 § 180; 1961 c 15 § 84.16.050. Prior: 1933 c 146 § 8; RRS § 11172-8; prior: 1907 c 36 § 7.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.090 Assessment roll—Notice of valuation. Upon the assessment roll shall be placed after the name of each company a general description of the operating property of the company, which shall be considered sufficient if described in the language of subdivision (3) of RCW 84.16.010 or otherwise, following which shall be entered the actual cash value of the operating property as determined by the department of revenue. No assessment shall be invalid by a mistake in the name of the company assessed, by omission of the name of the owner or by the entry of a name other than that of the true owner. When the department of revenue shall have prepared the assessment roll and entered thereon the actual cash value of the operating property of the company, as herein required, it shall notify the company by mail of the valuation determined by it and entered upon said roll; and thereupon such valuation shall become the actual cash value of the operating property of the company, subject to revision or correction by the state board of equalization as hereinafter provided; and shall be the valuation upon which, after equalization by the state board of equalization as hereinafter provided, the taxes of such company shall be based and computed. [1975 1st ex.s. c 278 § 181; 1961 c 15 § 84.16.090. Prior: 1933 c 146 § 9; RRS § 11172-9; prior: 1907 c 36 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.100 Hearings, time and place of. Every company assessed under the provisions of this chapter shall be entitled on its own motion to a hearing and to present evidence before the department of revenue, at any time between the twentieth day of July and the fifteenth day of August, relating to the value of the operating property of such company and to the value of the other taxable property in the counties in which the operating property of such company is situate. Upon request in writing for such hearing, which must be presented to the department of revenue on or before the twentieth day of July following the making of the assessment, the department shall appoint a time and place therefor, within the respective periods aforesaid, the hearing to be conducted in such manner as the department shall direct. Hearings provided for in this section may be held at such times and in such places throughout the state as the department may deem proper or necessary and may be adjourned from time to time and from place to place. [1975 1st ex.s. c 278 § 182; 1961 c 15 § 84.16.100. Prior: 1939 c 206 § 23; 1933 c 146 § 10; RRS § 11172-10.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.16.130 Certification to county assessors—Apportionment to taxing districts—Entry upon tax rolls. When the state board of equalization shall have determined the equalized or assessed value of the operating property of each company in the respective counties as hereinabove provided, the department of revenue shall certify such equalized or assessed value to the county assessor of the proper county; and the county assessor shall apportion and distribute such assessed or equalized valuation to and between the several taxing districts of his county entitled to a proportionate value thereof in the manner prescribed in RCW 84.16.120 for apportionment of values between counties. The county assessor shall enter such assessment upon the personal property tax rolls of his county, together with the values so apportioned, and the same shall be and constitute the assessed valuation of the operating company in such county for that year, upon which taxes shall be levied and collected the same as on general property of the county. [1975 1st ex.s. c 278 § 183; 1961 c 15 § 84.16.130. Prior: 1939 c 206 § 25; 1933 c 146 § 13; RRS § 11172-13.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.24 REASSESSMENT OF PROPERTY

Sections

84.24.010	Definitions.
84.24.030	Notice—Publication and service.
84.24.040	Hearing.
84.24.050	Certification and entry on rolls—Relisting and relevy.

84.24.010 Definitions. The terms used in this chapter shall be construed as follows: The phrase "error in taxation" shall mean and embrace any action on the part of any assessing or taxing officer or board resulting in taxes being levied on any property at an amount in excess of what they should have been, or resulting in a tax void in whole or in part; the word "owner" shall be construed to mean the person owning the legal title to the property which shall be reassessed and retaxed pursuant to this chapter as shown by the county auditor's records; the phrase "relevied tax" shall mean the tax levied on any property as a result of a reassessment as provided in this chapter; the phrase "original tax" shall mean the tax originally levied upon the property for the year or years for which a reassessment and relevy is made; the phrase "original assessment" shall mean all of the proceedings of the assessing and taxing officers leading up to the actual levying of the original tax; the phrase "original assessment date" shall mean the date as of which the property in question was valued for the purpose of fixing the original tax thereon; the word "hearing" shall mean a proceeding in which any taxpayer or other person having an interest in the matter concerning which such hearing is had, is afforded an

opportunity of making such showing with respect thereto, as he may desire; the phrase "department of revenue" shall mean the department of revenue of the state of Washington; the term "person" shall import both the singular and plural as the case may demand, or as shall be applicable, and shall include individuals, copartnerships, corporations, and unincorporated societies and associations. [1975 1st ex.s. c 278 § 184; 1961 c 15 § 84.24.010. Prior: 1931 c 106 § 1; RRS § 11301.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.24.030 Notice—Publication and service. The department of revenue shall cause a notice, signed by it, to be served upon the owner in the manner hereinafter provided, which notice shall be addressed to the owner and also "to all persons known and unknown having or claiming any interest in the property in this notice described", shall describe such property with the same particularity as the same is required by law to be described upon the assessment rolls, and shall give notice that at a time to be fixed in such notice (which time shall not be less than ten, nor more than thirty days after the date of the last publication of such notice hereinafter provided), such department of revenue will, at its office proceed to reassess and retax said property for the particular year or years involved (naming them) and further giving notice that said owner or other interested persons may appear at the time and place set forth in said notice, and show cause, if any there be, why such reassessment and retaxation should not be made, and make such showing as they shall desire to make as to the claimed illegality of such tax. Such notice shall also be published once a week for three consecutive weeks in a newspaper printed and published and of general circulation in one of the counties in which such property is located. A copy of such notice shall also be mailed not less than ten days prior to the date fixed for such hearing to the prosecuting attorney of each county in which the property is located.

The notice referred to in this section shall be served either (1) in the same manner as personal service of summons in civil actions is made, or (2) by depositing a true copy thereof in the United States post office at Olympia, Washington, securely wrapped and plainly addressed to such owner at his last known address. Proof of such service shall be made by the affidavit of the person making such service. [1975 1st ex.s. c 278 § 185; 1961 c 15 § 84.24.030. Prior: 1931 c 106 § 3; RRS § 11303.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.24.040 Hearing. A hearing shall be had at the time and place set forth in the notice provided for in RCW 84.24.030, and thereafter the department of revenue shall determine, as of the original assessment date, and in the manner provided by existing law, the cash market value of the property in question, and the ratio between cash market value and assessed value of the other taxable property in the county where such property is located, and shall fix the equalized value of the

property in question at that percentage of its cash market value as of the original assessment date, which the equalized assessed value of the general taxable property in the county where such reassessed property is located, bore to its cash market value: *Provided, however,* That in case of a protest, complaint or petition based upon an alleged excessive assessment, the reassessment shall not exceed the original assessment. [1975 1st ex.s. c 278 § 186; 1961 c 15 § 84.24.040. Prior: 1931 c 106 § 4; RRS § 11304.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.24.050 Certification and entry on rolls—Relisting and relevy. If the original assessment was made by a county assessor, the equalized valuation of such property for the purpose of such reassessment and any other corrections made by the department of revenue in the original tax shall be forthwith certified to the county assessor of the county in which such reassessed property is located, and the same shall be entered and the tax extended by such assessor under an appropriate heading, in the assessment rolls for the year or years for which such reassessment is made, in the same manner as provided by existing law for the entry and extension of the original assessment of such property. If the original assessment was made by the department of revenue, the equalized valuation of such property for the purpose of such reassessment shall be forthwith entered by the department of revenue under an appropriate heading, in its assessment rolls for the year or years for which such reassessment was made, and shall be apportioned to the county or counties, and certified to the county assessors of the proper counties, and shall be distributed by the county assessors among taxing districts, and shall be placed upon the county tax rolls, in the same manner as provided by existing law for the entry and extension of the original assessment of such property.

The officers authorized by existing law to levy and collect taxes on said property shall forthwith proceed to relist said property, and to relevy and collect the tax thereon as of the original assessment year or years, in the same manner as provided by existing law for the listing of property, and the levying and collection of taxes thereon, save and except, that each such officer shall, in turn, perform the several duties to be performed by him in connection with such reassessment and retaxation, as soon as the completion of the duties of other officers in connection therewith make it possible for him to do so: *Provided,* That such tax as reassessed and relevied shall be figured and determined at the same tax rate as the original tax on said property for the year or years for which said reassessment was made, was or should have been, figured and determined. [1975 1st ex.s. c 278 § 187; 1961 c 15 § 84.24.050. Prior: 1931 c 106 § 5; RRS § 11305.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.28 REFORESTATION LANDS

Sections	
84.28.006	Definitions.
84.28.020	Classification procedure—Review by department of revenue.
84.28.050	Removal from classification—Petition of department or county assessor—Hearing.
84.28.060	Removal from classification—Petition of taxpayers—Hearing.
84.28.063	Removal from classification—Petition of owner.
84.28.065	Taxation upon removal of land from classification—Effective date of classification and removal orders.
84.28.160	Rules and regulations authorized.

84.28.006 Definitions. For the purposes of this chapter:

(1) "Department" shall mean the state department of natural resources;

(2) The term selectively harvested lands as used in this chapter shall mean lands devoted to reforestation as set forth and defined in Article 7, section 1 of the Constitution of the state of Washington, as amended. [1975 1st ex.s. c 278 § 188; 1963 c 214 § 2.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.28.020 Classification procedure—Review by department of revenue. The owner of any lands eligible for classification under this chapter may apply in writing to the department of natural resources for the classification of any such lands as reforestation lands. The application shall contain a list of such lands by county, giving the legal description thereof by government legal subdivision, in tracts not smaller than a forty acre tract or government lot. At the time of filing the application with the department, the owner shall also file a copy thereof with the assessor of each county wherein such lands are situated along with a list of such lands described in the application. Within one hundred and twenty days following the filing of the application, a hearing on the proposed classification shall be held by the department at the court house in the county seat in each county of the state wherein any lands proposed for classification are situated. Notice of the hearing shall be given by the department by publication of a notice in at least two issues of a newspaper published and having general circulation in the county wherein such hearing is to be held. The notice shall specify the time, place and general purpose of the hearing and shall advise that a list of the lands proposed for classification as reforestation lands, with the legal description and the names of the owners, has been filed with the county assessor. The last publication of such notice shall be at least fifteen days prior to the date fixed for the hearing. The department shall, on or before the date of the last publication of the notice, mail a copy thereof to the applicant, the county commissioners and the county assessor. At the hearing, the department shall hear objections to, and arguments for and against the proposed classification as to all, or any particular lands described on the list. Following the hearing the department shall reconsider the proposed list and classification and shall strike from the

list any lands it determines are not suitable as reforestation lands and shall forward a list of such rejected lands to the land owner. The department shall, within thirty days following the conclusion of the hearing, file with the state department of revenue and forward to the land owner and assessor a list of the lands by the respective counties determined by it to be qualified for classification as reforestation lands, with description by government legal subdivisions, and names and addresses of respective owners.

The department of revenue shall hold said list for a period of two weeks, during which time any taxpayer, or the county assessor, of the county in which the lands are located shall be entitled to file written objections with it to the classification as reforestation lands of any particular lands on such list. If any objection is filed the department of revenue shall within thirty days after the receipt of the objection fix a date and hold a hearing thereon, and shall in writing notify the objector, the department, the assessor and the owner of the lands of the date fixed for the hearing and send a copy of the written objections to the department, land owner and assessor. At the hearing the department of revenue shall hear and consider evidence offered by the department, owner, assessor or objector as to the nature and character of such lands, and from such evidence shall determine whether the lands shall be classified as reforestation lands; and if the department of revenue determines that the lands are not suitable for reforestation and should not be classified as reforestation lands, it shall cause such lands to be stricken from the list. If no objections are filed to the classification of any lands on such list or if objections are filed and after hearing are overruled, the department of revenue shall forthwith enter an order approving the list as filed; and if, following a hearing on objections to classification as to any particular lands on the list, the department of revenue determines that the particular lands are not properly classified as reforestation lands, it shall within thirty days after the close of the hearing enter an order to that effect and shall strike such lands from the list, and enter an order approving the list with such lands stricken therefrom. Upon entry of the order the department of revenue shall, within a period of ten days, at its expense, cause a certified copy thereof, together with the approved list to be recorded in the office of the auditor of the county in which the lands are situated, and shall forward one certified copy thereof, together with the approved list, to the assessor of the county wherein the lands are situated, one copy to the department, and one copy of its order to the owner, with a list only of lands in which he has an interest; and thereupon the lands described on such list shall be classified as reforestation lands. [1975 1st ex.s. c 278 § 189; 1963 c 214 § 4; 1961 c 15 § 84.28.020. Prior: 1951 c 172 § 1; 1931 c 40 § 3; RRS § 11219-3. Formerly RCW 84.28.020, 84.28.030 and 84.28.040.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

[1975 RCW Supp—p 672]

84.28.050 Removal from classification—Petition of department or county assessor—Hearing. Whenever the department or county assessor of the county in which classified lands are situated believes that any lands classified as reforestation lands are not being protected as provided by law, or the lands become more valuable for some other purpose, or are not being used primarily for forest crop production, the department or county assessor may petition the department of revenue to remove such lands from classification as reforestation lands. The petition shall describe the lands by government legal subdivisions and shall set forth the name of the owner thereof, and the grounds and reasons for which such removal is sought. The department of revenue shall within sixty days after filing of the petition fix a time and place and shall hold a hearing on the petition and shall mail a copy of the notice thereof, together with a copy of the petition, to the owner at his address as shown by the records of the county treasurer's office at least thirty days prior to the date set for the hearing. At the time and place fixed for the hearing the department of revenue shall hold a hearing on the petition and shall receive evidence offered by the owner, the department or county assessor for and against the petition. Upon the conclusion of the hearing the department of revenue shall within fifteen days thereafter determine whether such lands shall be removed from classification as reforestation lands, and shall enter an order accordingly. Within ten days after issuance of the order, one certified copy of such order shall be forwarded by the department of revenue to the county assessor of the county in which the lands are situated, one to the owner and one to the department, and the department of revenue shall, at its own expense, cause a certified copy of such order, together with a list of the lands covered thereby, to be recorded in the office of the auditor of the county in which the lands are situated. [1975 1st ex.s. c 278 § 190; 1963 c 214 § 5; 1961 c 15 § 84.28.050. Prior: 1951 c 172 § 2; 1931 c 40 § 4; RRS § 11219-4. Formerly RCW 84.28.050 and 84.28.070.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.28.060 Removal from classification—Petition of taxpayers—Hearing. Whenever any lands previously classified as reforestation lands shall be or become more valuable for some other purpose and twenty-five taxpayers of the county in which the lands are situated file a petition with the department of revenue, alleging such to be the case, the department of revenue shall fix a date for hearing on the petition and shall in writing notify the taxpayers by mailing notice thereof directed to the taxpayers at the address shown on the petition; and shall likewise, at least thirty days prior to the hearing date, notify the department, the assessor and the owners of the lands involved, by mailing a notice of the hearing with a copy of the petition to them directed to their respective addresses. At the hearing the petitioners, the department, the assessor and the owners shall be entitled to offer evidence bearing upon the question of the value of such lands for reforestation and other purposes. The department of revenue from the evidence

shall determine whether the lands are more valuable for some other purpose than for reforestation; and if it so determines it shall enter an order to that effect and thereupon the lands shall be removed from classification as reforestation lands. Upon entry of an order by the department of revenue, as provided for in this section, the department of revenue shall, at its own expense, cause a certified copy thereof, together with a list of the lands covered thereby, to be recorded in the office of the auditor of the county in which the lands are situated and a certified copy thereof shall also be mailed to the owner. [1975 1st ex.s. c 278 § 191; 1963 c 214 § 6; 1961 c 15 § 84.28.060. Prior: 1951 c 172 § 3; 1931 c 40 § 5; RRS § 11219-5.]

Construction—Severability—1975 1st ex.s.c 278: See notes following RCW 11.08.160.

84.28.063 Removal from classification—Petition of owner. The owner may at any time cause any of his lands classified under this chapter to be removed from such classification by filing written notice to that effect with the county assessor of the county in which such lands are situate, which notice shall describe the lands to be removed, giving the legal description thereof by government legal subdivision. Copy of such notice shall also be filed with the department, the department of revenue and the county auditor of the county in which the lands are situated. Upon receipt from the county treasurer of evidence of payment of the yield taxes imposed by RCW 84.28.065, the department of revenue shall issue an order removing said lands from classification, and such lands shall thereby be removed from classification as reforestation lands as of the first day of January next following the date of issuance of such order, and shall cease to be assessed and taxed as such and shall be free from any lien for unpaid taxes due or assessable under this chapter except as provided in RCW 84.28.065. [1975 1st ex.s. c 278 § 192; 1963 c 214 § 7.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.28.065 Taxation upon removal of land from classification—Effective date of classification and removal orders. Whenever any land is removed from classification as reforestation land it shall thereafter be assessed and taxed without regard to the provisions of this chapter, and there shall thereupon become due and owing to the county in which such land is situated the taxes set forth in this section.

(a) A yield tax equal to twelve and one-half percent of the value of the timber or forest crop remaining on the land, based upon full current stumpage rates fixed by the assessor: *Provided*, That whenever, within a period of twelve years following the classification of any lands as reforestation lands, any such lands shall be removed from classification, the owner thereof shall be required to pay a yield tax upon the timber of one percent for each year that has expired from the date of such classification until such removal from classification.

(b) A sum of money equivalent to the amount, if any, by which the tax paid on the land and forest crop because of classification under this chapter is less than the tax paid during the same period on similar land and forest crop that was not classified.

The assessor shall prepare a roll of lands to be removed from classification and shall extend against such lands the taxes computed as provided in this section, and shall forthwith transmit to the county treasurer a record of such taxes; and the county treasurer shall thereupon enter the amount of such taxes upon his records against such lands and their owner; and such taxes shall thereupon become a lien against such lands and timber and also against any forest material that may be cut thereon and against any other real or personal property owned by such owner. Such taxes shall become delinquent on the fifteenth day of March next following the effective date of the order of the department of revenue. The lien of such taxes shall be superior, and shall be enforceable, in the same manner and to the same effect as provided in RCW 84.28.140 for collection of yield taxes on materials removed from classified lands: *Provided*, That payment of such taxes shall be a condition precedent to issuance of an order removing lands from classification pursuant to provisions of RCW 84.28.063: *Provided further*, That an order classifying lands or removing lands from classification shall not be retroactive, but the effective date of such order shall not be earlier than the first day of January next following the date of issuance of such order. [1975 1st ex.s. c 278 § 193; 1963 c 214 § 8.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.28.160 Rules and regulations authorized. The department of natural resources and the department of revenue, respectively, shall have power to make such rules and regulations as they shall deem necessary or advisable in the exercise of the powers and performance of the duties imposed upon them by this chapter. [1975 1st ex.s. c 278 § 194; 1963 c 214 § 14; 1961 c 15 § 84.28.160. Prior: 1931 c 40 § 14; RRS § 11219-14.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.36 EXEMPTIONS

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84.36.020 Cemeteries, churches, parsonages, convents and grounds. The following property shall be exempt from taxation:

All lands, and buildings required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

All churches and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or shall be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted shall in any case include all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, shall not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. To be exempt the property must be wholly used for church purposes: *Provided*, That the loan or rental of property otherwise exempt under this paragraph to a nonprofit organization, association, or corporation, or school for use for an eleemosynary activity shall not nullify the exemption provided in this paragraph if the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. [1975 1st ex.s. c 291 § 12; 1973 2nd ex.s. c 40 § 1; 1971 ex.s. c 64 § 3; 1961 c 103 § 3; 1961 c 15 § 84.36.020. Prior: 1955 c 196 § 4; prior: 1939 c 206 § 8, part; 1933 ex.s. c 19 § 1, part; 1933 c 115 § 1, part; 1929 c 126 § 1, part; 1925 ex.s. c 130 § 7, part; 1915 c 131 § 1, part; 1903 c 178 § 1, part; 1901 c 176 § 1, part; 1899 c 141 § 2, part; 1897 c 71 §§ 1, 5, part; 1895 c 176 § 2, part; 1893 c 124 §§ 1, 5, part; 1891 c 140 §§ 1, 5, part; 1890 p 532 §§ 1, 5, part; 1886 p 47 § 1, part; Code 1881 § 2829, part; 1871 p 37 § 4, part; 1869 p 176 § 4, part; 1867 p 61 § 2, part; 1854 p 331 § 2, part; RRS § 11111, part. Formerly RCW 84.40.010.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Construction—1961 c 103: See note following RCW 49.60.040.

Burial lot for particular person: RCW 68.24.220.

Nonprofit cemetery associations, certain exemptions: RCW 68.20.110, 68.20.120.

[1975 RCW Supp—p 674]

84.36.032 Administrative offices of nonprofit religious organizations. The real and personal property of the administrative offices of nonprofit recognized religious organizations shall be exempt to the extent that the property is used for the administration of the religious programs of the organization and such other programs as would be exempt under RCW 84.36.020 and 84.36-.030 as now or hereafter amended. [1975 1st ex.s. c 291 § 13.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.045 Nonprofit organization property available without charge for medical research or training of medical personnel. All property owned in fee or by contract purchase by any nonprofit corporation or association which is available without charge for research by, or for the training of, doctors, nurses, laboratory technicians, hospital administrators and staff or other hospital personnel, and which otherwise is used exclusively for medical research, the results of which will be available without cost to the public, shall be exempt from ad valorem taxation. [1975 1st ex.s. c 291 § 23.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.105 Cargo containers used in ocean commerce. All cargo containers principally used for the transportation of cargo by vessels in ocean commerce shall be exempt from taxation. The term "cargo container" means a receptacle:

- (1) Of a permanent character and accordingly strong enough to be suitable for repeated use;
- (2) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading;
- (3) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another; and
- (4) Designed to be easy to fill and empty. [1975 1st ex.s. c 20 § 1.]

84.36.350 Property owned or used for sheltered workshops for handicapped. The following property shall be exempt from taxation:

Real or personal property owned and used by a nonprofit corporation in connection with the operation of a sheltered workshop for handicapped persons, and used primarily in connection with the manufacturing and the handling, sale or distribution of goods constructed, processed, or repaired in such workshops or centers; inventory owned by a sheltered workshop for sale or lease by the sheltered workshop or to be furnished under a contract of service, including raw materials, work in process, and finished products. [1975 1st ex.s. c 3 § 1; 1970 ex.s. c 81 § 1.]

84.36.381 Residences—Property tax exemptions—Schedule—Qualifications. A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which

a claim is filed in accordance with the following conditions:

(1) The property taxes must have been imposed upon a residence which has been regularly occupied by the person claiming the exemption during the two calendar years preceding the year in which the exemption claim is filed; or the property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of January 1st of the year for which the claim is filed and the person claiming the exemption must also have been a resident of the state of Washington for the last three calendar years preceding the year in which the claim is filed: *Provided*, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community shall be deemed to be owned by each spouse;

(3) The person claiming the exemption must have been sixty-two years of age or older on January 1st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated, on the basis of the combined income, from all sources whatsoever, of the person claiming the exemption and his or her spouse for the preceding calendar year, in accordance with the following schedule:

Income Range	Percentage of Excess Levies Exemption
\$5,000 or less	One hundred percent
\$5,001 - \$6,000	Fifty percent

Provided, however, That, in addition, any person, who otherwise qualifies under the provisions of this section, and is within the income range of four thousand dollars or less shall be exempt from any obligation to pay regular property taxes on up to five thousand dollars of valuation of his or her residence: *Provided further*, That only two-thirds of any social security benefits, federal civil service retirement, or railroad retirement pension shall be considered as income for the purposes of this section: *And provided further*, That the gain realized by any person from the sale, transfer, or upon being displaced from his or her residence shall not be considered as income for the purposes of this section if reinvested in a replacement residence within eighteen months of its realization. [1975 1st ex.s. c 291 § 14; 1974 ex.s. c 182 § 1.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Severability—1974 ex.s. c 182: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 182 § 8.]

84.36.383 Residences—Definitions. As used in this chapter, except where the context clearly indicates a different meaning:

(1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080, 84.04.090 or 84.40.250, such a residence shall be deemed real property.

(2) The term "real property" except for the purposes of chapters 84.56 and 84.60 RCW, shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities.

(3) The term "preceding calendar year" shall mean the calendar year preceding the year in which the claim for exemption is to be made.

(4) "Department" shall mean the state department of revenue. [1975 1st ex.s. c 291 § 15; 1974 ex.s. c 182 § 2.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.387 Residences—Claimants—Penalty for falsification. (1) All claims for exemption shall be made and signed by the person entitled to the exemption, by his or her attorney in fact or in the event the residence of such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner, either before two witnesses or the county assessor or his deputy in the county where the real property is located: *Provided*, That if a claim for exemption is made by a person living in a cooperative housing association, corporation, or partnership, such claim shall be made and signed by the person entitled to the exemption and by the authorized agent of such cooperative.

(2) If the taxpayer is unable to submit his own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(3) Any person signing a false claim with the intent to defraud or evade the payment of any tax shall be guilty of the offense of perjury.

(4) The tax liability of a cooperative housing association, corporation, or partnership shall be reduced by the amount of tax exemption to which a claimant residing therein is entitled and such cooperative shall reduce any amount owed by the claimant to the cooperative by such exact amount of tax exemption or, if no amount be owed, the cooperative shall make payment to the claimant of such exact amount of exemption. [1975 1st ex.s. c 291 § 16; 1974 ex.s. c 182 § 4.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.470 Agricultural or horticultural produce or crop—Phase out exemption. Any agricultural or horticultural produce or crop, including any animal, bird, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom grown or produced for sale by any person upon his own lands or upon lands in which he has a present right of possession who is exempted from payment of business and occupation tax pursuant to RCW 82.04.330 as now or hereafter amended shall be assessed for the purposes of ad valorem taxes according to the following schedule:

Commencing with assessment as of January 1, 1975, for taxes due in 1976 the assessment level shall be seventy-five percent of true and fair value.

Commencing with assessment as of January 1, 1976, for taxes due in 1977 the assessment level shall be seventy percent of true and fair value.

Commencing with assessment as of January 1, 1977, for taxes due in 1978 the assessment level shall be sixty percent of true and fair value.

Commencing with assessment as of January 1, 1978, for taxes due in 1979 the assessment level shall be fifty percent of true and fair value.

Commencing with assessment as of January 1, 1979, for taxes due in 1980 the assessment level shall be forty percent of true and fair value.

Commencing with assessment as of January 1, 1980, for taxes due in 1981 the assessment level shall be thirty percent of true and fair value.

Commencing with assessment as of January 1, 1981, for taxes due in 1982 the assessment level shall be twenty percent of true and fair value.

Commencing with assessment as of January 1, 1982, for taxes due in 1983 the assessment level shall be ten percent of true and fair value.

Commencing with assessment as of January 1, 1983, for taxes due in 1984 such inventories shall be fully exempt under chapter 84.36 RCW.

Commencing with January 1, 1983, assessments for taxes due in 1984, taxpayers shall not be required to report, or assessors to list, the inventories covered by this phase out exemption.

Nothing in this section shall be construed to remove or otherwise affect any exemption from assessment granted by RCW 84.44.060. [1975 1st ex.s. c 291 § 17; 1974 ex.s. c 169 § 8.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Severability—Effective date—Intent—1974 ex.s. c 169: See notes following RCW 82.04.442.

Powers of department of revenue to promulgate rules and prescribe procedures to carry out this section: RCW 84.40.405.

84.36.480 Nonprofit fair associations. The following property shall be exempt from taxation: The real and personal property of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16-.100 and allocated by the director of the department of agriculture. The loan or rental of property otherwise exempt under this section to a nonprofit organization, association, or corporation, or municipal corporation shall not nullify the exemption provided in this section if the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. The loan or rental of property otherwise exempt under this section to a private concessionaire or to any person for use as a concession in conjunction with activities permitted under this section shall not nullify the exemption if the concession charges are subject to agreement and the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. [1975 1st ex.s. c 291 § 22.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

GENERAL POWERS

84.36.815 Initial and renewal applications for exemption—Affidavit certifying exempt status—Required—Filing. In order to qualify for exempt status for real or personal property pursuant to the provisions of chapter 84.36 RCW, as now or hereafter amended, all foreign national governments, churches, cemeteries, nongovernmental nonprofit corporations, organizations, and associations, private schools or colleges, and soil and water conservation districts shall file an initial application on or before March 31 with the state department of revenue. All applications shall be filed on forms prescribed by the department and shall be signed by an authorized agent of the applicant.

In order to requalify for exempt status, such applicants except nonprofit cemeteries shall file a renewal application on or before March 31 of the fourth year following the date of such initial application and on or before March 31 of every fourth year thereafter. An applicant previously granted exemption shall annually file on forms prescribed by the department an affidavit certifying the exempt status of the real or personal property owned by the exempt organization: *Provided*, That where an applicant previously granted exemption acquires or otherwise converts real property to exempt status, such applicant shall file a renewal application no later than sixty days following the conversion of such real property to exempt status. Failure to file a renewal application within sixty days of conversion of such real property to exempt status shall nullify the exemption otherwise available for such property in the year of such conversion. [1975 1st ex.s. c 291 § 18; 1973 2nd ex.s. c 40 § 9.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.825 Application fee—Applications for 1974 considered initial applications. An application fee of thirty-five dollars for each initial and renewal application shall be required and shall be deposited within the general fund. Applications made for assessment year 1974, if approved, shall be considered initial applications whether or not an exemption has previously been approved. [1975 1st ex.s. c 291 § 19; 1973 2nd ex.s. c 40 § 11.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.865 Rules and regulations. The department of revenue of the state of Washington shall make such rules and regulations consistent with chapter 34.04 RCW and the provisions of this chapter as shall be necessary or desirable to permit its effective administration. [1975 1st ex.s. c 291 § 20; 1973 2nd ex.s. c 40 § 19.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

**Chapter 84.38
DEFERRAL OF SPECIAL ASSESSMENTS
AND/OR PROPERTY TAXES**

Sections

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84.38.180	Forms—Rules and regulations.
84.38.900	Severability—1975 1st ex.s. c 291.
84.38.910	Effective dates—1975 1st ex.s. c 291.

84.38.010 Legislative finding and purpose. Savings once deemed adequate for retirement living have been rendered inadequate by increased tax rates, increased property values, and the failure of pension systems to adequately reflect such factors. It is therefore deemed necessary that the legislature, in addition to that tax exemption as provided for in RCW 84.36.381 through 84.36.389 as now or hereafter amended, allow retired persons to defer payment of special assessments on their residences, and to defer their real property tax obligations on their residences, an amount of up to eighty percent of their equity in said property. This deferral program is intended to assist retired persons in maintaining their dignity and a reasonable standard of living

by residing in their own homes, providing for their own needs, and managing their own affairs without requiring assistance from public welfare programs. [1975 1st ex.s. c 291 § 26.]

84.38.020 Definitions. 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 retired person who elects to defer payment of the special assessments and/or real property taxes accrued on his residence by filing a declaration to defer as provided by this chapter.

When two 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) "Consumer price index" shall mean the consumer price index for urban wage earners and clerical workers as compiled by the bureau of labor statistics of the United States department of labor.

(3) "Department" means the state department of revenue.

(4) "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.

(5) "Owned" includes possession under a contract of sale, deed of trust, or tenancy in common.

(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.

(7) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year. If a residence is an integral part of a larger unit such as a farm, or a multipurpose or multidwelling building, real property taxes shall be that percentage of the total property taxes accrued as the value of the residence is of the total value of the unit. For purposes of this paragraph "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(8) "Preceding calendar year" shall mean the calendar year preceding the year in which the application for deferral of special assessment and/or real property taxes is made.

(9) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre per unit. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington or its municipal corporations, and notwithstanding the provisions of RCW 84.04.080, 84.04.090, or 84.40.250, such a residence shall be deemed real property.

(10) The term "real property", except for the purposes of chapters 84.56 and 84.60 RCW, shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the

mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water or other utilities. [1975 1st ex.s. c 291 § 27.]

84.38.030 Conditions and qualifications for claiming deferral. A retired person may elect to defer payment of special assessments and/or real property taxes on his residence up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The special assessments and/or property taxes must have been imposed upon a residence: (a) Which has been regularly occupied by the person claiming the deferral during the two calendar years preceding the year in which the deferral claim is filed; or (b) which was occupied by the person claiming the deferral as a principal place of residence as of January 1st of the year in which the claim is filed and the person claiming the deferral must also have been a resident of the state of Washington for the last three calendar years preceding the year in which the claim is filed.

(2) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community shall be deemed to be owned by each spouse.

(3) The claimant must have been sixty-two years of age or older on January 1st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability.

(4) The claimant and/or his or her spouse must not have received income of the type referred to in RCW 84.36.381, as now or hereafter amended, during the preceding calendar year which exceeds the following amounts:

(a) For claims filed in 1976—eight thousand dollars;

(b) For claims filed in subsequent years, an amount equal to the previous year's income limit adjusted by the percentage change in the consumer price index for the twelve month period ending September 31st of the previous year.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value.

(6) In the case of special assessment deferral, claimant must have opted for payment of such special assessments on the installment method if such method was available. [1975 1st ex.s. c 291 § 28.]

84.38.040 Declaration to defer special assessments and/or real property taxes—Filing—Contents—Appeal. (1) Each claimant electing to defer payment of special assessments and/or real property tax obligations under this chapter shall file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year shall be filed prior to July 1st each year for deferral for the following year.

(2) The declaration shall designate the property to which the deferral applies, and shall include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. Each copy shall be signed by the claimant subject to the penalties as provided in chapter 9.72 RCW for the false swearing. The first declaration to defer filed in a county shall include proof of the claimant's age acceptable to the assessor.

(3) The county assessor shall determine if each claimant shall be granted a deferral for each year but the claimant shall have the right to appeal this determination to the county board of equalization whose decision shall be final as to the deferral of that year. [1975 1st ex.s. c 291 § 29.]

84.38.050 Renewal of deferral—Forms—Notice to renew—Limitation upon special assessment deferral amount. (1) (a) Declarations to defer property taxes for all years following the first year may be made by filing with the county assessor on or before July 1st a renewal form in duplicate, prescribed by the department of revenue and supplied by the county assessor, which affirms the continued eligibility of the claimant.

(b) In January of each year, the county assessor shall send to each claimant who has been granted deferral of ad valorem taxes for the previous year renewal forms and notice to renew.

(2) Declarations to defer special assessments shall be made by filing with the assessor on or before July 1st of any year on a form to be prescribed by the department of revenue and supplied by the county assessor. Upon approval, the full amount of special assessments upon such claimant's residence shall be deferred for the following year but not to exceed an amount equal to eighty percent of the claimant's equity value in said property. [1975 1st ex.s. c 291 § 30.]

84.38.060 Declaration of deferral by agent, guardian, etc. If the claimant is unable to make his own declaration of deferral, it may be made by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant. [1975 1st ex.s. c 291 § 31.]

84.38.070 Ceasing to reside permanently on property subject to deferral declaration. If the claimant declaring his intention to defer special assessments or real property tax obligations under this chapter ceases to reside permanently on the property for which the declaration to defer is made between the date of filing the declaration and December 15th of that year, the deferral otherwise allowable under this chapter shall not be allowed on such tax roll. However, this section shall not apply where the claimant dies, leaving a spouse surviving, who is also eligible for deferral of special assessment and/or property taxes. [1975 1st ex.s. c 291 § 32.]

84.38.080 Right to deferral not reduced by contract or agreement. A person's right to defer special assessments and/or property tax obligations on his residence shall not be reduced by contract or agreement, from January 1, 1976 onward. [1975 1st ex.s. c 291 § 33.]

84.38.090 Procedure where residence under mortgage or purchase contract. If any residence is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, said holder shall co-sign the declaration of deferral either before a notary public or the county assessor or his deputy in the county where the real property is located. [1975 1st ex.s. c 291 § 34.]

84.38.100 Lien of state, mortgage or purchase contract holder—Priority—Amount. Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, it shall become a lien in favor of the state upon his property and shall have priority as provided in chapters 35.50 and 84.60 RCW: *Provided*, That the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, shall have priority to said deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in said property and shall bear interest each year at the rates prescribed for delinquent taxes in RCW 84.56.020 as now or hereafter amended per year until said obligation becomes due and payable under RCW 84.38.130. [1975 1st ex.s. c 291 § 35.]

84.38.110 Duties of county assessor. The county assessor shall:

(1) Transmit one copy of each declaration to defer to the department of revenue. The department may audit any declaration and shall, not later than August 31st, notify the assessor of any claim where any factor appears to disqualify the claimant for the deferral sought.

(2) Transmit one copy of each declaration to defer a special assessment to the local improvement district which imposed such assessment.

(3) After October 15th, compute the dollar tax rate for the county as if any deferrals provided by this chapter did not exist.

(4) On or before December 15th, notify the department of revenue and the county treasurer of the amount of real property taxes deferred for that year and notify the department of revenue and the respective treasurers of municipal corporations of the amount of special assessments deferred for each local improvement district within such unit. [1975 1st ex.s. c 291 § 36.]

84.38.120 Payments to local improvement or taxing districts of assessments or taxes deferred. Upon receipt of the notification from the county assessor of the amount of deferred special assessments and/or real property taxes the department shall certify to the state treasurer the amount due the respective municipal corporations prior to the following February 15th and the

state treasurer shall pay to the treasurers of such municipal corporations said amounts, equivalent to the amount of special assessments and/or real property taxes deferred, to be distributed to the local improvement or taxing districts which levied the taxes so deferred. [1975 1st ex.s. c 291 § 37.]

84.38.130 When deferred assessments or taxes become payable. Special assessments and/or real property tax obligations deferred under this chapter shall become payable together with interest as provided in RCW 84.38.100:

(1) Upon the sale of property which has a deferred special assessment and/or real property tax lien upon it.

(2) Upon the death of the claimant with an outstanding deferred special assessment and/or real property tax lien except a surviving spouse who is qualified under this chapter may elect to incur the special assessment and/or real property tax lien which shall then be payable by that spouse as provided in this section.

(3) Upon the condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070.

(4) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted.

(5) Upon the failure of any condition set forth in RCW 84.38.030(5). [1975 1st ex.s. c 291 § 38.]

84.38.140 Collection of deferred assessments or taxes. (1) The county treasurer shall collect all the amounts deferred together with interest under this chapter, in the manner provided for in chapter 84.56 RCW. For purposes of collection of deferred taxes, the provisions of chapters 84.56, 84.60; and 84.64 RCW shall be applicable.

(2) When any deferred special assessment and/or real property taxes together with interest are collected the moneys shall be credited to a special account in the county treasury. The county treasurer shall remit the amount of deferred special assessment and/or real property taxes together with interest to the state treasurer, with a remittance advice to the department within thirty days from the date of collection.

(3) The state treasurer shall deposit the deferred taxes in the state general fund. [1975 1st ex.s. c 291 § 39.]

84.38.150 Election to continue deferral by surviving spouse. (1) A surviving spouse of the claimant may elect to continue the property in its deferred tax status if the property is the residence of the spouse of the claimant and the spouse meets the requirements of this chapter.

(2) The election under this section to continue the property in its deferred status by the spouse of the claimant shall be filed in the same manner as an original claim for deferral is filed under this chapter, not later than ninety days from the date of the claimant's death. Thereupon, the property with respect to which the deferral of special assessments and/or real property taxes is claimed shall continue to be treated as deferred

property. When the property has been continued in its deferred status by the filing of the spouse of the claimant of an election under this section, the spouse of the claimant may continue the property in its deferred status in subsequent years by filing a claim under this chapter so long as the spouse meets the qualifications set out in this section. [1975 1st ex.s. c 291 § 40.]

84.38.160 Payment of part or all of deferred taxes authorized. Any person may at any time pay a part or all of the deferred taxes but such payment shall not affect the deferred tax status of the property. [1975 1st ex.s. c 291 § 41.]

84.38.170 Collection of personal property not affected. Nothing in this chapter is intended to or shall be construed to prevent the collection, by foreclosure, of personal property taxes which become a lien against tax-deferred property. [1975 1st ex.s. c 291 § 42.]

84.38.180 Forms—Rules and regulations. The department of revenue of the state of Washington shall devise the forms and make rules and regulations consistent with chapter 34.04 RCW and the provisions of this chapter as shall be necessary or desirable to permit its effective administration. [1975 1st ex.s. c 291 § 43.]

84.38.900 Severability—1975 1st ex.s. c 291. See note following RCW 82.04.050.

84.38.910 Effective dates—1975 1st ex.s. c 291.

Reviser's note: Chapter 84.38 RCW became effective January 1, 1976. See note following RCW 82.04.050.

Chapter 84.40 LISTING OF PROPERTY

Sections

- 84.40.320 Detail and assessment lists to board of equalization.
84.40.330 Assessor to furnish department of revenue list of businesses of public character.

84.40.320 Detail and assessment lists to board of equalization. The assessor shall add up and note the amount of each column in his detail and assessment lists, which he shall have bound in book form in such manner, to be prescribed or approved by the state department of revenue, as will provide a convenient and permanent record of assessment. He shall also make, under proper headings, a tabular statement showing the footings of the several columns upon each page, and shall add and set down under the respective headings the total amounts of each column, which he shall attach to the highest numbered assessment book, and on the first Monday of July he shall file the same, properly indexed, with the clerk of the county board of equalization for the purpose of equalization by the said board. Such returns shall be verified by his affidavit, substantially in the following form:

[1975 RCW Supp—p 680]

State of Washington, ----- County, ss.

I, -----, Assessor -----, do solemnly swear that the books No. 1 to No. -----, to the last of which this is attached, contain a correct and full list of all the real property (or personal property, as the case may be) subject to taxation in ----- county, so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case one hundred percent of the true and fair value of such property, to the best of my knowledge and belief, and that the footings of the several columns in said books, and the tabular statement returned herewith, are correct, as I verily believe.

-----, Assessor.

Subscribed and sworn to before me this ----- day of -----, 19---

(L. S.) -----, Auditor of ----- county.

Provided, That the failure of the assessor to attach his certificate shall in nowise invalidate the assessment. After the same has been duly equalized by the county and state board of equalization, the same shall be delivered to the county assessor, who shall then extend the amount as levied by the state and county boards upon the said detail and assessment lists as by law provided. [1975 1st ex.s. c 278 § 195; 1973 1st ex.s. c 195 § 98; 1961 c 15 § 84.40.320. Prior: 1937 c 121 § 1; 1925 ex.s. c 130 § 65; 1897 c 71 § 54; 1893 c 124 § 55; 1891 c 140 § 55; 1890 p 552 § 60; RRS § 11148.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

84.40.330 Assessor to furnish department of revenue list of businesses of public character. It shall be the duty of the county assessor, on the completion of his assessment rolls each year, to furnish the department of revenue a list of corporations, companies, associations, banks and individuals doing business of a public character whose assessed valuation is three thousand dollars or more, together with the class of property and the valuation placed on same for assessment purposes. [1975 1st ex.s. c 278 § 196; 1961 c 15 § 84.40.330. Prior: 1939 c 206 § 5, part; 1935 c 127 § 1, part; 1907 c 220 § 1, part; 1905 c 115 § 2, part; RRS § 11091 (second), part.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.41 REVALUATION OF PROPERTY

Sections

- 84.41.060 Assistance by department of revenue at request of assessor.
84.41.070 Finding of unsatisfactory progress—Notice—Duty of county commissioners.
84.41.080 Contracts for special assistance.
84.41.090 Valuation standards—Department of revenue rules, regulations, publications.
84.41.110 Appraisers to act in advisory capacity.

- 84.41.120 Assessor to keep records—Orders of department of revenue, compliance enjoined, remedies.
 84.41.130 Assessor's annual reports.
 84.41.140 Department of revenue's report to legislature.

84.41.060 Assistance by department of revenue at request of assessor. Any county assessor may request special assistance from the department of revenue in the valuation of property which either (1) requires specialized knowledge not otherwise available to the assessor's staff, or (2) because of an inadequate staff, cannot be completed by the assessor within the time required by this chapter. After consideration of such request the department of revenue shall advise the assessor that such request is either approved or rejected in whole or in part. Upon approval of such request, the department of revenue may assist the assessor in the valuation of such property in such manner as the department of revenue, in its discretion, considers proper and adequate. [1975 1st ex.s. c 278 § 197; 1961 c 15 § 84.41.060. Prior: 1955 c 251 § 6.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.070 Finding of unsatisfactory progress—Notice—Duty of county commissioners. If the department of revenue finds upon its own investigation, or upon a showing by others, that the revaluation program for any county is not proceeding for any reason as herein directed, or is not proceeding for any reason with sufficient rapidity to be completed before June 1, 1958, the department of revenue shall advise both the board of county commissioners and the county assessor of such finding. Within thirty days after receiving such advice, the board of county commissioners, at regular or special session, either (1) shall authorize such expenditures as will enable the assessor to complete the revaluation program as herein directed, or (2) shall direct the assessor to request special assistance from the department of revenue for aid in effectuating the county's revaluation program. [1975 1st ex.s. c 278 § 198; 1961 c 15 § 84.41.070. Prior: 1955 c 251 § 7.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.080 Contracts for special assistance. Upon receiving a request from the county assessor, either upon his initiation or at the direction of the board of county commissioners, for special assistance in the county's revaluation program, the department of revenue may, before undertaking to render such special assistance, negotiate a contract with the board of county commissioners of the county concerned. Such contracts as are negotiated shall provide that the county will reimburse the state for fifty percent of the costs of such special assistance within three years of the date of expenditure of such costs. All such reimbursements shall be paid to the department of revenue for deposit to the state general fund. The department of revenue shall keep complete records of such contracts, including costs incurred, payments received, and services performed thereunder. [1975 1st ex.s. c 278 § 199; 1961 c 15 § 84.41.080. Prior: 1955 c 251 § 8.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.090 Valuation standards—Department of revenue rules, regulations, publications. The department of revenue shall make and publish such rules, regulations and guides which it determines are needed to supplement materials presently published by the department of revenue for the general guidance and assistance of county assessors. Each assessor is hereby directed and required to value property in accordance with the standards established by RCW 84.40.030 and in accordance with the applicable rules, regulations and valuation manuals published by the department of revenue. [1975 1st ex.s. c 278 § 200; 1961 c 15 § 84.41.090. Prior: 1955 c 251 § 9.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.110 Appraisers to act in advisory capacity. Appraisers whose services may be obtained by contract or who may be assigned by the department of revenue to assist any county assessor shall act in an advisory capacity only, and valuations made by them shall not in any manner be binding upon the assessor, it being the intent herein that all valuations made pursuant to this chapter shall be made and entered by the assessor pursuant to law as directed herein. [1975 1st ex.s. c 278 § 201; 1961 c 15 § 84.41.110. Prior: 1955 c 251 § 11.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.120 Assessor to keep records—Orders of department of revenue, compliance enjoined, remedies. Each county assessor shall keep such books and records as are required by the rules and regulations of the department of revenue and shall comply with any lawful order, rule or regulation of the department of revenue.

Whenever it appears to the department of revenue that any assessor has failed to comply with any of the provisions of this chapter relating to his duties or the rules of the department of revenue made in pursuance thereof, the department of revenue, after a hearing on the facts, may issue an order directing such assessor to comply with such provisions of this chapter or rules of the department of revenue. Such order shall be mailed by registered mail to the assessor at the county court house. If, upon the expiration of fifteen days from the date such order is mailed, the assessor has not complied therewith or has not taken measures that will insure compliance within a reasonable time, the department of revenue may apply to a judge of the superior court or court commissioner of the county in which such assessor holds office, for an order returnable within five days from the date thereof to compel him to comply with such provisions of law or of the order of the department of revenue or to show cause why he should not be compelled so to do. Any order issued by the judge pursuant to such order to show cause shall be final. The remedy herein provided shall be cumulative and shall not exclude the department of revenue from exercising

any powers or rights otherwise granted. [1975 1st ex.s. c 278 § 202; 1961 c 15 § 84.41.120. Prior: 1955 c 251 § 12.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.130 Assessor's annual reports. Each county assessor, before October 15th each year, shall prepare and submit to the department of revenue a detailed report of the progress made in the revaluation program in his county to the date of the report and be made a matter of public record. Such report shall be submitted upon forms supplied by the department of revenue and shall consist of such information as the department of revenue requires. The department of revenue shall transmit a copy of such report to the legislature. [1975 1st ex.s. c 278 § 203; 1961 c 15 § 84.41.130. Prior: 1955 c 251 § 13.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.41.140 Department of revenue's report to legislature. The department of revenue, thirty days prior to the convening of each regular session of the legislature, shall submit a comprehensive report showing the extent of progress of the revaluation program in each county. Such report shall also include any comments and recommendations the department of revenue may have in regard to the revaluation program. [1975 1st ex.s. c 278 § 204; 1961 c 15 § 84.41.140. Prior: 1955 c 251 § 14.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.44 TAXABLE SITUS

Sections

84.44.090 Disputes over situs to be determined by department of revenue.

84.44.090 Disputes over situs to be determined by department of revenue. In all questions that may arise under this title as to the proper place to list personal property, or where the same cannot be listed as stated in this title, if between several places in the same county, or between different counties, or places in different counties, the place for listing and assessing shall be determined and fixed by the department of revenue; and when fixed in either case shall be as binding as if fixed by this title. [1975 1st ex.s. c 278 § 205; 1961 c 15 § 84.44.090. Prior: 1925 ex.s. c 130 § 21; RRS § 11125; prior: 1897 c 71 § 14; 1893 c 124 § 14; 1891 c 140 § 14; 1890 p 535 § 14.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.48 EQUALIZATION OF ASSESSMENTS

Sections

84.48.120 Extension of state taxes.

84.48.130 Certification of assessed valuation to taxing districts.

84.48.120 Extension of state taxes. It shall be the duty of the county assessor of each county, when he shall have received from the state department of revenue the assessed valuation of the property of railroad and other companies assessed by the department of revenue and apportioned to the county, and placed the same on the tax rolls, and received the report of the state auditor of the amount of taxes levied for state purposes, to compute the required percent on the assessed value of property in the county, and such state taxes shall be extended on the tax rolls in the proper column: *Provided*, That the rates so computed shall not be such as to raise a surplus of more than five percent over the total amount required by the state board of equalization. [1975 1st ex.s. c 278 § 206; 1961 c 15 § 84.48.120. Prior: 1939 c 206 § 37; 1925 ex.s. c 130 § 72; RRS § 11224; prior: 1890 p 544 § 38.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.48.130 Certification of assessed valuation to taxing districts. It shall be the duty of the county assessor of each county, when he shall have received from the state department of revenue the certificate of the assessed valuation of the property of railroad and/or other companies assessed by the department of revenue and apportioned to the county, and shall have distributed the value so certified to him to the several taxing districts in his county entitled to a proportionate value thereof, and placed the same upon the tax rolls of the county, to certify to the board of county commissioners and to the officers authorized by law to estimate expenditures and/or levy taxes for any taxing district coextensive with the county, the total assessed value of property in the county as shown by the completed tax rolls, and to certify to the officers authorized by law to estimate expenditures and/or levy taxes for each taxing district in the county not coextensive with the county, the total assessed value of the property in such taxing district. [1975 1st ex.s. c 278 § 207; 1961 c 15 § 84.48.130. Prior: 1939 c 206 § 38; 1925 ex.s. c 130 § 73; RRS § 11234.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.52 LEVY OF TAXES

Sections

84.52.020 City and district budgets to be filed with county commissioners, when.

84.52.020 City and district budgets to be filed with county commissioners, when. It shall be the duty of the city council or other governing body of cities of the first class, except cities having a population of three hundred thousand or more, the city councils or other governing bodies of cities of the second or third class, the board of directors of school districts of the first class, commissioners of port districts, commissioners of metropolitan park districts, and of all officials or boards of taxing districts within or coextensive with any county, except school districts of the second class, required by law to

certify to boards of county commissioners, for the purpose of levying district taxes, budgets or estimates of the amounts to be raised by taxation on the assessed valuation of the property in the city or district, through their chairman and clerk, or secretary, to make and file such certified budget or estimates with the clerk of the board of county commissioners on or before the Wednesday next following the first Monday in October in each year. [1975 c 43 § 33; 1961 c 15 § 84.52.020. Prior: 1939 c 37 § 1; 1925 ex.s. c 130 § 75; RRS § 11236; prior: 1909 c 138 § 1; 1893 c 71 §§ 2, 3.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Chapter 84.56 COLLECTION OF TAXES

Sections

84.56.400 Treasurer's record of manifest errors in listing—June meeting of board of equalization—Cancellation or correction of assessments—Consideration by board.

84.56.400 Treasurer's record of manifest errors in listing—June meeting of board of equalization—Cancellation or correction of assessments—Consideration by board. The county treasurer shall also make and file with the county board of equalization a record, setting forth the facts relating to such manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of property which do not involve a revaluation of property, such as 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, as shall come to his attention after the rolls have been turned over to him for collection. The said 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.

The county board of equalization at its meeting in June shall consider such matters as appear in the record filed with it by the county treasurer, and shall only correct such matters as are set forth in such record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors hereinbefore mentioned: *Provided*, That the board shall cancel all unpaid taxes upon property which belongs exclusively to the state, any county or municipal corporation. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

The board at its June meeting shall consider only matters referred to it by the records of the county treasurer or county assessor under this section and RCW 84.56.390.

The county assessor may cancel or correct assessments 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. When the county assessor cancels or corrects an assessment he shall send a notice to the taxpayer by certified mail with return receipt requested advising the taxpayer, and the person making payments if that person is to be notified pursuant to RCW 84.40.045, as now existing or hereafter amended, that the action of the county assessor is not final, and shall be considered at the June meeting of the county board of equalization, and that such notice shall constitute legal notice of such fact, and a copy of the notice shall be sent to the county treasurer as his authority for correcting the current tax roll. When the county assessor cancels or corrects an assessment, he shall prepare and file a record of such action with the county board of equalization, setting forth therein the facts relating to such manifest error.

The county board of equalization at its meeting in June shall consider such matters as appear in the record filed with it by the county assessor and shall determine whether the action of the county assessor was justified, and shall make findings of facts upon which it bases its decision on all matters submitted to it. If the county board of equalization finds that the action of the assessor was not correct, it shall issue a supplementary roll including such corrections as are necessary, 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 supplementary roll. [1975 1st ex.s. c 160 § 1; 1970 ex.s. c 55 § 13; 1965 c 93 § 2; 1961 c 15 § 84.56.400. Prior: 1955 c 112 § 3; prior: 1925 ex.s. c 130 § 107, part; RRS § 11268, part; prior: 1915 c 122 § 2, part; 1897 c 71 § 86, part; 1895 c 176 § 22, part; 1893 c 124 § 89, part.]

Effective date—1970 ex.s. c 55: The effective date of the 1970 amendment to this section was July 1, 1970, see note following RCW 84.36.050.

Chapter 84.68 RECOVERY OF TAXES PAID OR PROPERTY SOLD FOR TAXES

Sections

84.68.120 Small claims recoveries—Petition—Procedure of county officers—Transmittal of findings to department of revenue.
84.68.130 Small claims recoveries—Procedure of department of revenue.
84.68.140 Small claims recoveries—Payment of refunds—Procedure.

84.68.120 Small claims recoveries—Petition—Procedure of county officers—Transmittal of findings to department of revenue. Upon the filing of the petition with the county assessor that officer shall proceed forthwith to conduct such investigation as may be necessary to ascertain and determine whether or not the assessment in question was erroneous or whether or not the tax was incorrectly extended upon the tax rolls and if he finds there is probable cause to believe that the

property was erroneously assessed, and that such erroneous assessment was due to an error in description, double assessment or manifest error in assessment which does not involve a revaluation of the property, or that the tax was incorrectly extended upon the tax rolls, he shall endorse his findings upon the petition, and thereupon within ten days after the filing of the petition by the taxpayer forward the same to the county treasurer. If the assessor's findings be in favor of cancellation or reduction or correction he shall include therein a statement of the amount to which he recommends that the assessment and tax be reduced. It shall be the duty of the county treasurer, upon whom a petition with endorsed findings is served, as in RCW 84.68.110 through 84.68.150 provided, to endorse thereon a statement whether or not the tax against which complaint is made has in fact been paid and, if paid, the amount thereof, whereupon the county treasurer shall immediately transmit the petition to the prosecuting attorney and the prosecuting attorney shall make such investigation as he deems necessary and, within ten days after receipt of the petition and findings by him, transmit the same to the state department of revenue with his recommendation in respect to the granting or denial of the petition. [1975 1st ex.s. c 278 § 208; 1961 c 15 § 84.68-.120. Prior: 1939 c 16 § 2; RRS § 11241-2.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.68.130 Small claims recoveries—Procedure of department of revenue. Upon receipt of the petition, findings and recommendations the state department of revenue shall proceed to consider the same, and it may require evidence to be submitted and make such investigation as it deems necessary and for such purpose the department of revenue shall be empowered to subpoena witnesses in order that all material and relevant facts may be ascertained. Upon the conclusion of its consideration of the petition and within thirty days after receipt thereof, the department of revenue shall enter an order either granting or denying the petition and if the petition be granted the department of revenue may order the assessment canceled or reduced or the extended tax corrected upon the tax rolls in any amount it deems proper but in no event to exceed the amount of reduction or correction recommended by the county assessor. [1975 1st ex.s. c 278 § 209; 1961 c 15 § 84.68.130. Prior: 1939 c 16 § 3; RRS § 11241-3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.68.140 Small claims recoveries—Payment of refunds—Procedure. Certified copies of the order of the department of revenue shall be forwarded to the county assessor, the county auditor and the taxpayer, and the taxpayer shall immediately be entitled to a refund of the difference, if any, between the tax already paid and the canceled or reduced or corrected tax based upon the order of the department of revenue with legal interest on such amount from the date of payment of the original tax. Upon receipt of the order of the department of revenue the county auditor shall draw a

warrant against the county tax refund fund in the amount of any tax reduction so ordered, plus legal interest to the date such warrant is issued, and such warrant shall be paid by the county treasurer out of any moneys on hand in said fund. If no funds are available in the county tax refund fund for the payment of such warrant the warrant shall bear interest and shall be callable under such conditions as are provided by law for county warrants and such interest, if any, shall also be paid out of said fund. The order of the department of revenue shall for all purposes be considered as a judgment against the county tax refund fund and the obligation thereof shall be discharged in the same manner as provided by law for the discharge of judgments against the county for excessive taxes under the provisions of RCW 84.68.010 through 84.68.070 or any act amendatory thereof. [1975 1st ex.s. c 278 § 210; 1961 c 15 § 84.68.140. Prior: 1939 c 16 § 4; RRS § 11241-4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.69 REFUNDS

Sections

84.69.020 Grounds for refunds.

84.69.020 Grounds for refunds. On order of the board of county commissioners or other county legislative authority of any county, 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 or overpaid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person paying the same or paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person paying the same 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) 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.

(11) Paid as a state property tax levied upon county assessed 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 (Amendment 59) of the state Constitution equal one percent of the assessed value established by the board.

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 subsection (9), (10), and (11). [1975 1st ex.s. c 291 § 21; 1974 ex.s. c 122 § 2; 1972 ex.s. c 126 § 2; 1971 ex.s. c 288 § 14; 1969 ex.s. c 224 § 1; 1961 c 15 § 84.69.020. Prior: 1957 c 120 § 2.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Purpose—1974 ex.s. c 122: "The legislature recognizes that the operation of the provisions of RCW 84.52.065 and 84.48.080, providing for adjustments in the county-determined assessed value of property for purposes of the state property tax for schools, may, with respect to certain properties, result in a total regular property tax payment in excess of the one percent limitation provided for in Article 7, section 2 (Amendment 59) of the state Constitution. The primary purpose of this 1974 amendatory act is to provide a procedure for administrative relief in such cases, such relief to be in addition to the presently existing procedure for judicial relief through a refund action provided for in RCW 84.68.020." [1974 ex.s. c 122 § 1.] This applies to the amendment to RCW 84.69.020 by 1974 ex.s. c 122.

Severability—Savings—1971 ex.s. c 288: See notes following RCW 84.40.030.

Chapter 84.70

DESTROYED PROPERTY—ABATEMENT OR REFUND

Sections

84.70.010	Reduction in true cash value—Formula.
84.70.020	Claims for relief—Procedure.
84.70.030	Review of determination—Abatement or refund procedure.

84.70.010 Reduction in true cash value—Formula.

(1) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, the true cash value of such property shall be reduced for that year by an amount determined as follows:

(a) First take the true cash value of such taxable property and deduct therefrom the true cash value of the remaining property.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining in the calendar year after the date of the destruction of the property.

(2) The amount of taxes to be abated under RCW 84.70.010 as now or hereafter amended shall be determined by multiplying the amount of net loss determined under subsection (1) of this section by the rate

percent of levy applicable to the property in the tax year to which the reduction of assessed value is applicable. [1975 1st ex.s. c 120 § 2; 1974 ex.s. c 196 § 3.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

Refund of property taxes: Chapter 84.69 RCW.

84.70.020 Claims for relief—Procedure. Within seventy-five days after the date of destruction, or seventy-five days after May 6, 1974, whichever is later, the taxpayer, using a form prepared by the department of revenue and provided by the assessor, shall notify the county assessor of his intention to claim the relief provided by RCW 84.70.010 through 84.70.040 as now or hereafter amended. The taxpayer shall also file a copy with the legislative body of the county, which shall serve as a petition for abatement of the tax: *Provided*, That the form shall contain such information as the department may prescribe. After receipt of the taxpayer's claim, and within thirty days after receipt, the county assessor shall provide the legislative body of the county with his determination of the facts necessary to calculate the amount of relief, if any, to which he believes the taxpayer is entitled. A copy of the assessor's determination shall be sent to the taxpayer. [1975 1st ex.s. c 120 § 3; 1974 ex.s. c 196 § 4.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

84.70.030 Review of determination—Abatement or refund procedure. If the taxpayer disagrees with the determination made by the county assessor, he shall advise the county legislative body of his own determination, and request a hearing. Thereafter, the county legislative body shall make a determination of the amount of relief, if any, to which the taxpayer is entitled. The determination of the county legislative body shall be final and not appealable. The legislative body may order the tax against the property to be abated in whole or in part, in accordance with the legislative body's determination. If an abatement is ordered the assessor and treasurer shall make the necessary adjustments to the assessment roll and the necessary entries required by the order in the records of their respective offices. [1975 1st ex.s. c 120 § 4; 1974 ex.s. c 196 § 5.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

Chapter 84.72

FEDERAL PAYMENTS IN LIEU OF TAXES

Sections

84.72.010	State treasurer authorized to receive lieu payments— Department of revenue to apportion.
84.72.020	Basis of apportionment.
84.72.030	Certification of apportionment to state treasurer— Distribution to county treasurers.

84.72.010 State treasurer authorized to receive lieu payments—Department of revenue to apportion. The state treasurer is hereby authorized and directed to receive any moneys that may be paid to the state by the

United States or any agency thereof in lieu of ad valorem property taxes, and to transfer the same to the respective county treasurers in compliance with apportionments made by the state department of revenue; and the state treasurer shall immediately notify the department of revenue of the receipt of any such payment. [1975 1st ex.s. c 278 § 211; 1961 c 15 § 84.72.010. Prior: 1941 c 199 § 1; Rem. Supp. 1941 § 11337-15.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.72.020 Basis of apportionment. Any such moneys so paid to the state treasurer shall be apportioned to the state and to the taxing districts thereof that would be entitled to share in the property taxes in lieu of which such payments are made in the same proportion that the state and such taxing units would have shared in such property taxes if the same had been levied. The basis of apportionment shall be the same as that of property taxes first collectible in the year in which such lieu payment is made: *Provided*, That if any such lieu payment cannot be so apportioned the apportionment shall be made on such basis as the department of revenue shall deem equitable and proper. [1975 1st ex.s. c 278 § 212; 1961 c 15 § 84.72.020. Prior: 1941 c 199 § 2; Rem. Supp. 1941 § 11337-16.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

84.72.030 Certification of apportionment to state treasurer—Distribution to county treasurers. The department of revenue may indicate either the exact apportionment to taxing units or it may direct in general terms that county treasurers shall apportion any such lieu payment in the manner provided in RCW 84.72-.020. In either event the department of revenue shall certify to the state treasurer the basis of apportionment and the state treasurer shall thereupon forthwith transmit any such lieu payment, together with a statement of the basis of apportionment, to the county treasurer in accordance with such certification. [1975 1st ex.s. c 278 § 213; 1961 c 15 § 84.72.030. Prior: 1941 c 199 § 3; Rem. Supp. 1941 § 11337-17.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Title 87 IRRIGATION

Chapters

87.03 Irrigation districts generally.

Chapter 87.03

IRRIGATION DISTRICTS GENERALLY

Sections

- 87.03.135 Sale or lease of district property generally.
- 87.03.160 Group insurance—Purchase.
- 87.03.164 Liability insurance for officers and employees authorized.
- 87.03.460 Compensation of directors, officers, employees.

87.03.135 Sale or lease of district property generally.

Any irrigation district shall have power to sell or lease any real estate or personal property owned by such district, whenever the board of directors shall, by unanimous vote, determine that such property is not necessary or needed for the use of the district. No sale or lease of such property shall be made until notice thereof shall be given by publication at least twenty days before the date of said sale or lease of said property in some newspaper of general circulation in the county where the property or part thereof is located, if there be one, and if there be none, then in some newspaper of general circulation published in an adjoining county, said publication to be made at least once a week during three consecutive weeks before the day fixed for the making of such sale or lease, and shall contain notice of intention of the board of directors to make such sale or lease and state the time and place at which proposals for such sale or lease will be considered and at which the sale or lease will be made: *Provided*, That the provisions of this section relating to publication of notice shall not apply when the value of the property to be sold or leased is less than five hundred dollars. Any such property so sold or leased shall be sold or leased to the highest and best bidder. The provisions of this section shall not apply to the sale or lease of lands acquired by an irrigation district through its purchase of said lands for the nonpayment of its irrigation assessments. [1975 1st ex.s. c 163 § 1; 1967 ex.s. c 144 § 7; 1933 c 43 § 1; 1931 c 82 § 1; RRS § 7428-4. Formerly RCW 87.08.150.]

Severability—1967 ex.s. c 144: See note following RCW 36.98.030.

Official paper for publication: RCW 87.03.020.

Organization of board (holding of interest in public lands as evidence of title): RCW 87.03.115.

87.03.160 Group insurance—Purchase. The board of directors of irrigation districts shall have the authority and power to contract for and to pay the premium upon group life, health and accident insurance upon its employees; and to make all such insurance available to its directors, subject to payment by the directors of all costs of insurance for directors. [1975 c 14 § 1; 1951 c 159 § 1. Formerly RCW 87.01.225.]

87.03.164 Liability insurance for officers and employees authorized. See RCW 36.16.138.

87.03.460 Compensation of directors, officers, employees. The directors shall each receive not to exceed twenty-five dollars per day in attending meetings and while performing other services for the district, to be fixed by resolution and entered in the minutes of their proceedings, and in addition thereto their travel expenses in accordance with RCW 43.03.050 and 43.03-.060 as now existing or hereafter amended. The board shall fix the compensation of the secretary and all other employees. The board shall, upon the petition of at least fifty or a majority of the electors, submit to the electors at any general district election, a schedule of salaries and fees to be paid hereunder. The petition

shall be presented to the board twenty days before a general election, and the result thereof shall be determined and declared as other elections. [1975 1st ex.s. c 163 § 2; 1965 c 16 § 1; 1951 c 189 § 1; 1919 c 180 § 14; 1917 c 162 § 8; 1895 c 165 § 23; 1889-90 p 692 § 39; RRS § 7456. Formerly RCW 87.08.100.]

**Title 88
NAVIGATION AND HARBOR
IMPROVEMENTS**

Chapters

88.16 Pilotage act.

**Chapter 88.16
PILOTAGE ACT**

Sections

- 88.16.170 Oil tankers—Intent and purpose.
- 88.16.180 Oil tankers—State licensed pilot required.
- 88.16.190 Oil tankers—Restricted waters—Standard safety features required—Exemptions.

88.16.170 Oil tankers—Intent and purpose. Because of the danger of spills, the legislature finds that the transportation of crude oil and refined petroleum products by tankers on Puget Sound and adjacent waters creates a great potential hazard to important natural resources of the state and to jobs and incomes dependent on these resources.

The legislature also recognizes Puget Sound and adjacent waters are a relatively confined salt water environment with irregular shorelines and therefore there is a greater than usual likelihood of long-term damage from any large oil spill.

The legislature further recognizes that certain areas of Puget Sound and adjacent waters have limited space for maneuvering a large oil tanker and that these waters contain many natural navigational obstacles as well as a high density of commercial and pleasure boat traffic.

For these reasons, it is important that large oil tankers be piloted by highly skilled persons who are familiar with local waters and that such tankers have sufficient capability for rapid maneuvering responses.

It is therefore the intent and purpose of RCW 88.16.180 and 88.16.190 to decrease the likelihood of oil spills on Puget Sound and its shorelines by requiring all oil tankers above a certain size to employ Washington state licensed pilots and, if lacking certain safety and maneuvering capability requirements, to be escorted by a tug or tugs while navigating on certain areas of Puget Sound and adjacent waters. [1975 1st ex.s. c 125 § 1.]

Severability—1975 1st ex.s. c 125: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 125 § 6.]

Study authorized and directed: "The House and Senate Transportation and Utilities Committees are authorized and directed to study the feasibility, benefits, and disadvantages of requiring similar pilot and tug assistance for vessels carrying other potentially hazardous materials and to submit their findings and recommendations prior to the 45th session of the Washington legislature in January, 1977.

Such study shall also include a report on the feasibility, benefits and disadvantages of requiring vessels under tug escort to observe a speed limit, and such study shall include a discussion of the impact of a speed limit on the maneuverability of the vessel, the effectiveness of the tug escort and other legal and technical considerations material and relevant to the required study. Such study shall also include an evaluation and recommendations as to whether there should be a transfer of all duties and responsibilities of the board of pilotage commissioners to the Washington utilities and transportation commission or other state agency, and alternate methods for establishing fair and equitable rates for tug escort and pilot transfer." [1975 1st ex.s. c 125 § 5.]

Discharge of oil into state waters: Rcw 90.48.315-90.48.365.

88.16.180 Oil tankers—State licensed pilot required. Notwithstanding the provisions of RCW 88.16.070, any oil tanker, whether enrolled or registered, of fifty thousand deadweight tons or greater, shall be required to take a Washington state licensed pilot while navigating Puget Sound and adjacent waters and shall be liable for and pay pilotage rates pursuant to RCW 88.16.030 as now or hereafter amended. [1975 1st ex.s. c 125 § 2.]

Severability—1975 1st ex.s. c 125: See note following RCW 88.16.170.

88.16.190 Oil tankers—Restricted waters—Standard safety features required—Exemptions. (1) Any oil tanker, whether enrolled or registered, of greater than one hundred and twenty-five thousand deadweight tons shall be prohibited from proceeding beyond a point east of a line extending from Discovery Island light south to New Dungeness light.

(2) An oil tanker, whether enrolled or registered, of forty to one hundred and twenty-five thousand deadweight tons may proceed beyond the points enumerated in subsection (1) if such tanker possesses all of the following standard safety features:

- (a) Shaft horsepower in the ratio of one horsepower to each two and one-half deadweight tons; and
- (b) Twin screws; and
- (c) Double bottoms, underneath all oil and liquid cargo compartments; and
- (d) Two radars in working order and operating, one of which must be collision avoidance radar; and
- (e) Such other navigational position location systems as may be prescribed from time to time by the board of pilotage commissioners:

Provided, That, if such forty to one hundred and twenty-five thousand deadweight ton tanker is in ballast or is under escort of a tug or tugs with an aggregate shaft horsepower equivalent to five percent of the deadweight tons of that tanker, subsection (2) of this section shall not apply: *Provided further,* That additional tug shaft horsepower equivalencies may be required under certain conditions as established by rule and regulation of the Washington utilities and transportation commission pursuant to chapter 34.04 RCW: *Provided further,* That a tanker of less than forty thousand deadweight tons is not subject to the provisions of RCW 88.16.170 through 88.16.190. [1975 1st ex.s. c 125 § 3.]

Severability—1975 1st ex.s. c 125: See note following RCW 88.16.170.

Title 90 WATER RIGHTS—ENVIRONMENT

Chapters

- 90.48** Water pollution control.
90.50 Water pollution control facilities—Financing.
90.58 Shoreline management act of 1971.

Chapter 90.48 WATER POLLUTION CONTROL

Sections

- 90.48.420** Water quality standards affected by forest practices—
 Department of ecology solely responsible for water
 quality standards—Forest practices regulations—
 Promulgation—Examination—Enforcement
 procedures.
90.48.425 Forest practices act and regulations relating to water
 quality protection to be utilized to satisfy federal wa-
 ter pollution act.

*Oil tankers on Puget Sound, restrictions, etc.: RCW 88.16.170-
 88.16.190.*

90.48.420 **Water quality standards affected by forest practices—Department of ecology solely responsible for water quality standards—Forest practices regulations—Promulgation—Examination—Enforcement procedures.** (1) The department of ecology, pursuant to powers vested in it previously by chapter 90.48 RCW and consistent with the policies of said chapter and RCW 90.54.020(3), shall be solely responsible for establishing water quality standards for waters of the state. On or before January 1, 1975, the department of ecology shall examine existing regulations containing water quality standards and other applicable rules and regulations of said department pertaining to waters of the state affected by nonpoint sources of pollution arising from forest practices and, when it appears appropriate to the department of ecology, modify said regulations. In any such examination or modification the department of ecology shall consider such factors, among others, as uses of the receiving waters, diffusion, down-stream cooling, and reasonable transient and short-term effects resulting from forest practices.

Promulgation of forest practices regulations by the department of ecology and the forest practices board, shall be accomplished so that compliance with such forest practice regulations will achieve compliance with water pollution control laws.

(2) The department of ecology shall monitor water quality to determine whether revisions in such water quality standards or revisions in such forest practices regulations are necessary to accomplish the foregoing result, and either promulgate appropriate revisions to such water quality standards or propose appropriate revisions to such forest practices regulations or both.

(3) Notwithstanding any other provisions of chapter 90.48 RCW or of the rules and regulations promulgated thereunder, no permit system pertaining to nonpoint sources of pollution arising from forest practices shall be authorized, and no civil or criminal penalties shall be imposed with respect to any forest practices conducted in full compliance with the applicable provisions of

RCW 76.09.010 through 76.09.280, forest practices regulations, and any approvals or directives of the department of natural resources thereunder.

(4) Prior to the department of ecology taking action under statutes or regulations relating to water quality, regarding violations of water quality standards arising from forest practices, the department of ecology shall notify the department of natural resources. [1975 1st ex.s. c 200 § 13; 1974 ex.s. c 137 § 30.]

Effective dates—1974 ex.s. c 137: RCW 76.09.925.

Severability—1974 ex.s. c 137: RCW 76.09.935.

Forest practices: Chapter 76.09 RCW.

Right of entry to administer this section: RCW 76.09.160.

90.48.425 **Forest practices act and regulations relating to water quality protection to be utilized to satisfy federal water pollution act.** The forest practices act, chapter 76.09 RCW, and the forest practices regulations adopted thereunder relating to water quality protection shall be utilized to satisfy the planning and program requirements of sections 208, 209, and 305 of the federal Water Pollution Control Act, as regards silvicultural activities, unless it is determined by the department of ecology that extraordinary conditions exist which make forest practices regulations unsuitable to satisfy such federal requirements. [1975 1st ex.s. c 200 § 14.]

Provisions of state law pertaining to federal water pollution control act: RCW 90.48.260, 90.48.262.

Chapter 90.50 WATER POLLUTION CONTROL FACILITIES— FINANCING

Sections

- 90.50.040** Water pollution control facilities bond redemption
 fund—Bonds payable from sales tax revenues—
 Remedies of bondholders.

90.50.040 **Water pollution control facilities bond redemption fund—Bonds payable from sales tax revenues—Remedies of bondholders.** The water pollution control facilities bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in said water pollution control facilities redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer

and payment of funds as directed herein. [1975 1st ex.s. c 278 § 214; 1967 c 106 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 90.58

SHORELINE MANAGEMENT ACT OF 1971

Sections

- 90.58.030 Definitions and concepts.
 90.58.120 Adoption of rules, programs, etc., subject to RCW 34-.04.025—Public hearings, notice of—Public inspection after approval or adoption.
 90.58.140 Development permits—Grounds for granting—Departmental appeal on issuance—Administration by local government, conditions—Rescission—When permits not required—Approval when permit for variance or conditional use.
 90.58.180 Appeals from granting, denying or rescinding permits, procedure—Board to act, when—Local government appeals to board—Grounds for declaring master program invalid—Appeals to court, procedure.

90.58.030 Definitions and concepts. 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 or as it may naturally change thereafter: *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 wetlands, 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 wetlands associated with (i), (ii), (iv), and (v) of this subsection (2)(e);

(f) "Wetlands" or "wetland 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 marshes, bogs, swamps, 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: *Provided*, That 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.

(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 one thousand 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 wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: *Provided*, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands 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 wetlands 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, designed for pleasure craft only, for the private noncommercial use of the owner, lessee or contract purchaser of a single family residence, the cost of which does not exceed two thousand five hundred dollars;

(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. [1975 1st ex.s. c 182 § 1; 1973 1st ex.s. c 203 § 1; 1971 ex.s. c 286 § 3.]

90.58.120 Adoption of rules, programs, etc., subject to RCW 34.04.025—Public hearings, notice of—Public inspection after approval or adoption. All rules, regulations, master programs, designations, and guidelines, issued by the department, shall be adopted or approved in accordance with the provisions of RCW 34.04.025 insofar as such provisions are not inconsistent with the provisions of this chapter. In addition:

(1) Prior to the approval or adoption by the department of a master program, or portion thereof, at least one public hearing shall be held in each county affected by a program or portion thereof for the purpose of obtaining the views and comments of the public. Notice of each such hearing shall be published at least once in each of the three weeks immediately preceding the hearing in one or more newspapers of general circulation in the county in which the hearing is to be held.

(2) All guidelines, regulations, designations or master programs adopted or approved under this chapter shall be available for public inspection at the office of the department or the appropriate county auditor and city clerk. The terms "adopt" and "approve" for purposes of this section, shall include modifications and rescission

of guidelines. [1975 1st ex.s. c 182 § 2; 1971 ex.s. c 286 § 12.]

90.58.140 Development permits—Grounds for granting—Departmental appeal on issuance—Administration by local government, conditions—Rescission—When permits not required—Approval when permit for variance or conditional use. (1) No development shall be undertaken on the shorelines of the state except those which are consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, regulations or master program.

(2) No substantial development shall be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971 until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and regulations of the department; and (iii) so far as can be ascertained, the master program being developed for the area. In the event the department is of the opinion that any permit granted under this subsection is inconsistent with the policy declared in RCW 90.58.020 or is otherwise not authorized by this section, the department may appeal the issuance of such permit within thirty days to the hearings board upon written notice to the local government and the permittee;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the policy of RCW 90.58.020.

(3) Local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. Any such system shall include a requirement that all applications and permits shall be subject to the same public notice procedures as provided for applications for waste disposal permits for new operations under RCW 90.48.170. The administration of the system so established shall be performed exclusively by local government.

(4) Such system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until forty-five days from the date of final approval by the local government or, except in the case of any permit issued to the state of Washington, department of highways, for the construction and modification of the SR 90 (I-90) bridges across Lake Washington, until all review proceedings are terminated if such proceedings were initiated within forty-five days from the date of final approval by the local government.

(5) Any ruling on an application for a permit under authority of this section, whether it be an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general.

(6) Applicants for permits under this section shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180(1), the person requesting the review shall have the burden of proof.

(7) Any permit may be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. In the event the department is of the opinion that such noncompliance exists, the department may appeal within thirty days to the hearings board for a rescission of such permit upon written notice to the local government and the permittee.

(8) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(9) No permit shall be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government prior to April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969, or

(b) Sales of lots to purchasers with reference to the plat, or substantial development incident to platting or required by the plat, occurred prior to April 1, 1971, and

(c) The development to be made without a permit meets all requirements of the applicable state agency or local government, other than requirements imposed pursuant to this chapter, and

(d) The development does not involve construction of buildings, or involves construction on wetlands of buildings to serve only as community social or recreational facilities for the use of owners of platted lots and the buildings do not exceed a height of thirty-five feet above average grade level, and

(e) The development is completed within two years after the effective date of this chapter.

(10) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and prior to April 1, 1971: *Provided*, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection (9) of this section, or does not require a permit because of substantial development occurred prior to June 1, 1971.

(11) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval. [1975 1st ex.s. c 182 § 3; 1973 2nd ex.s. c 19 § 1; 1971 ex.s. c 286 § 14.]

90.58.180 Appeals from granting, denying or rescinding permits, procedure—Board to act, when—Local government appeals to board—Grounds for declaring master program invalid—Appeals to court, procedure.

(1) Any person aggrieved by the granting or denying of

a permit on shorelines of the state, or rescinding a permit pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a request for the same within thirty days of receipt of the final order. Concurrently with the filing of any request for review with the board as provided in this section pertaining to a final order of a local government, the requestor shall file a copy of his request with the department and the attorney general. If it appears to the department or the attorney general that the requestor has valid reasons to seek review, either the department or the attorney general may certify the request within thirty days after its receipt to the shorelines hearings board following which the board shall then, but not otherwise, review the matter covered by the requestor: *Provided*, That the failure to obtain such certification shall not preclude the requestor from obtaining a review in the superior court under any right to review otherwise available to the requestor. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within forty-five days from the date of the filing of said copies by the requestor.

(2) The department or the attorney general may obtain review of any final order granting a permit, or granting or denying an application for a permit issued by a local government by filing a written request with the shorelines appeals board and the appropriate local government within forty-five days from the date the final order was filed as provided in subsection (5) of RCW 90.58.140.

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases. Judicial review of such proceedings of the shorelines hearings board may be had as provided in chapter 34.04 RCW.

(4) Local government may appeal to the shorelines hearings board any rules, regulations, guidelines, designations, or master programs for shorelines of the state adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(a) In an appeal relating to a master program for shorelines, the board, after full consideration of the positions of the local government and the department, shall determine the validity of the master program. If the board determines that said program:

(i) is clearly erroneous in light of the policy of this chapter; or

(ii) constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or

(iii) is arbitrary and capricious; or

(iv) was developed without fully considering and evaluating all proposed master programs submitted to the department by the local government; or

(v) was not adopted in accordance with required procedures;

the board shall enter a final decision declaring the program invalid, remanding the master program to the department with a statement of the reasons in support of

the determination, and directing the department to adopt, after a thorough consultation with the affected local government, a new master program. Unless the board makes one or more of the determinations as hereinbefore provided, the board shall find the master program to be valid and enter a final decision to that effect.

(b) In an appeal relating to a master program for shorelines of state-wide significance the board shall approve the master program adopted by the department unless a local government shall, by clear and convincing evidence and argument, persuade the board that the master program approved by the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to rules, regulations, guidelines, master programs of state-wide significance, and designations, the standard of review provided in RCW 34.04.070 shall apply.

(5) Rules, regulations, designations, master programs, and guidelines shall be subject to review in superior court, if authorized pursuant to RCW 34.04.070: *Provided*, That no review shall be granted by a superior court on petition from a local government unless the local government shall first have obtained review under subsection (4) of this section and the petition for court review is filed within three months after the date of final decision by the shorelines hearings board. [1975 1st ex.s. c 182 § 4; 1973 1st ex.s. c 203 § 2; 1971 ex.s. c 286 § 18.]